



BOARD MEETING MINUTES

November 18 - 20, 2020

**3127 Smoketree Court
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held November 18-20, 2020.

The November 2020 meeting of the North Carolina Medical Board was held at 3127 Smoketree Court, Raleigh, NC 27604, and video conference. Venkata R. Jonnalagadda, President, called the meeting to order. Board members in attendance were: John W. Rusher, MD, President-Elect; Michaux R. Kilpatrick, MD; Secretary/Treasurer; Shawn P. Parker, JD; Varnell D. McDonald-Fletcher, PA-C; Christine M. Khandelwal, DO; Jerri L. Patterson, NP; W. Howard Hall, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; Devdutta G. Sangvai, MD, Mr. William M. Brawley and Anuradha Rao-Patel, MD

PRESIDENTIAL REMARKS

Dr. Venkata R. Jonnalagadda reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. All conflicts were reported as included within the committee reports.

INSTALLATION CEREMONY AND NEW OFFICER OATHS

Dr. Jonnalagadda presented Dr. Bryant A. Murphy, Immediate Past President with a presidential resolution and gavel plaque for his service as President of the North Carolina Medical Board for 2019 - 2020.

Dr. Murphy administered the Oath of Office for President to Dr. Jonnalagadda.

Dr. Jonnalagadda administered the Oath of Office for President-Elect to Dr. John W. Rusher and for Secretary/Treasurer to Dr. Michaux R. Kilpatrick. She also administered the New Board Member Oath to Anuradha Rao-Patel, MD.

ANNOUNCEMENTS and UPDATES

Brian Blankenship, Deputy General Counsel provided the Professional Sexual Misconduct Workgroup Report. Members of the PSM Workgroup included Brian Blankenship, Karen Burke-Haynes, MD, Pat Berckmiller, Wanda Long, James Bowman, and Evelyn Contre. Dr. Jonnalagadda provided helpful insight, feedback and recommendations, which are incorporated herein.

In May 2017, Patricia King, M.D., PhD., Chair at the time of the Federation of State Medical Boards ("FSMB"), created and led a Workgroup on Physician Sexual Misconduct ("FSMB Workgroup"). Dr. Venkata R. Jonnalagadda was a member of the FSMB Workgroup. In May 2020, the FSMB adopted as policy the Report and Recommendations of the FSMB Workgroup.

In August 2020, Mr. Henderson, NCMB Chief Executive Officer established a professional sexual misconduct workgroup ("PSM Workgroup") to:

- Review the Report and Recommendations of the Federation of State Medical Boards Workgroup on Physician Sexual Misconduct ("FSMB Workgroup") approved by the FSMB in May 2020 and compare it to the North Carolina Medical Board's current processes/programs; and

- Prepare responses to the FSMB Workgroup’s recommendations including proposed action items, if any.

Recommendations:

The FSMB Workgroup made 38 recommendations. The recommendations were divided into the following categories: culture, transparency, complaints, reporting, investigations, comprehensive evaluation, hearings, discipline, and education.

The PSM Workgroup determined that the North Carolina Medical Board has fully implemented 30 of the FSMB Workgroup recommendations.

The PSM Workgroup further determined that eight FSMB recommendations identify areas where the Board can improve.

Below are the eight FSMB Workgroup recommendations and corresponding PSM Workgroup Recommendations.

1. FSMB Recommendation: Across the continuum from medical education to practice, continue to eliminate harassment and build culture that is supportive of professional behavior and does not tolerate harassment of any type.

<https://www.fsmb.org/siteassets/advocacy/policies/report-of-workgroup-on-sexual-misconduct-adopted-version.pdf>

PSM Workgroup Recommendations:

- a. Expand training presented at the Campbell University School of Osteopathic Medicine to include other medical training programs. Going forward, harassment should be included as a specific topic.
 - b. Consider requiring applicants for licensure and applicants for renewal to acknowledge relevant Board Position Statements.
 - c. Discuss with medical training programs and health care systems how they are addressing harassment internally.
2. FSMB Recommendation: The FSMB and state medical boards should work to identify and ensure the availability of high-quality training in sexual trauma and a trauma-informed approach to investigations.

PSM Workgroup Recommendation: Continue periodic training in sexual trauma. Provide additional training in trauma-informed approach to investigations.

3. FSMB Recommendation: State medical boards should implement clear coding processes for board actions that provide accurate descriptions of behaviors underlying board disciplinary actions and clearly link licensee behaviors to disciplinary actions.

PSM Workgroup Recommendation: add sub-allegations/sub-behaviors under the broader allegations of sexual violation and sexual impropriety to more specifically capturing the behavior and the licensee's history regarding allegations of sexual misconduct.

4. FSMB Recommendation: When considering remedial action after sexual misconduct, state medical boards should employ a risk stratification model that also factors in risk of erosion of public trust in the medical profession and medical regulation.

PSM Workgroup Recommendation: Develop a risk stratification model.

5. FSMB Recommendation: Results of hospital and health system peer review processes should be shared with state medical boards when sexual misconduct is involved.

PSM Workgroup Recommendations:

- a. Work to establish trust with hospital and health care system so that they are comfortable sharing information with the Medical Board.
 - b. Consider, based on discussions with stakeholders, whether legislative changes are necessary for hospitals and health care systems to share information.
6. FSMB Recommendation: Hospitals should be required to report to state medical boards instances where employed physicians have been dismissed or are forced to resign due to concerns related to sexual misconduct.

PSM Workgroup Recommendation:

- a. Continue and expand effort to educate licensees about requirement to report sexual misconduct as required by N.C. Gen. Stat. § 90-5.4
 - b. Consider legislation that would require hospitals to report to allegations sexual misconduct.
7. FSMB Recommendation: State medical boards should also allow inclusion of patient advocates in the interview process.

PSM Workgroup Recommendation:

- a. Continue use of a multi-disciplinary team, including victim witness coordinator, during the investigation of allegations of professional sexual misconduct.
 - b. Ensure patient-victims are aware that, in addition to the services provides by our victim witness coordinator, that patient-victim can also have a support person with them during the investigative process.
8. FSMB Recommendation: Education and training about professional boundaries and physician sexual misconduct should be provided during medical school and residency, as well as throughout practice as part of a physician's efforts to remain current in their knowledge of professional expectations. This should

include education about how to proceed with basic as well as sensitive/intimate exams and the communication with the patients that is required as a component of these exams. This education should be informed by members of the public, as best possible.

PSM Workgroup Recommendations:

- a. Survey medical training programs about their current training regarding professional sexual misconduct
- b. Market training presented at the Campbell University School of Osteopathic Medicine to include other medical training programs.
- c. Increased education among stakeholders, including:
 - Medical students, residents, fellows
 - Clinicians, including not only our licensees, but allied health professionals
 - Civilian Law Enforcement
 - Non-Clinical Staff who receive and/or investigate allegations of PSM at hospitals and medical offices.

Board Action: Approved Workgroup recommendations and directed staff to begin work on these recommendations and provide periodic updates to the Board.

David Henderson, NCMB Chief Executive Officer provided the Staff Strategies Report.

The NCMB Annual Salary Adjustment Program includes two components: cost of living adjustment (COLA) and organizational performance adjustment (OPA).

The OPA measures performance as an organization using the staff goals/strategies as a framework, evaluates and rewards annual accomplishments, and aligns the work of everyone in the organization towards the same goals.

There are four enduring staff goals: Licensing & Renewal, Enforcement, Policy & Education and Efficiencies. Each year, staff identifies new strategies to help advance those goals. These are unique projects that involve work above and beyond the regular staff responsibilities.

Staff presented the twelve 2020-2021 staff strategies to the Board. A final report will be submitted September 2021 as part of the proposed budget.

Board Action: Accept as Information.

PRESENTATIONS

Thom Mansfield, Chief Legal Officer with NCMB provided training to Board members regarding recusals.

NORTH CAROLINA PHYSICIAN HEALTH PROGRAM REPORTS (NCPHP)

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Joe Jordan, PhD, CEO, North Carolina Physicians Health Program (NCPHP), gave the PHP Compliance Committee report. The specifics of this report are not included because the information contained in the report is confidential and non-public.

A motion passed to return to open session.

Dr. Khandelwal presented the NCPHP Board of Directors report.

NCMB ATTORNEY'S REPORT

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

A motion passed to return to open session.

Mr. Brian L. Blankenship, Deputy General Counsel and Mr. Thomas W. Mansfield, Chief Legal Officer, gave the Attorney's Report on Friday, November 20th, 2020.

Mr. Blankenship and Mr. Mansfield updated the Board on the schedule of upcoming hearings, hearing assignments and rule activity of the Board.

A motion passed to close the session pursuant to N.C. Gen Stat. § 143-318.11(a) to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 90-21.22 of the North Carolina General Statutes and not considered public records within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

Information regarding outside litigation matters and statistical information regarding work performed by the Board's Legal Department since the last Attorney's Report was presented.

A motion was passed to return to open session.

That concluded the Attorney's Report

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present via video/teleconference were: Venkata R. Jonnalagadda, MD, Chairperson; John W. Rusher, MD; Michaux R. Kilpatrick, MD; Varnell McDonald-Fletcher, PA-C, and Shawn P. Parker, JD.

Financial Update

a. Year-to-Date Financials

The Committee reviewed the following financial reports through October 31, 2020: Balance Sheet, Profit & Loss versus Budget, and the Profit & Loss Comparison.

Committee Recommendation: Accept the financial information as reported.

Board Action: Accept Committee recommendation. Accept the financial information as reported.

b. Investment Account

The Committee reviewed the investment statements for September and October 2020.

Committee Recommendation: Accept the investment statements as reported.

Board Action: Accept Committee recommendation. Accept the investment statements as reported.

c. Fifth Third Investment Account Report

The Board's investment advisor, Matt Wedding, Fifth Third Bank, gave the annual report regarding the Board's investment account.

Committee Recommendation: Accept the investment account annual report as information.

Board Action: Accept Committee recommendation. Accept the investment account annual report as information.

Old Business

a. Office Space Project Update – Phase 3

The Phase 3 Office Space Project Team of Evelyn Contre and Thomas Mansfield gave an update regarding the renovation of Board's office building on Smoketree Court.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Office Space Project Report – Phase 4

The Phase 4 Office Space Project Team gave a report on the move from Front Street to Smoketree Court and the decommissioning of the Front Street office.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. 1203 Front Street Update

The closing of the sale of 1203 Front Street occurred on November 2. The net sales proceeds were \$2,487,000. These funds will be transferred to Fifth Third Bank and invested as per the Board's investment policy.

The Board is leasing back 1203 Front Street in order to complete the move to Smoketree Court. The lease will expire November 20.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

New Business

a. NCMB Review Panel Appointee

The NCMB Review Panel was established to review candidates for all non-public member positions on the Board and make recommendations to the Governor. The Review Panel consists of nine members including a public member of the Medical Board.

The Board needs to appoint/reappoint one of its public members as its 2021 representative. Mr. Shawn Parker currently serves in this role.

Committee Recommendation: Reappoint Mr. Parker as the Board's 2021 representative to the NCMB Review Panel.

Board Action: Accept Committee recommendation. Reappoint Mr. Parker as the Board's 2021 representative to the NCMB Review Panel.

A motion passed to close the session pursuant to N.C. Gen. Stat. Section 143-318.11(a)(3) to discuss a legal matter with the Board's Chief Legal Officer and to preserve the attorney-client privilege.

A motion passed to return to open session.

b. Committee/Workgroup Meetings

The Committee discussed the advantages and disadvantages of conducting workgroup and committee meetings outside the routine "regular" Board meetings that occur in the odd-numbered months. While some matters, such as emergency rule making in the COVID-19 pandemic, require "special" and "emergency" meetings (as defined by the Open Meetings law), the Committee determined that, generally, workgroup and committee meetings should be conducted within the established, routine bimonthly schedule.

Committee Recommendation: All workgroups and committees of the Board shall conduct meetings during the “regular” meetings of the Board occurring during the odd-numbered months of the year. Workgroups and committees of the Board may conduct a “special” or “emergency” meeting with the express written permission of the Board President with sufficient advance notice to permit compliance with all applicable laws.

Board Action: Accept Committee recommendation. All workgroups and committees of the Board shall conduct meetings during the “regular” meetings of the Board occurring during the odd-numbered months of the year. Workgroups and committees of the Board may conduct a “special” or “emergency” meeting with the express written permission of the Board President with enough advance notice to permit compliance with all applicable laws.

Strategic Priorities Report

Following a retreat in late 2018, the Board approved four strategic priorities and eight goals (two per strategic priority). The Board voted to focus on three goals for 2019 and a final report was given regarding those goals.

In January 2020, the Board agreed to split the remaining goals over the next two years (2020-2021). The 2020 goals are:

- Implement a public outreach program to improve the public’s understanding of the Board’s role and value;
- Build the foundation for a data analytics program to support data-informed regulation and focused licensee education; and
- Engage policymakers and influencers by positioning NCMB as a trusted subject matter expert.

Measurable activities for each goal and proposed revisions to certain goals and impact statements were approved by the Board in September.

Staff provided an update on the activities connected to the 2020 goals.

Board Action: Accept as information.

Policy Committee Report

Members present were: Christine M. Khandelwal, DO, Chairperson; Mr. William M. Brawley; Damian F. McHugh, MD; Devdutta G. Sangvai, MD; and Anuradha Rao-Patel, MD

Old Business:

a. Writing of Prescriptions

Staff gave an overview of the previous revisions to the position statement and the comments and concerns received from stakeholders and licensee regarding the latest draft of the position statement. The Committee discussed that there appears to be some confusion about (1) cross-coverage and (2) collegial relationship as they relate to the writing of prescriptions. The Committee

felt the position statement should be revised to give further clarification about when a licensee should and should not write prescriptions, specifically to include when a prescription could be written in lieu of a bona-fide physician-patient relationship. Staff suggested including an affirmative statement at the beginning to describe what an appropriate physician-patient prescribing relationship looks like. Staff directed the Committee to the other position statements referenced within this position statement that further address some of these concerns. The Committee felt it would be helpful to reiterate information from those position statements within the "Writing of Prescriptions" position statement.

Committee Recommendation: Staff and Committee to further revise the position statement to add clarity regarding expectations relating to prescribing, including cross-coverage and collegial relationships. Present revised position statement for consideration at the January 2021 meeting.

Board Action: Accept Committee recommendation. Staff and Committee to further revise the position statement to add clarity regarding expectations relating to prescribing, including cross-coverage and collegial relationships. Present revised position statement for consideration at the January 2021 meeting.

b. Position Statements Review Workgroup

Staff gave the origins of the workgroup and the previous goals set for the workgroup and the Committee. Specifically, the workgroup and the Committee were tasked with creating a more comprehensive approach to reviewing the position statements. It had previously been determined that this goal could be accomplished by creating a compendium, in which the position statements were grouped into categories. Staff then gave an overview of the current redline compendium and the changes made to date. The Committee discussed finding different forums to make licensees and future licensees more cognizant of the fact that the position statements are available as guidance, including referencing the compendium, once finalized. The Committee opined that the best way to move forward in reviewing and finalizing the compendium was to review two sections per Board meeting.

Committee Recommendation: Committee and staff to review the position statements in sections 1 and 2 (Introduction and Licensee-Patient Relationship) and bring back comments, edits, and suggestions at the January 2021 meeting.

Board Action: Accept Committee recommendation. Committee and staff to review the position statements in sections 1 and 2 (Introduction and Licensee-Patient Relationship) and bring back comments, edits, and suggestions at the January 2021 meeting.

c. Covenants-Not-to-Compete

Staff gave a summary of how this matter previously came before the Committee for discussion. The Committee discussed the contractual nature of covenants-not-to-compete and continued the discussion of whether it was appropriate for the Board to provide guidance on this issue. The Committee recognized that they would benefit from reviewing supplemental information and data, including the effect of covenants-not-to-compete, and the enforcement thereof, on patient care and on the public. The Committee agreed that the biggest concern is the continuity of patient care. The

Committee previously discussed the need for a workgroup but agreed that the best forum to continue discussions on this subject would be within the Committee.

Committee Recommendation: Staff to gather and provide supplemental information on Covenants-Not-to-Compete to Committee members. Committee to review supplemental information and discuss this matter further at the January 2021 meeting.

Board Action: Accept Committee recommendation. Staff to gather and provide supplemental information on Covenants-Not-to-Compete to Committee members. Committee to review supplemental information and discuss this matter further at the January 2021 meeting.

Licensing Committee Report

Members present were: Varnell D. McDonald-Fletcher, PA-C, Chairperson; Jerri L. Patterson, NP; W. Howard Hall, MD; Devdutta G. Sangvai and Joshua D. Malcolm

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The License Committee reviewed three cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

License Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Four licensure interviews were conducted. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Advanced Practice Providers and Allied Health Committee Report

Members present were: Jerri L. Patterson, NP, Chairperson, Anuradha Rao-Pate, MD, Varnell McDonald-Fletcher, PA-C and William M. Brawley

Old Business:

- a. Physician Assistant Advisory Meeting

1. NC North Carolina Academy of Physician Assistants request to reconcile NCMB database and web site with physician assistants' current certification status.

Action Item: Direct staff to explore ways to track physician assistants' certification status and have the web site accurately reflect their current status. Staff to report back at the January 2021 meeting.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

2. Presentation regarding Physician Assistant Fellowships.

Action Item: Direct staff to work with the leadership of the fellowship program to discuss what obstacles may be posed by Board rules to the efficient administration of such training programs. Staff to report back at the March 2021 meeting.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

b. NC Department of Health and Human Services requested the Board review its interpretation of the requirements of physicians supervising advanced practice providers who wish to provide medication assisted treatment for patients with opioid use disorders.

Committee Recommendation: Create a workgroup to further explore this issue. The workgroup will bring a recommendation to the full committee in January 2021.

Board Action: Accept Committee Recommendation. Accepted recommendation.

c. PA prescription rule changes – 21 NCAC 32S. 0212(5)(b) and (c).

Committee Recommendation: Approve rule changes.

Board Action: Accepted Committee recommendation. Approve rule changes.

d. Midwifery Joint Committee Appointments

Committee Recommendation: Appointment of Carolyn Harraway-Smith, M.D. to an initial three-year term. Appoint Jason Hildebrand, M.D. to a second three-year term.

Board Action: Accepted Committee recommendation. Appointment of Carolyn Harraway-Smith, M.D. to an initial three-year term. Appoint Jason Hildebrand, M.D. to a second three-year term.

e. Perfusion Advisory Committee November 3, 2020 meeting update.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Advanced Practice Providers and Allied Health Committee received as information a report from the Perfusionists Advisory Committee (PAC). The PAC's written report was presented for the Board's review, where it was also received as information. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Nurse Practitioners

The Joint Sub Committee (JSC) approved all recommendations from the July and September 2020 JSC Panel meetings.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accepted as information.

Disciplinary (Complaints) Committee Report

Members present were: Shawn P. Parker, JD, Chairperson; W. Howard Hall, MD; Christine M. Khandelwal, DO; Joshua D. Malcolm, JD; Jerri L. Patterson, NP and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Complaints) Committee reviewed 17 complaint cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public.

A motion passed to return to open session.

Disciplinary (Malpractice) Committee Report

Members present were: Shawn P. Parker, JD, Chairperson; W. Howard Hall, MD; Christine M. Khandelwal, DO; Joshua D. Malcolm, JD; Jerri L. Patterson, NP and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Malpractice) Committee reviewed 25 cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Department of Health and Human Services (DHHS) Committee Report

Members present were: Shawn P. Parker, JD, Chairperson; W. Howard Hall, MD; Christine M. Khandelwal, DO; Joshua D. Malcolm, JD; Jerri L. Patterson, NP and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (DHHS) Committee reported on two cases. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Disciplinary (Investigative) Committee Report

Members present were: Shawn P. Parker, JD, Chairperson; W. Howard Hall, MD; Christine M. Khandelwal, DO; Joshua D. Malcolm, JD; Jerri L. Patterson, NP and Devdutta G. Sangvai, MD

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

The Disciplinary (Investigative) Committee reviewed 46 investigative cases. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Investigative Interview Report

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, and 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney-client privilege.

Six interviews were conducted. A written report was presented for the Board's review. The Board adopted the recommendations and approved the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

Diversity and Incusion Workgroup Report

Members present were: John W. Rusher, MD, Chair; and Michaux R. Kilpatrick, MD.

New Business

a. Workgroup charge/goals/timeline.

The Workgroup discussed possible goals. Members referenced the Board's mandate to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. They discussed the continuing healthcare disparities as highlighted in the Healthy NC 2030 report and the opportunity to educate and inform the Board's licensees about these issues. Finally, the members discussed the need to make sure any initiatives are data driven.

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

b. Board efforts to date

Staff provided an update on the Board's diversity and inclusion efforts to date:

- "Unconscious Bias Training" held May 16, 2019, and led by Kinneil Coltman, DHA, Vice President, Chief Diversity Officer, Atrium Health;
- "Leadership in Healthcare: A Key to Substantive Change" (part of a leadership development retreat) held August 7, 2020, and led by Artina Dawkins, Program Manager, Orthopaedic Surgery, Founder & Program Manager, Kennedy-Hopkins Scholars Mentor Program, Co-Director, Diversity & Inclusion, Orthopaedic Surgery, Wake Forest Baptist Health;
- "WAKE Active Bystander Training in Health Care" held August 28, 2020, and led by Dave McIntosh, PhD, VP & Chief Diversity Officer, Office of Inclusion and Diversity.

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

c. Staff efforts to date.

Staff provided an update on staff's diversity and inclusion efforts to date:

- Pryor Hiring Practices to Ensure Diversity and Inclusion for Human Resources (August 2020)
- DHRS Diversity and Inclusion Conference for Human Resources (Gracie Johnson-Lopez August 2020)
- Active Bystander Training for Staff (Evan Simmons – August 2020)
- UNC Law School Employment Law webinar for Legal and Human Resources (July 2020)
- Diversity, Equity and Inclusion training for Executive Team (Cynthia Daniels – July 2020)
- Webinar on Social Justice Executive Team (ADP – July 2020)
- Facilitated Session Diversity, Equity and Inclusion for Staff (Adrienne Michelle July 2020)
- Facilitated Session to address Diversity, Equity and Inclusion for Staff (Adrienne Michelle June 2020)
- Racial Equity and Injustice for Staff (Laura Wallace– June 2020)
- Unconscious Bias training for Board Members and Staff (Dr. Kinneil Coltman May 2019)

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

d. Additional ideas to achieve Workgroup goals.

The Workgroup discussed the importance of Board and staff diversity, the importance of ongoing training, and the need to make our processes as unbiased as possible; for example, by redacting immaterial information from investigative reports and license applications that might permit unconscious bias to impact recommendations and decisions. Finally, the workgroup discussed cultural competency materials produced by the Oregon and Ohio medical boards.

Workgroup Recommendation: Accept as information.

Board Action: Accept Workgroup recommendation. Accept as information.

e. Action items.

The Workgroup recommends staff do the following:

1. Expand the Workgroup to include staff recommended by Mr. Henderson
2. Identify/share relevant publications with the Workgroup
3. Distribute the Healthy NC 2030 report to the Workgroup and identify potential health indicators relevant to the Board's work
4. Distribute the Oregon and Ohio cultural competency documents to the Workgroup
5. Ask Mr. Pauling to identify training opportunities for Board members and staff to occur, if possible, in the second quarter of 2021 and every year thereafter

Board Action: Accept Workgroup recommendation. Staff will:

1. Expand the Workgroup to include staff recommended by Mr. Henderson
2. Identify/share relevant publications with the Workgroup

3. Distribute the Healthy NC 2030 report to the Workgroup and identify potential health indicators relevant to the Board's work
4. Distribute the Oregon and Ohio cultural competency documents to the Workgroup
5. Ask Mr. Pauling to identify training opportunities for Board members and staff to occur, if possible, in the second quarter of 2021 and every year thereafter

Outreach Committee Report

Members present were: Damian F. McHugh, MD, Chairperson; Joshua D. Malcolm, JD; Shawn P. Parker, JD and William M. Brawley

Welcome and introduction:

- a. Mission and committee description
- b. Goals discussion

Committee members reviewed the Outreach Committee's mission statement and committee description and discussed goals for the upcoming program year. Committee members indicated that continuing to build momentum with NCMB's efforts to reach both public and professional audiences should continue, especially virtual opportunities given the ongoing coronavirus pandemic. The committee discussed ensuring that outreach efforts reach rural parts of the state, as well as traditionally underserved populations. Committee members agreed that messaging should primarily focus on raising awareness of NCMB and how it serves the public and the profession, as lack of familiarity with the Board remains NCMB's greatest challenge.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

Old Business

- a. Update on presentations
Public and professional presentations

The Communications Director and Chief Communications Officer provided a brief update on professional and public outreach efforts. It was noted that NCMB has been able to continue presenting regularly to professional audiences by using video teleconferencing. Staff plan to do some targeted email outreach to raise awareness of NCMB's willingness to present virtually. On the public outreach front, NCMB has participated in multiple virtual health fairs and other virtual presentations and is continuing to pursue similar opportunities. NCMB has developed a telemedicine presentation for public audiences, in recognition of patients' increased use of these services.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

b. Update on MedBoard Matters podcast

The Committee received an update on NCMB's new monthly podcast and reviewed topics planned for the next few months. It was noted that suggestions for episodes are always welcome from Board Members, staff, licensees and members of the public. Send ideas to podcast@ncmedboard.org.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

New Business

a. Regulatory Immersion Series – update

The Committee received an update on NCMB's efforts to present its Regulatory Immersion Series – a mock disciplinary committee experience that teaches medical and PA students about medical board processes while exploring various aspects of professionalism – at more medical education programs across the state. NCMB presented the course virtually at Campbell University's School of Osteopathic Medicine (CUSOM) in early November. NCMB piloted the course at CUSOM and at Campbell University's PA program last year. NCMB has approached UNC School of Medicine as well as Duke University's medical school and PA program.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

b. Misc other outreach initiatives

The Chief Communications Office gave a brief update on plans to promote new resources developed to raise patient awareness of what to expect during a physical examination and how to recognize sexual misconduct. A short video version of the three brochures developed is planned, and the resources will be featured in the December episode of NCMB's podcast.

Committee recommendation: Accept as information.

Board action: Accept committee recommendation. Accept as information.

ADJOURNMENT

The Medical Board adjourned at 12:04 p.m. on Friday, November 20, 2020.

The next meeting of the Medical Board is scheduled for January 25-28, 2021.



Michaux R. Kilpatrick, MD; Secretary/Treasure

November 18 - 20, 2020

21 NCAC 32S .0212 PRESCRIPTIVE AUTHORITY

A physician assistant may prescribe, order, procure, dispense, and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant complies with all State and federal laws regarding prescribing, including G.S. 90-18.1(b);
- (2) Each supervising physician and physician assistant incorporates within his or her written supervisory arrangements, as defined in Rule .0201(9) of this Section, instructions for prescribing, ordering, and administering drugs and medical devices and a policy for periodic review by the physician of these instructions and policy;
- (3) In order to compound and dispense drugs, the physician assistant complies with G.S. 90-18.1(c);
- (4) In order to prescribe controlled substances,
 - (a) the physician assistant must have a valid Drug Enforcement Administration (DEA) registration and prescribe in accordance with DEA rules;
 - (b) refills shall be issued consistent with Controlled Substance Law and regulations; and
 - (c) the supervising physician shall possess at least the same schedule(s) of controlled substances as the physician assistant's DEA registration;
- (5) Each prescription issued by the physician assistant contains, in addition to other information required by law, the following:
 - (a) the physician assistant's name, practice address, and telephone number; and
 - (b) ~~the physician assistant's license number and~~, if applicable, the physician assistant's DEA number for controlled substances ~~prescriptions;~~ prescriptions. ~~and~~
 - (c) ~~the authorizing supervising physician's, either primary or back up, name and telephone number;~~
- (6) The physician assistant documents prescriptions in writing on the patient's record, including the medication name and dosage, amount prescribed, directions for use, and number of refills;
- (7) A physician assistant who requests, receives, and dispenses medication samples to patients complies with all applicable State and federal regulations; and
- (8) A physician assistant shall not prescribe controlled substances, as defined by the State and federal controlled substances acts, for:
 - (a) the physician assistant's own use;
 - (b) the use of the physician assistant's supervising physician;
 - (c) the use of the physician assistant's immediate family;
 - (d) the use of any person living in the same residence as the physician assistant; or
 - (e) the use of any anyone with whom the physician assistant is having a sexual relationship.

As used in this Item, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

History Note: Authority G.S. 90-5.1(a)(3); 90-18.1;
 Eff. September 1, 2009;
 Amended Eff. May 1, 2015; August 1, 2012;
 Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
 Amended Eff. February 1, 2021; May 1, 2018.