

# MINUTES



**September 20 – 23, 2017**

**1203 Front Street  
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board Meeting held September 20-23, 2017.

The September 2017 meeting of the North Carolina Medical Board was held at 1203 Front Street, Raleigh, NC 27609. Timothy E. Lietz, MD, President-Elect, called the meeting to order. Board members in attendance were: Pascal O. Udekwu, MD, Immediate Past-President; Cheryl L. Walker-McGill, MD, Past President; Barbara E. Walker, DO, Secretary/Treasurer; Bryant A. Murphy, MD; Mr. A. Wayne Holloman; Debra A. Bolick, MD; Judge Ralph A. Walker; Venkata R. Jonnalagadda, MD; Ms. Jerri L. Patterson, NP; Mr. Shawn P. Parker and Ms. Varnell McDonald-Fletcher, PA-C. Board members absent were: Eleanor E. Greene, MD.

### **Presidential Remarks**

Dr. Lietz 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. No conflicts were reported.

### **Minutes Approval**

**Motion:** A motion passed to approve the July 19-21, 2017 Board Minute. There was not a Board Hearing in August, therefore there were no minutes for that month.

### **Announcement**

Dr. Lietz congratulated Dr. Debra Bolick on being elected to the position of Deputy Representative for Area 5 at the American Psychiatric Association Assembly Meeting.

The Legal department introduced a new staff member.

Dr. Lietz introduced guest Dr. John Reynolds, North Carolina Medical Society President.

### **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.

Dr. Joe Jordan, CEO, North Carolina Physicians Health Program (NCPHP), gave the following Reports: PHP Compliance Committee report and the PHP Bi-Annual Report. The specifics of these reports are not included because these actions are not public.

A motion passed to return to open session.

### **NCMB Attorney's Report**

Mr. Thomas W. Mansfield, Chief Legal Officer and Mr. Brian Blankenship, Deputy General Counsel, gave the Attorney's Report on Friday, July 21, 2017.

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 a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

A written report on pending administrative cases was reviewed by the Board. Additionally, the Board reviewed information regarding outside litigation and one miscellaneous matter. The specifics of this report are not included because these matters are not public information.

A motion was passed to return to open session.

**Executed Cases - Public Actions:**

The following actions were executed since the Board's last regularly scheduled meeting. The Board voted to accept these as information.

**Atilla, Mehmet Aydin MD**

Public Letter of Concern executed 07/18/2017

**Berndtson, Keith Robert MD**

Public Letter of Concern executed 08/02/2017

**Bunt, Theodore James MD**

Consent Order executed 07/25/2017

**Campbell, James Stewart MD**

Amended Notice of Charges and Allegations; Notice of Hearing executed 08/25/2017

**Christenbury, Jonathan David MD**

Notice of Charges and Allegations executed 07/20/2017

**Coyle, Michael Patrick MD**

Consent Order executed 08/14/2017

**Dehgan, Robert Bahman MD**

Notice of Charges and Allegations; Notice of Hearing; Scheduling Order Executed  
08/29/2017

**Flom, Jonathan Andrew MD**  
Consent Order executed 08/21/2017

**Hines, Marcono Raymond MD**  
Consent Order executed 08/03/2017

**Johnson, Elisabeth Ann**  
Consent Order executed 07/27/2017

**Long, James Randall MD**  
Consent Order executed 08/29/2017

**McGrath, Timothy John MD**  
Consent Order executed 08/04/2017

**Phillips, Timothy John PA**  
Consent Order executed 07/12/17

**Polley, Dennis Charles MD**  
Consent Order executed 07/12/2017

**Scales, John Socrates MD**  
Public Letter of Concern executed 08/28/2017

**Shanton, Gregory Damon PA**  
Denial of Licensure letter executed 08/31/2017

**Tesfaye, Daniel MD**  
Consent Order executed 08/23/2017

**Thorp, John Mercer MD**  
Consent Order executed 07/25/2017

**Yakes, Wayne Francis MD**  
Public Letter of Concern executed 08/01/2017

## **NCMB Committee Reports**

### **EXECUTIVE COMMITTEE REPORT**

Members present were: Timothy E. Lietz, MD, Chair; Pascal O. Udekwu, MD; Barbara E. Walker, DO and A. Wayne Holloman. Members absent were: Eleanor E. Greene, MD.

#### Strategic Plan

a. Strategic Priorities Update

The Committee reviewed the updated Strategic Priorities Tracker.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

#### Financial Statements

a. Monthly Accounting

The Committee reviewed the compiled financial statements for June 2017. June is the eighth month of fiscal year 2017.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The Committee reviewed the investment statements for July and August 2017

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Fifth Third Bank Investment Advisors Report

Mr. Matt Wedding and Mr. David Culpepper, Fifth Third Bank, Charlotte, are the Board's investment advisors. They met with the Committee to provide an update regarding the financial market and the Board's investments.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

d. Proposed FY 2018 Budget

The Committee reviewed the proposed budget for FY 2017-2018.

Committee Recommendation: Defer to the full Board.

Board Action: The Board approved the proposed budget.

Old Business

a. Proposed Changes of the Code of Conduct

Staff revised proposed changes to the Code of Conduct after receiving feedback at the July meeting. The Committee reviewed the updated version.

Committee Recommendation: Adopt proposed changes. Board members to sign updated Code of Conduct at the November Board meeting.

New Business

a. Appointment of NCMB Representative to the NCMB Review Panel

The NCMB Review Panel reviews candidates for certain positions on the Board and makes recommendations to the Governor. The Review Panel consists of nine members including a public member of the Medical Board. The Board needs to appoint a public member as its 2018 representative to the Review Panel.

Committee Recommendation: Re-appoint Mr. A. Wayne Holloman as the Board's 2018 representative to the NCMB Review Panel.

Board Action: Re-appoint Mr. A. Wayne Holloman as the Board's 2018 representative to the NCMB Review Panel.

Closed Session

a. CEO Performance Review

Article V, Section 2, of the NCMB Bylaws states:

“The Board shall employ a [CEO] who shall lead and manage, hire and dismiss, the professional Staff... The officers of the Board shall evaluate the [CEO] annually and report to the Board.”

The Committee met with Mr, Henderson, in closed session pursuant to NC General Statute §143-318.11(a)(6), to conduct his annual performance review.

Board Action: Performance evaluation reviewed and accepted.

## **POLICY COMMITTEE REPORT**

Members Present were: Pascal O. Udekwa, M.D., Chairperson; Bryant A. Murphy, M.D.; Jerri L. Patterson, NP; Venkata R. Jonnalagadda, M.D.; and Shawn P. Parker

Old Business:

a. Retention of Medical Records

During the September Committee meeting, the staff expressed that it believed that it was premature for the Board to implement a specific record retention guideline and that Board staff needed to continue to review and study the need for a finite timeline. Further discussion ensued regarding how long medical records should be retained in order to provide appropriate quality of care.

Committee Recommendation: Assign staff the task of revising the position statement to incorporate a specific Board standard regarding a finite timeline for record retention. Bring back for review and consideration at the November 2017 Board meeting.

Board Action: Accept Committee recommendation. Assign staff the task of revising the position statement to incorporate a specific Board standard regarding a finite timeline for record retention. Bring back for review and consideration at the November 2017 Board meeting.

New Business

a. Capital Punishment

The Committee discussed the genesis and philosophy behind the original position statement. The need for revisions to incorporate North Carolina legislative updates and changes to the American Medical Association Code of Ethics was also discussed. It was agreed that the position statement should provide licensees the most up-to-date information available.

Committee Recommendation: Assign staff the task of revising the position statement to include reference to N.C. General Statute § 15-188.1 and American Medical Association 9.7.3. Bring back for review and consideration at the November 2017 Board meeting.

Board Action: Accept Committee recommendation. Assign staff the task of revising the position statement to include reference to N.C. General Statute § 15-188.1 and American Medical Association 9.7.3. Bring back for review and consideration at the November 2017 Board meeting.

b. Professional Obligations Pertaining to Incompetence, Impairment, and Unethical Conduct of Healthcare Providers

The Committee reviewed the current position statement favorably and discussed the duty of licensees to report impaired physicians. Conversation ensued regarding whether the language should include a duty to report impaired physicians. It was also discussed that the position statement provides that licensees should first report impaired physicians to other appropriate parties, as opposed to first coming to the Board.

Committee Recommendation: Note review of position statement. No changes.

Board Action: Accept Committee recommendation. Note review of position statement. No changes.

c. Unethical Agreements in Complaint Settlements

The Committee reviewed the current position statement as straightforward and favorable and felt that there was no need to revise the current position statement. Inquiry was made as to the date that the position statement was adopted and whether that was prior to changes in the law regarding confidentiality agreements in settlement agreements and reporting requirements.

Committee Recommendation: Note review of position statement. No changes.

Board Action: Accept Committee recommendation. Note review of position statement. No changes.

Position Statement Review Tracking Chart

The Committee discussed the position statements to be reviewed at the November 2017 Board meeting.

Committee Recommendation: Bring back "Retention of Medical Records" and "Capital Punishment" for review and review "What are the position statements of the Board and to whom do they apply?" and "Guidelines for Avoiding Misunderstandings During Physical Examinations" as new business at the November 2017 Board meeting.

Board Action: Accept Committee recommendation. Bring back "Retention of Medical Records" and "Capital Punishment" for review and review "What are the position statements of the Board and to whom do they apply?" and "Guidelines for Avoiding Misunderstandings During Physical Examinations" as new business at the November 2017 Board meeting.

Other

Dr. Udekwu addressed the Committee and the Committee thanked Dr. Udekwu for his diligent service to the Board and as Chairperson of the Policy Committee.

Board Action: Accept as information.

## **LICENSE COMMITTEE REPORT**

Members present were: Timothy E. Lietz, MD, Chairperson; Barbara E. Walker, DO; Cheryl L. Walker-McGill, MD and Varnell McDonald-Fletcher, PA-C;

### Old Business

- a. Changes to the license application questions.

During the January 2017 Board meeting, the license committee reviewed suggested changes to the licensure application questions. The Board voted to approved those changes. At the July Board meeting, the license committee requested to see the application questions with the approved changes.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept 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 License Committee reviewed four 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.

## **ADVANCED PRACTICE PROVIDERS AND ALLIED HEALTH COMMITTEE REPORT**

Committee Members present were: Jerri L. Patterson, NP, Chairperson, Timothy E. Lietz, MD, A. Wayne Holloman and Varnell McDonald-Fletcher, PA-C

### NEW BUSINESS

#### PHYSICIAN ASSISTANTS ADVISORY MEETING

Committee discussed the proposed rule, 21 NCAC 32S .0225 DEFINITION OF CONSULTATION FOR PRESCRIBING CONTROLLED SUBSTANCES. The proposed rule defines "consult" for the purposes of the Strengthen Opioid Misuse Prevention (STOP) Act.

Committee Recommendation: Approve proposed rule.

Board Action: Accept Committee recommendation. Approve proposed rule.

#### EMERGENCY MEDICAL SERVICES

Appointment to the EMS Advisory Council and Disciplinary Committee.

Committee Recommendation: Allow the Board president to appoint a currently serving physician to serve on both the Advisory Council and the Disciplinary Committee.

Board Action: Accept Committee recommendation. Allow the Board president to appoint a currently serving physician to serve on both the Advisory Council and the Disciplinary Committee.

#### PERFUSIONIST ADVISORY COMMITTEE

Interviews of Applicants for Appointment to Perfusionists Advisory Committee.

The committee interviewed two applicants, Sally Paul, CCP, LP and Greg Griffin, CCP, LP.

Committee Recommendation: Appoint Ms. Paul and Mr. Griffin to the Perfusionists Advisory Committee.

Board Action: Accept Committee recommendation. Appoint Ms. Paul and Mr. Griffin to the Perfusionists Advisory Committee.

#### NURSE PRACTITIONERS

The Joint Sub Committee approved all recommendations from the July JSC Panel meeting.

Committee Recommendation: Receive as information.

Board Action: Accept Committee recommendation. Receive as information.

#### **DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT**

Members present were: Bryant Murphy, MD, Chairperson; Debra Bolick, MD; Venkata Jonnalagadda, MD; Jerri Patterson, NP; Barbara Walker, DO and Ralph Walker, JD

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The Disciplinary (Complaints) Committee reported on 38 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: Bryant A. Murphy, MD, Chairperson; Debra A. Bolick, MD; Venkata R. Jonnalagadda, MD; Jerri L. Patterson, NP and Ralph A. Walker, JD. Members absent were: Barbara E. Walker, DO.

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 reported on 45 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 (Medical Examiner) COMMITTEE 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.

The Disciplinary (Medical Examiner) 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 (DHHS) COMMITTEE 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.

The Disciplinary (DHHS) Committee reported on 16 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.

### **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.

8 investigative 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.

### **DISCIPLINARY (INVESTIGATIVE) COMMITTEE REPORT**

Members present were: Bryant A. Murphy, MD (chairperson), Debra A. Bolick, MD, Venkata R. Jonnalagadda, MD, Jerri L. Patterson, NP and Ralph A. Walker, JD. Members absent were: Barbara E. Walker, DO

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.

Forty-one investigative cases were reviewed. 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.

### **CONTROLLED SUBSTANCES CME PLANNING COMMITTEE**

Board Members present were: Chairperson, Bryant A. Murphy, MD, Jerri Patterson, NP.

Old Business

- a. Identifying counties for sessions (update)

Four sessions have been scheduled for the statewide opioids training:

- Duke Medical Center, October 12, 2017, 5:30 – 8:30 (Durham, County)
- Catawba Valley Medical Center, November 15, 2017 (Catawba County)
- Carolinas East Medical Center, November 30, 2017 (Craven County)
- Cape Fear Medical Center, March 15, 2018 (Cumberland County)

14 other sessions are currently in planning. Wake AHEC is coordinating with other AHECs across the state, managing CME credit approval and handling registration. Local AHEC offices will secure locations and market the event to their lists. NCMB is finishing up the core content and recruiting physicians.

NCMB will update a slider on its home page to call attention to the listing of sessions on the prescribing CME landing page and will target licensees that live/work in the region where sessions will be held.

b. Update on funding

The Governor's Institute has committed to offering funding to cover honoraria and travel costs from an existing grant. They have provided a list of counties and NCMB/Wake AHEC are targeting sessions in those areas to take advantage of the available funding.

DHHS has approved funding for additional trainings through the Governor's Institute for up to 10 additional sessions through an upcoming grant award that will be available Dec 1. There is no limitation to what the funding can be used for regarding costs of trainings and no requirements for locations.

New Business

a. Core content slide deck

The committee reviewed the slides from the core content slide deck and made recommendations to incorporate case presentations throughout the presentation. Board members will provide case studies and questions to utilize the audience response system.

b. Recruiting presenters

The committee discussed recruiting and vetting physicians to speak on the panel sessions. Several Board members have offered to make recommendations in their area.

c. Train the trainer and next steps

The committee is taking steps to ensure consistency including providing notes and instruction to presenters and moderators.

Committee Recommendation: Accept as Information

Board action: Accept Committee recommendation. Accept as information.

**OUTREACH COMMITTEE**

Members present were: Debra A. Bolick, MD, Chairperson; Bryant A. Murphy, MD; Shawn Parker and Pascal O. Udekwu, MD and Barbara E. Walker, DO

Old Business

c. Overview of Outreach Activities (Presentations)

The Communications Director gave an update on current professional outreach activities. NCMB remains on track to meet or exceed its 2016 level of outreach events. Committee members noted that NCMB's controlled substances CME panel sessions should be counted as professional outreach and directed staff to add these events to the tracking spreadsheet.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

d. Update on public presentations to consumer audiences

The Chief Communications Officer gave an update on public outreach activities. To date this calendar year, NCMB staff have presented to 11 different public groups, including senior groups, caregiver groups and business organizations such as local Rotary and business networking groups. Committee members discussed the value of such presentations in helping staff generate messages of interest and determine needs for consumer resources. The Committee discussed the possibility of reaching out to organizations that regularly interface with patients, such as Meals on Wheels or community health centers, to discuss ways of getting NCMB information and resources in more consumers' hands. Finally, the Committee discussed the possibility of augmenting public outreach activities by developing printed resources that could be placed in medical offices or other settings for the public to peruse.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

e. Forum newsletter digital supplement

The Communications Director presented a mockup of the planned Forum digital supplement, which would be provide news and updates to licensees in between quarterly issues of the Forum newsletter. The digital supplement will be promoted to Forum readers in the Fall 2017 issue. Print readers will be directed to a digital enrollment page on the NCMB website if they would like to receive the digital supplement. Email readers of the Forum will automatically receive the supplement. The first supplement is slated to be emailed in December.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

New Business

a. Stop Act Overview document

The Committee discussed the new one page STOP Act summary developed by the Communications Department. Committee members discussed medication disposal provisions of the Act that pertain to hospice and palliative care providers and whether this information should be added to the summary. The Committee also discussed the need for NCMB to develop specific guidance related to the limitations on initial prescriptions for post-operative pain. This provision has generated questions from licensees as to what is considered the initial prescription (e.g. is the initial prescription the medication that is ordered for administration in the hospital immediately following surgery or is the initial prescription the one that is issued at discharge?)

Committee recommendation: Direct the NCMB Legal Department to study the question and develop guidance.

Board action: Accept Committee recommendation. Direct the NCMB Legal Department to study the question and develop guidance.

b. Feedback on revamping presentation slide deck

The Communications Director discussed plans to rethink NCMB's current approach to presenting slide content for professional outreach presentations. The Communications Department recommends we move to a more visual, less text-heavy design for slides. The Committee discussed ways of organizing slide content so that Board Members still have access to all the information they need. The Committee agreed that a more visual slide deck would likely make for a more engaging presentation.

Committee recommendation: Direct the Communications Department to proceed with plans to revamp the NCMB presentation slide decks.

Board action: Accept Committee recommendation. Direct the Communications Department to proceed with plans to revamp the NCMB presentation slide decks.

c. Presentation training in November/January

The Committee discussed whether Board Members would benefit from training on giving engaging presentations, perhaps in a lunch session during an upcoming Board Meeting. The Committee agreed that this would be of value. The Committee requested that the training be offered no earlier than January, or when the revamped NCMB presentation slide decks are completed.

Committee recommendation: Direct Communications Department to develop a Board Member presentation training and advise the Committee when the Department is ready to schedule it.

Board action: Accept Committee recommendation. Direct Communications Department to develop a Board Member presentation training and advise the Committee when the Department is ready to schedule it.

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Barbara E. Walker, DO; Secretary/Treasurer