MINUTES

September 21-23, 2016

1203 Front Street
Raleigh, North Carolina

General Session Minutes of the North Carolina Medical Board Meeting held September 21-23, 2016.

The September 2016 meeting of the North Carolina Medical Board was held at the Board's Office, 1203 Front Street, Raleigh, NC 27609. Eleanor E. Greene, MD, President-Elect called the meeting to order. Board members in attendance were: Timothy E. Lietz, MD, Secretary/Treasurer; Cheryl L. Walker-McGill, MD, Immediate Past-President; Mr. Michael J. Arnold; Mr. A. Wayne Holloman; Bryant A. Murphy, MD; Debra A. Bolick, MD; Judge Ralph A. Walker; Venkata R. Jonnalagadda, MD; Ms. Jerri L. Patterson, NP; Barbara E. Walker, DO and Mr. Reamer L. Bushardt.
Absent: Pascal O. Udekwu, MD

Presidential Remarks

Dr. Greene 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 20 - 21, 2016 Board Minutes. There was not a Board Hearing in August; therefore there were no minutes for that month.

Announcements

Dr. Greene introduced and administered the oath to new Board Member, Mr. Shawn Parker.

Dr. Walker-McGill congratulated Mr. David Henderson on his 25 years of service.

Dr. Greene shared photos from her vacation to Cuba.

NC PHP Reports

NCPHP COMPLIANCE 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, 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 L. Blankenship, Deputy General Counsel, gave the 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, 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 42 pending cases and 84 executed cases was reviewed by the Board. The specifics of these matters are not included as they are non-public. The Board accepted the report as presented. Additionally the Board reviewed information regarding four matters involving outside litigation. The specifics of this report are not included because these matters are not public information.

A motion 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.

Albuquerque, Maria Luiza Coutinho, MD
Relief of Consent Order Obligations executed 08/10/2016

Arceo, Liza Antonette, MD
Third Amended Consent Order executed 07/11/2016

Callahan, Adam Patrick, PA
Public Letter of Concern executed 07/12/2016

Chekan, Edward Gerald, MD
Reentry Agreement executed 08/15/2016

Clarke, Michael Thomas, MD
Consent Order executed 08/04/2016

Crawford, Clifford Addison, MD
Public Letter of Concern executed 08/10/2016

Haynes, Gregory Delano, MD
Relief of Consent Order Obligations executed 07/19/2016

Heimbinder, David Allan, MD
Public Letter of Concern executed 08/01/2016

Hernandez, Mario Augusto MD
Consent Order executed 09/02/2016

Hsieh, Jennifer Rhoads PA
Reentry Agreement executed 090/2/2016

Hussein, Diaa Eldin, MD
Consent Order executed 08/16/2016

Kulp, Kenneth Robert, MD
Consent Order executed 07/13/2016

Love, Carolyn Arnzietta, MD
Consent Order executed 07/26/2016

Lynch, Christopher Robert, MD
Public Letter of Concern executed 08/03/2016

Mandhare, Vijaysinha Ashok, MD
Public Letter of Concern executed 08/15/2016

McNeel, Don Frederick, MD
Public Letter of Concern executed 08/19/2016

Meline, Lewis John, MD
Relief of Consent Order Obligations executed 07/19/2016

Motarjeme, Mareshia, PA
Reentry Agreement executed 08/25/2016

Ogunniyi, Sola Egberanmwen, PA
Public Letter of Concern executed 08/31/2016

Okwara, Benedict Onwukwe, MD
Non-Disciplinary Consent Order executed 09/07/2016

Pamintuan, Grace Cruz, MD
Notice of Charges and Allegations; Notice of Hearing executed 07/27/2016

Prechter, Scott Allan, MD
Public Letter of Concern executed 07/26/2016

Rizvi, Syed Asif Raza, MD
Public Letter of Concern executed 08/22/2016

Russakov, Alan David, MD
Relief of Consent Order Obligations executed 08/12/2016

Sutton, Jeremy Hunter, MD
Notice of Charges and Allegations; Notice of Hearing executed 08/31/2016

Tran, Ann Anh, MD
Public Letter of Concern executed 07/25/2016

Turner, James Haskew, MD
Public Letter of Concern executed 07/25/2016

Ward, David Townsend, MD
Notice of Revocation executed 08/12/2016

Weaver-Lee, LaShawn Antoinette, MD
Public Letter of Concern executed 07/06/2016

NCMB Committee Reports

EXECUTIVE COMMITTEE REPORT

Members present were: Eleanor E. Greene, MD, Presiding; Cheryl L. Walker-McGill, MD; and Timothy E. Lietz, MD. Member absent: Pascal O. Udekwu, MD

Strategic Plan

a. Strategic Goals Update

The Committee reviewed the updated Strategic Goals 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 and July 2016. July is the ninth month of fiscal year 2016.

Committee Recommendation: Accept the financial statements as reported.

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

b. Investment Account Statements

The Committee reviewed the investment account statements for July and August 2016.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Investment Workgroup Update

The Board has a Request for Proposal (RFP) Program that requires it to periodically review the products and services it receives. One such service, investment advisory services, is due for review. The Investment Workgroup recommends the Board solicit proposals from five investment advisors including the Board's current investment advisor.

Committee Recommendation: Staff to solicit proposals from five investment advisors, including the Board's current investment advisor, and report back in November.

Board Action: Accept Committee recommendation. Staff to solicit proposals from five investment advisors, including the Board's current investment advisor, and report back in November.

d. Proposed Budget

The Committee reviewed the proposed budget for FY 2016-2017.

Committee Recommendation: Approve the budget as proposed.

Board Action: Accept committee recommendation. Approve the budget as proposed.

e. Annual Salary Adjustment Program

The Committee reviewed a proposal whereby staff would be awarded a consistent cost of living adjustment each year and would be eligible for an organizational performance adjustment each year.

Committee Recommendation: Adopt the Annual Salary Adjustment Program as proposed.

Board Action: Accept Committee recommendation. Adopt the Annual Salary Adjustment Program as proposed.

Old Business

a. Directors & Officers Insurance Coverage

Staff provided the Committee with an update regarding its efforts to renew the Board's Directors & Officers Insurance and to obtain an increase in coverage.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

b. Litigation Update

Mr. Mansfield met with the Executive Committee in closed session to provide an update regarding pending litigation.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

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 Board. Mr. Michael Arnold previously served as the Board's representative but is ineligible for reappointment.

The Board will need to appoint one of its public members as its 2017 representative.

Committee Recommendation: Appoint Mr. Holloman as the Board's representative to the NCMB Review Panel.

Board Action: Accept Committee recommendation. Appoint Mr. Holloman as the Board's representative to the NCMB Review Panel.

b. Nomination of Member-at-Large to Executive Committee

At its July 2016 meeting, the Board elected Mr. Arnold as the Executive Committee Member at Large, effective November 1. Since Mr. Arnold is no longer on the Board, the Executive Committee needs to nominate someone to replace him.

Committee Recommendation: Elect Mr. Holloman as the Executive Committee Member at Large.

Board Action: Accept Committee recommendation. Elect Mr. Holloman as the Executive Committee Member at Large.

POLICY COMMITTEE REPORT

Members Present: Cheryl L. Walker-McGill, MD, Chairperson; Wayne Holloman; Jerri Patterson, N.P. and Mr. Reamer L. Bushardt

Old Business:

a. The Physician-Patient Relationship (Appendix A)

The Committee previously discussed whether the language regarding termination of the physician-patient relationship reflected current reality in the practice of medicine. Board staff presented a proposed position statement.

Committee Recommendation: Accept the proposed position statement with one revision.

Board Action: Accept Committee recommendation. Accept the proposed position statement with one revision.

b. CDC Guidelines for Prescribing Opioids for Chronic Pain (Appendix B)

The Board had previously started a workgroup to study the recent adoption of the CDC Guidelines for Prescribing Opioids for Chronic Pain. The Committee reviewed the position statement provided by staff.

Committee Recommendation: Accept proposed position statement with revisions.

Board Action: Bring back to the Committee at the November Board meeting.

c. Medical Testimony (Appendix C)

The Committee recommended at the July 2016 Board Meeting that the position statement be revised to include the most recent version of the AMA Ethics Opinion on medical testimony. Board staff presented a revised position statement with the updated ethics opinion. Staff presented a proposed position statement.

Committee Recommendation: Accept proposed position statement.

Board Action: Accept Committee recommendation. Accept proposed position statement.

New Business

a. End-of-Life Responsibilities and Palliative Care

The Committee discussed the current position statement and the proposed changes made to the Committee. The Committee asked staff to prepare a red-line version of the position statement with suggested changes.

Committee Recommendation: Staff to present a draft revision at the November Board meeting.

Board Action: Accept Committee recommendation. Staff to present a draft revision at the November Board meeting.

b. Use of Photography in the Examination Room

At the July 2016 Committee meeting, there was discussion regarding the Disciplinary Committee's referral of a new position statement addressing use of recording equipment in the examination room. The Board instructed staff to draft a position statement for consideration by the Committee at the November 2016 Board meeting. The Committee discussed the extent to which such recordings were being used and the genesis of policies addressing this issue.

Committee Recommendation: Allow staff to present a draft position statement at the November Board meeting.

Board Action: Accept Committee recommendation. Allow staff to present a draft position statement at the November Board meeting.

Position Statement Review Tracking Chart (Appendix D)

LICENSE COMMITTEE REPORT

Members present were: Bryant A. Murphy, MD, Chairperson; Debra A. Bolick, MD; Eleanor E. Greene, MD and Judge Ralph A. Walker. Absent: Mr. A. Wayne Holloman

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, 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 eight 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, 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.

ALLIED HEALTH COMMITTEE REPORT

Committee Members present were: Barbara E. Walker, DO, Chairperson; Venkata Jonnalagadda, MD; Reamer L Bushardt, PA-C and Jerri L. Patterson, NP

Old Business

a. NC EMERGENCY MEDICAL SERVICES

The EMS Advisory Group requests ketamine, which is currently approved for rapid intubation, be added to the EMS formulary for the indications of pain control and severe agitation. Dr. James "Tripp" Winslow, state EMS Medical Director, presented the request along with several other EM physicians and EMT providers. Dr. Winslow provided supporting documentation.

Requests were made for the Board to approve adding Continuous Positive Airway Pressure ("CPAP") to the scope of practice for all levels of EMT providers and Intraosseous ("IO") access to the scope of practice for Advanced EMTs. Paramedics already have approval for both scope of practice items. A request was also made for the Board to reconsider its May 2016 decision regarding ecallantide for use in patients with hereditary angioedema.

Committee Recommendation: Defer to full Board for discussion to include ecallantide, ketamine, Continuous Positive Airway Pressure ("CPAP"), Intraosseous ("IO") to their scope of practice.

Board Action:

1. Expansion of the use of ketamine for purposes of sedation and pain control is not approved. The Board may reconsider the request at a future date. Any future request should be accompanied by documented evidence that ketamine is widely used by North Carolina Emergency Department physicians for all three indications, intubation, sedation, and pain control. There should also be information regarding how patients are monitored when the medication is used in the ED setting. Recommended use/contraindications from Emergency Department physicians would also be valuable information for the Board to consider.

The use of ketamine remains approved for use only by EMT-Paramedics as an induction agent for RSI (rapid sequence induction) or for post intubation sedation.

2. Ecallantide, approved for use in patients with hereditary angioedema only in instances when the patient's own prescription medication is provided to the EMS provider or when the medication is provided by a hospital or other care facility for inter-hospital transfer.

3. CPAP, add to all levels of EMS.

4. IO, add to advanced EMT provider scope of practice.

New Business

a. PERFUSIONISTS

The terms of Committee members Mercedes Englehart, LP and Robert Kyle, D.O. are to expire on October 31, 2016. Both members are eligible to be reappointed for a second three year term. Ms. Englehart has expressed a desire to be reappointed. Dr. Kyle also expressed a desire to be reappointed.

Committee Recommendation: Appoint Ms. Englehart and Dr. Kyle to a second three year term.

Board Action: Appoint Ms. Englehart and Dr. Kyle to a second three year term.

b. NURSE PRACTITIONERS

Proposed changes to the NP rules regarding Annual Renewal, Continuing Education, and Prescribing Authority were considered. (Appendix. E)

Committee Recommendation: Approve proposed rule changes.

Board Action: Approve Committee recommendation. Approve proposed rule changes.

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, 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 Committee reviewed the Physician Assistant Advisory Committee (PAAC) recommendations. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

b. NURSE PRACTITIONERS

The Joint Sub Committee approved all the recommendations from the July JSC Panel meeting. Attached is the final report. **NOTE:** The recommended action for Tracy Hauke was rescinded for further investigation due to a new complaint.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

PHYSICIAN ASSISTANT ADVISORY COUNCIL (PAAC)

Board Members present: Barbara Walker, DO, Chairperson, Venkata Jonnalagadda, MD, Jerri L. Patterson, NP, Reamer Bushardt

NEW BUSINESS

a. A Board member presented on the topic of recent developments regarding the National Commission on Certification of Physician Assistants ("NCCPA") certification process.

b. A Board member presented on the topic of changes to NCCPA Continuing Medical Education ("CME") requirements.

c. A Staff member, presented on the topic of the Board's Safe Opioid Prescribing Initiative.

d. A discussion was held regarding the vision and purpose of the PAAC, including how often the PAAC should meet and how to set an agenda for a more meaningful meeting? Staff to return ideas to March 2017 PAAC meeting.

DISCIPLINARY (COMPLAINTS) COMMITTEE REPORT

Members present were: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Eleanor E. Greene, MD; Venkata Jonnalagadda, MD; and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO, Chairperson.

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, 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 reported on twenty-three 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: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Eleanor E. Greene, MD; Venkata Jonnalagadda, MD and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO Chairperson.

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, 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 forty-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 (MEDICAL EXAMINER) COMMITTEE REPORT

Members present were: Barbara E. Walker, DO Chairperson; Eleanor E. Greene, MD; Venkata R. Jonnalagadda, MD; Timothy E. Lietz, MD and Bryant A. Murphy, MD. Abstained: Mr. Shawn Parker

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, 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.

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, 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.

Five 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: Timothy E. Lietz, MD; Mr. Michael J. Arnold; Debra A. Bolick, MD; Eleanor E. Greene, MD and Bryant A. Murphy, MD. Absent: Barbara E. Walker, DO Chairperson

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, 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.

Fifty-eight 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.

DISCIPLINARY (NC CSRS) COMMITTEE REPORT

Members present were: Timothy Lietz, MD (chairperson), Mr. Michael Arnold, Eleanor Greene, MD, Venkata Jonnalagadda, MD, and Bryant Murphy, MD. Absent: Barbara 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, 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 (CSRS) Committee reported on fifteen 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.

OUTREACH COMMITTEE

Members present were: Timothy E. Lietz, MD, Chairperson; Debra A. Bolick, MD; Bryant A. Murphy, MD; Ralph A. Walker, JD, LLB.

Old Business

a. Update on ongoing Outreach activities

   The Board has exceeded its target for both number of Outreach presentations and audience reached - thank you to everyone who has helped make this NCMB initiative successful. The Chief Communications Officer noted that presentation training will be offered to Board Members in a lunch session on Thursday. The Communications Director mentioned that a plan to identify and make use of NCMB staff speakers to help with Outreach presentations is in the works.

   Committee recommendation: Accept as information

   Board action: Accept committee recommendation. Accept as information.

b. Communication plan updates
   1. Prescribing CME - www.ncmedboard.org/PrescribingCME

The committee reviewed steps to date to raise licensee awareness of the new controlled substances CME requirement, including the new resource page on the Board's website,

which includes an extensive list of FAQs. Partner organizations, including the NC Medical Society, have been helpful in getting the word out to their members.

Committee recommendation: Accept as information

Board action: Accept committee recommendation. Accept as information

c. Market Research for Licensees and Public

The committee reviewed and discussed survey questions for licensee and public audiences. Committee members directed staff to revise questions on the licensee survey related to personal wellness/mental health to avoid licensee confusion and encourage participation. Committee members recommended revisions to questions about employed physicians and also requested that the survey include an estimate indicating how long it will take to complete. It was suggested that staff contact the Federation of State Medical Boards to ask what research it has done into the survey topics. The committee also discussed how survey respondents will be contacted/obtained.

Committee recommendation: Revise licensee survey questions based on Committee feedback: Eliminate question asking respondents to state whether they have a mental health condition and replace with a question asking respondents if they have experienced symptoms of burnout (symptom list to include suicidal ideation); Revise employed physician question 3.7 to inquire whether obtaining access to patient records and patient addresses has been an issue for licensees.

Board action: Accept committee recommendation. Revise licensee survey questions based on Committee feedback: Eliminate question asking respondents to state whether they have a mental health condition and replace with a question asking respondents if they have experienced symptoms of burnout (symptom list to include suicidal ideation); Revise employed physician question 3.7 to inquire whether obtaining access to patient records and patient addresses has been an issue for licensees.

d. Website Recommendations

Tabled until November Outreach Committee meeting.

New Business

a. President's Initiative

The Chief Communications Officer gave a brief report on work to date regarding plans to develop a program to raise medical student awareness of the role of medical boards in physicians' professional lives. It has been suggested that Outreach Committee take this project on. The committee discussed the many legal and logistical challenges NCMB would have to address in order to successfully implement a meaningful program.

Committee recommendation: Direct staff to investigate the possibility of "piggybacking" an NCMB experience onto an existing medical school program.

Board action: Accept committee recommendation. Direct staff to investigate the possibility of "piggybacking" an NCMB experience onto an existing medical school program.

b. Forum reader survey – 2016

Tabled until November Outreach Committee meeting

c. Obtaining CME credit for NCMB presentations

Tabled until November Outreach Committee meeting

d. Infographic on Safe Opioid Prescribing Initiative

Committee members were advised that a copy of the new infographic card developed by the Communications Department to explain NCMB's Safe Opioid Prescribing Initiative and other work in responsible opioid prescribing has been placed in their lockers.

Committee recommendation: Accept as information

Board action: Accept committee recommendation. Accept as information.

e. Social Media Plan

The Communications Department presented a recommendation to the Committee that NCMB reintegrate disciplinary action information into its social media content. Consumer Reports magazine, which recognized NCMB as a leader in social media among medical boards earlier this year, has called on medical boards to post a wide range of public information on social media, including disciplinary actions. Communications staff noted that disciplinary actions are currently the only type of public information that NCMB currently does not post to social media. All other types of public information, including but not limited to meeting agendas, meeting minutes, announcements, new policies and rules, reports, newsletters, brochures, and other content are promoted via social media.

Committee recommendation: Direct the Communications Department to post monthly (1x only) on Twitter and on Facebook a notice that indicates disciplinary actions are available on the NCMB website. Posts shall direct interested parties to the Recent Board Actions table on the Board's website.

Board action: Accept committee recommendation. Direct the Communications Department to post monthly (1x only) on Twitter and on Face book a notice that indicates

disciplinary actions are available on the NCMB website. Posts shall direct interested parties to the Recent Board Actions table on the Board's website.

ADJOURNMENT

This meeting was adjourned at 5:30 p.m., September 22, 2016.

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Timothy E. Lietz, MD; Secretary/Treasurer

The Physician-Patient Relationship

A physician's first responsibility is to his or her patients. Having assumed care of a patient, the physician's responsibility is to provide competent, compassionate, and economically prudent care within the standards of acceptable medical practice and to make treatment decisions that are in the best interest of the patient. It is the Board's position that it is unethical for a physician to allow financial incentives or other interests to adversely affect or influence his or her medical judgment or patient care. Patient advocacy is a fundamental element of the patient-physician relationship and should not be altered by the health care system or setting in which a physician practices. All physicians should exercise their best professional judgement when making patient care decisions. When economic or other interests are in conflict with patient welfare, the patient's welfare must take priority. Physicians who hold administrative leadership positions should foster policies that support the physician-patient relationship and enhance the quality of patient care.

<u>Elements of the Physician-Patient Relationship</u>

Receiving a license to practice medicine grants the physician privileges and imposes great responsibilities. The people of North Carolina expect a licensed physician to be competent and worthy of their trust. As patients, they come to the physician in a vulnerable condition, believing the physician has knowledge and skill that will be used for their benefit.

Mutual trust is fundamental to the physician-patient relationship and requires that:

- there be appropriate professional communication between the physician and the patient;
- the physician timely report all significant findings to the patient or the patient's legally designated surrogate/guardian/personal representative;
- conflict of interest between the patient and the physician or third parties be resolved to the benefit of the patient;
- personal details of the patient's life shared with the physician are held in confidence;
- the physician maintain competence, professional knowledge, and skills;
- there is respect for the patient's autonomy;
- the physician maintains a compassionate and professional demeanor;
- the physician respect the patient's right to request restrictions on medical information disclosure;
- the physician be an advocate for appropriate medical care;
- patient advocacy remains unaltered by the health care system or setting; and
- the physician provide neither more nor less than the medical problem requires.

The Board believes the interests and health of the people of North Carolina are best served when the physician-patient relationship, founded on patient trust and fostered by professional communication, patient primacy, confidentiality, competence, patient autonomy, compassion, selflessness, and appropriate care are foremost considerations of physicians.

This same fundamental physician-patient relationship also applies to all licensees of this Board.

Termination of the Physician-Patient Relationship

The Board recognizes the physician’s right to choose patients and to terminate the professional relationship with them when he or she believes it is best to do so. That being understood, the Board maintains that termination of the physician-patient relationship must be done in accord with the physician’s underlying obligation to support continuity of care.

Patient termination must be accompanied by appropriate written notice provided to the patient or the patient’s representative sufficiently far in advance (at least 30 days) to allow other medical care to be secured. A copy of such notification is to be included in the medical record. Should the physician be a member of a group or an employee of a large practice, the notice of termination must also state clearly whether the termination involves only the individual physician, other physicians in the practice, or the entire practice. In the latter case, those members of the group joining in the termination must be designated. It is advisable that the notice of termination also include instructions for transfer of or access to the patient medical records.

When a physician's employment status is terminated by an employer, the physician or his or her employer should notify the physician's patients that the physician will no longer be working with the employer and should provide them with the physician's new contact information. Patients should be given the choice to continue to be seen by the physician in his or her new practice setting or to be treated by another physician still working with the employer.

(Adopted July 1995) (Amended July 1998, January 2000, March 2002, August 2003, September 2006, July 2012; September 2016)

Policy for the Use of Opioids for the Treatment of Pain

The Board believes that a fundamental component of good medical practice includes the appropriate evaluation and management of pain. Responsibly prescribed opioid medications may help North Carolina licensees treat their patients' pain safely and effectively, and improve their quality of life. It is the duty of any licensee prescribing opioid medications for the treatment of pain to be knowledgeable of both the therapeutic benefits and potential health risks associated with an opioid treatment regimen. As in any medical context, the Board expects any licensee prescribing opioids for the treatment of pain to provide diagnoses, treatments, and medical record documentation that is consistent with the standards of acceptable and prevailing medical practice in North Carolina. Failure to provide care that meets that standard may subject the licensee to disciplinary action by the Board.

The Board has previously attempted to provide guidance regarding opioid treatment of pain to its licensees through guidance documents generated and maintained by the Board. However, in order to provide its licensees with guidance that reflects the most current medical and scientific research and recommended practices, the Board has decided to adopt and endorse the *CDC Guideline for Prescribing Opioids for Chronic Pain* written and maintained by the Center for Disease Control and Prevention ("CDC").[1]

The *CDC Guideline for Prescribing Opioids for Chronic Pain* can be found at the following link: http://www.cdc.gov/media/modules/dpk/2016/dpk-pod/rr6501e1er-ebook.pdf. In addition to its *Guideline*, the CDC has also provided a number of useful clinician resources related to opioid treatment of pain covering topics such as Nonopioid Treatments, Assessing Benefits and Harms, Calculating Dosage, and Tapering. These documents can be found at the following link: http://www.cdc.gov/drugoverdose/prescribing/resources.html.

It is the Board's hope that familiarity with the concepts included in the documents above will help licensees provide safe and effective care for their North Carolina patients.

[1] The Board wishes to express its appreciation for the CDC's comprehensive work in this area and its cooperation with the Board.

Medical Testimony
The Board recognizes that medical testimony is vital to the administration of justice in both judicial and administrative proceedings. In order to provide further guidance to those licensees called upon to testify, the Board adopts and endorses the AMA Code of Medical Ethics Opinion 9.7.1 entitled "Medical Testimony."* In addition to AMA Ethics Opinion 9.7.1, the Board provides the following guidelines to those licensees testifying as medical experts:

- Licensee expert witnesses are expected to be impartial and should not adopt a position as an advocate or partisan in the legal proceedings.

- The licensee expert witness should review all the relevant medical information in the case and testify to its content fairly, honestly, and in a balanced manner. In addition, the licensee expert witness may be called upon to draw an inference or an opinion based on evidence presented in the case. In doing so, the licensee expert witness should apply the same standards of fairness and honesty.

- The licensee expert witness is ethically and legally obligated to tell the truth. The licensee expert witness should be aware that failure to provide truthful testimony constitutes unprofessional conduct and may expose the licensee expert witness to disciplinary action by the Board pursuant to N.C. Gen Stat. § 90-14(a)(6).

* The language of AMA Code of Medical Ethics Opinion 9.7.1 provides:

9.7.1 Medical Testimony

Medical evidence is critical in a variety of legal and administrative proceedings. As citizens and as professionals with specialized knowledge and experience, physicians have an obligation to assist in the administration of justice.

Whenever physicians serve as witnesses they must:

(a) Accurately represent their qualifications.

(b) Testify honestly.

(c) Not allow their testimony to be influenced by financial compensation. Physicians must not accept compensation that is contingent on the outcome of litigation.

Physicians who testify as fact witnesses on legal claims involving a patient they have treated must hold the patient's medical interests paramount by:

(d) Protecting the confidentiality of the patient's health information, unless the physician is authorized or legally compelled to disclose the information.

(e) Delivering honest testimony. This requires that they engage in continuous self-examination to ensure that their testimony represents the facts of the case.

(f) Declining to testify if the matters could adversely affect their patients' medical interests unless the patient consents or unless ordered to do so by legally constituted authority.

(g) Considering transferring the care of the patient to another physician if the legal proceedings result in placing the patient and the physician in adversarial positions.

Physicians who testify as expert witnesses must:

(h) Testify only in areas in which they have appropriate training and recent, substantive experience and knowledge.

(i) Evaluate cases objectively and provide an independent opinion.

(j) Ensure that their testimony:

  (i) reflects current scientific thought and standards of care that have gained acceptance among peers in the relevant field;

  (ii) appropriately characterizes the theory on which the testimony is based if the theory is not widely accepted in the profession;

  (iii) considers standards that prevailed at the time the event under review occurred when testifying about a standard of care.

Organized medicine, including state and specialty societies and medical licensing boards, has a responsibility to maintain high standards for medical witnesses by assessing claims of false or misleading testimony and issuing disciplinary sanctions as appropriate.

(Adopted March 2008)(Amended September 2012; September 2016)

Position Statement Review tracking chart:

POSITION STATEMENT	ADOPTED	SCHEDULED FOR REVIEW	LAST REVISED/ REVIEWED/ ADOPTED	REVISED/ REVIEWED	REVISED/ REVIEWED	REVISED/ REVIEWED	REVISED/ REVIEWED
Medical Testimony	Jan-97	Jul-16	Jul-12	Sep-06	Sept - 16		
End-of-Life Responsibilities and Palliative Care	Jul-93	Sept-16	Nov-12	Mar-08	May-96		
Drug Overdose Prevention	Oct-99		Jan-13	Mar-08	May-07		
Professional Use of Social Media	Sep-08		Mar-13	Sep-08			
The Treatment of Obesity	Mar-13		Mar-13				
Contact With Patients Before Prescribing	Oct-87		May-13	Nov-10	Jan-05	Mar-96	
Medical Record Documentation	Nov-99		May-13	Jul-10	Feb-01		
Retention of Medical Records	May-94		May-13	May-09	May-96		
Capital Punishment	May-98		Jul-13	May-09			
Professional Obligations pertaining to incompetence, impairment, and unethical conduct of healthcare providers	Jan-07		Jul-13	Jul-09			
Unethical Agreements in Complaint Settlements	Nov-98		Sept-13	Mar-10	Nov-98		
Guidelines for Avoiding	Nov-93		Sept-13	Mar-10	May-96		

Misunderstandings During Physical Examinations							
Departures from or Closings of Medical	May-91		Jan-14	Jul-10	Oct-02	Feb-01	Jan-01
Policy for the Use of Controlled Substances for the Treatment of Pain	Jan-00		May-13	Jul-09	Aug-03		
Access to Physician Records	Sep-96		May-14	Jan-13	Sep-08	Jul-05	
Medical Supervisor-Trainee Relationship	Nov-93		May-14	Sep-10	Aug-03	Mar-02	Sep-97
Advertising and Publicity	Apr-04		Jul-14	Nov-10	Apr-04		
Telemedicine	Nov-99		Aug-14	Nov-10	Sep-05	Mar-01	
Medical, Nursing, Pharmacy Boards: Joint Statement on Pain Management in End-of-Life Care	May-10		Nov-14	May-10			
Writing of Prescriptions	Oct-99		Nov-14	Jan-11	Oct-99		
HIV/HBV Infected Health Care Workers	May-91		Jan-15	Mar-11	Mar-05	Jul-02	Mar-02
Laser Surgery	Nov-92		Mar-15	Jan-11	Jan-05	May-96	
Sale of Goods From Physician Offices	Jul-99		Mar-15	Jul-05	Jul-05	Aug-02	Mar-02
Competence and Reentry to the Active Practice of Medicine	Mar-01		Mar-15	May-11	Mar-06		
Prescribing Controlled Substances for Other Than Valid Medical or Therapeutic Purposes, with Particular Reference to Substances or	Jul-06		May-15	Jul-06	May-15		

Preparations with Anabolic Properties							
Referral Fees and Fee Splitting	Jul-07		Sep-15	Jul-07	Sept-15		
Physician Supervision of Other Licensed Health Care Practitioners	Jul-07		Nov-15				
Self- Treatment and Treatment of Family Members and Others With Whom Significant Emotional Relationships Exist	Nov-93		Nov-15	Jul-06	May-96		
Availability of Physicians to Their Patients	May-91		Jan-16	Sep-05	Mar-02	May-00	May 96
Office-Based Procedures	Sep-00	Mar-16	May-11	Jan-03			
Sexual Exploitation of Patients	Jul-93	Mar-16	May-12	Nov-11	Jul-06	Oct-03	Jan-01
Care of the Patient Undergoing Surgery or Other Invasive Procedure	May-91	Mar-16	May-12	Sep-06	Jan-01	Apr-96	
The Physician-Patient Relationship	Sep-91	May-16	Jul-12	Sep-06	Mar-01	Sept - 16	
The Retired Physician	Jul-95	May-16	Jul-12	Sep-06	Aug-03	Mar-02	Jan-00
Advance Directives and Patient Autonomy	Mar-08	Jul-16	Sep-12	Mar-08			

21 NCAC 36 .0806 ANNUAL RENEWAL

(a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

(1) Maintaining current RN licensure;

(2) Maintaining certification as a nurse practitioner by a national credentialing body identified in 21 NCAC 36 .0801(8);

(2)(3) Submitting the fee required in Rule .0813 of this Section; and

(3)(4) Completing the renewal application.

(b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall lapse.

History Note: Authority G.S. 90-8.1; 90-8-2; 90-18(14) 90-171.23(b); 90-171.83;
Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004;
Amended Eff. December 1, 2009; November 1, 2008; August 1, 2004.

21 NCAC 36 .0807 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies or practice relevant courses in an institution of higher learning. Beginning XXX, every nurse practitioner who prescribes controlled substances shall complete at least three hours of the total required continuing education (CE) hours consisting of CE designed specifically to address controlled substance prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation shall be maintained by the nurse practitioner for the previous five calendar years and made available upon request to either Board.

History Note: Authority G.S. 90-5.1; 90-8.1; 90-8.2; 90-14(a)(15); 90-18(14); 90-171.23(b)(14); 90-171.42; 2015 Session Law 12F;
Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004;
Amended Eff. December 1, 2009; April 1, 2008; August 1, 2004

21 NCAC 36 .0809 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

(1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(b) of this Section.

(2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:

(A) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance;

(B) Refills may be issued for a period not to exceed one year with the exception of dosage units for schedules II, IIN, III, and IIIN which are limited to a 30 day ~~supply;~~ supply and a maximum of five refills;

(C) the supervising physician(s) must possess the same schedule(s) of controlled substances as the nurse practitioner's DEA registration.

(3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:

(A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and

(B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.

~~(4) Refills may be issued for a period not to exceed one year.~~

~~(5)~~(4) Each prescription shall be noted on the patient's chart and include the following information:

(A) medication and dosage;

(B) amount prescribed;

(C) directions for use;

(D) number of refills; and

(E) signature of nurse practitioner.

~~(6)~~(5) Prescription Format:

(A) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number;

(B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

~~(7)~~(6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the nurse practitioner's own use or that of a nurse practitioner's supervising physician; or that of a member of the nurse practitioner's immediate family, which shall mean a spouse, parent, child, sibling, parent-in-law, son or daughter-in-law, brother or sister-in-law, step-parent, step-child, step-siblings, or any other person living in the same residence as the licensee; or anyone with whom the nurse practitioner is having a sexual relationship or has a significant emotional relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments of the referenced materials.

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(b)(14);
Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004;
Amended Eff. December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004.