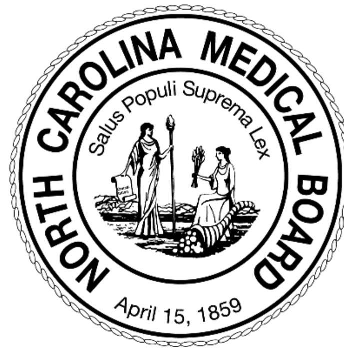

BOARD MEETING MINUTES

March 20- 22, 2024

3127 Smoketree Court
Raleigh, North Carolina

and

Virtual

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held March 20-22, 2024.

The March 20-22, 2024, meeting of the North Carolina Medical Board was held in person at 3127 Smoketree Court, Raleigh, NC 27604 and virtual. Devdutta G. Sangvai, MD, MBA, President-Elect called the meeting to order. Board members in attendance were Anuradha Rao-Patel, MD, Secretary/Treasurer; Candace A. Bradley, DO, MBA; Mr. William M. Brawley; W. Howard Hall, MD; N. Melinda Hill-Price, MD, JD.; Sharona Y. Johnson, PhD, FNP-BC; Joshua D. Malcolm, JD; Mark A. Newell, MD, MMM; Miguel A. Pineiro, PA-C; Robert Rich, Jr., MD; David P. Sousa, JD, MBA. Absent was Christine M. Khandelwal, DO.

PRESIDENTIAL REMARKS

Dr. Devdutta G. Sangvai 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. Reported conflicts were included within individual committee reports.

ANNOUNCEMENTS and UPDATES

Dr. Sangvai recognized new staff, and staff promotions since the January 2024 Board meeting, as they were introduced by their perspective manager.

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. Jordan 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.

Mr. Malcolm gave the PHP Board of Directors report.

Dr. Jordan gave the PHP Annual report.

NCMB ATTORNEYS' REPORT

Mr. Brian Blankenship, Chief Legal Officer, gave the Attorneys' Report on Friday, March 22, 2024.

Mr. Blankenship updated the Board on the schedule of the upcoming hearings and hearing assignments. Mr. Blankenship then informed the Board of the status of a pending litigation. Mr. Blankenship also provided information within the attorney-client privilege regarding work product occurring since the last Attorneys' Report was presented.

Additionally, Mr. Blankenship discussed an email received by Board members and staff. The Board voted that, if a response was necessary, Mr. Blankenship would respond on behalf of Board members and staff.

The Board accepted the report as information.

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present were Devdutta G. Sangvai, MD, MBA; Anuradha Rao-Patel, MD; and W. Howard Hall, MD. Absent was Christine M. Khandelwal, MD, MHPE.

Financial Update

a. Year-To-Date Financials

The Committee reviewed the following financial reports through January 31, 2024: Balance Sheet, Profit & Loss versus Budget, and the Profit & Loss Comparison with the Board Controller.

Committee Recommendation: Accept the financial information as reported.

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

b. Investment Account Update

The Committee reviewed the investment statements for January and February 2024 with the Board Controller.

Committee Recommendation: Accept the investment statements as reported.

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

c. FY23 Budget vs. Actuals Report

The Committee reviewed the Budget to Actuals Report, which compares actual income and expenses to budgeted income and expenses for the fiscal year ending October 31, 2023, with the Board Controller.

Committee Recommendation: Accept the financial information as reported.

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

Old Business:

a. 2024 Retreat Update

The Board previously agreed to hold a Board Retreat on August 2-4, 2024, similar to the retreats of the last two years. Mr. Thomas Mansfield presented information previously discussed with Dr. Christine Khandelwal, Board President regarding Highland Lake Inn & Resort in Flat Rock, North Carolina. The proposal from Highland Lake shows that the cost for lodging, meals, and transportation will be slightly less than the costs last year in Wrightsville Beach. Dr. Khandelwal has approved payment of a deposit to Highland Lake.

Committee Recommendation: Accept the 2024 Retreat update as information.

Board Action: Accept the Committee recommendation. Accept the 2024 Retreat update as information.

New Business:

a. Legislative Update

The Committee reviewed the Legislative update. There were no new bills for discussion. Non-standing committee discussion includes:

i. The General Statutes Commission is recommending substantive changes to N.C. Gen. Stat. § 93B-8.1 (Use of Criminal History Records) and making technical changes to the Medical Practice Act.

ii. Administrative Procedure Oversight Committee is considering introducing previously filed legislation amending N.C. Gen. Stat. § 93B in response to the 2015 U.S. Supreme Court case, NC Board of Dental Examiners v. Federal Trade Commission, which affected regulation and enforcement of unlicensed activity.

iii. Administrative Procedure Oversight Committee may continue discussions about aligning licensing boards fiscal years with other state agencies and may take up the issue at its next meeting this fall.

The Committee also discussed the PA Compact, which provides a streamlined process for physician assistants to practice in other compact member states. The Compact requires seven states to adopt the compact model legislation in order to become operational. Staff identified that the adoption of the Compact would require amending the Medical Practice Act to implement the Compact and address fees. Staff recommend considering the amendments

for the 2025-2026 legislative session and combining other pending legislation not expected to pass in the 2024 session.

Committee Recommendation: Accept the legislative update as information.

Board Action: Accept the Committee recommendation. Accept the legislative update as information.

b. Request for new staff position

Mr. Mansfield informed the Committee of the organizational changes being made to create a new department dedicated to licensing, registration, and corporations. Currently those functions are incorporated in a larger department headed by Evelyn Contre that includes operations, technology, finance, and communications. He asked the Committee to approve the new position, which is the role of Chief in the new standalone Licensing & Registration Department.

Committee Recommendation: Approve hiring a new Chief of Licensing & Registration to head a new Licensing & Registration Department.

Board Action: Accept the Committee recommendation. Approve hiring a new Chief of Licensing & Registration to head a new Licensing & Registration Department.

c. PA Study presentation

The team from Alera Health, Mr. Jose Castillo and Ms. Lizzy Reklau, presented a readout of the PA Study.

Committee Recommendation: Accept the PA Study presentation as information.

Board Action: Accept the Committee recommendation. Accept the PA Study presentation as information.

Policy Committee Report

Members present were: David P. Sousa, JD, MBA, Chair; W. Howard Hall, MD; N. Melinda Hill-Price, MD, JD; Joshua D. Malcolm, JD; Mark A. Newell, MD, MMM; and Anuradha Rao-Patel, MD.

Old Business:

a. 5.1.4: Telemedicine (Appendix A)

During the March 2024 meeting, the Committee discussed the additional, proposed revisions to the first paragraph under the "Prescribing" header, which was circulated to the Committee members after the January 2024 meeting. The Committee viewed the revisions favorably and felt the revisions addressed the stakeholders' concerns. Staff was directed to adopt and publish the revised position statement and provide a copy to the stakeholders who previously provided feedback.

Committee recommendation: Adopt and publish the revised position statement and provide a copy to the stakeholders who previously provided feedback.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement and provide a copy to the stakeholders who previously provided feedback.

b. 2.2.4: Conflicts in the Healthcare Setting

During the March 2024 meeting, the Committee reviewed and discussed the comments received from the stakeholders. The Committee directed staff to make additional revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to make additional revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Board Action: Accept Committee recommendation. Staff to make additional revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

c. 5.1.4: Licensee Use of Innovative or New Treatment

After the January 2024 meeting, staff circulated the current position statement to the Committee members for additional review and feedback. At the March 2024 meeting, the Committee reviewed and discussed the additional, proposed revisions to the position statement. Staff was instructed to incorporate certain revisions and then circulate the revised, proposed position statement to the Board's stakeholders for comment. Staff will bring back any comments received by stakeholders at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to finalize the recommended revisions and circulate the revised, proposed position statement to the Board's stakeholders for comment. Staff to bring back any comments received by stakeholders at the May 2024 meeting.

Board Action: Accept Committee recommendation. Staff to finalize the recommended revisions and circulate the revised, proposed position statement to the Board's stakeholders for comment. Staff to bring back any comments received by stakeholders at the May 2024 meeting.

New Business:

a. 4.1.1: Contact with patients Before Prescribing

During the March 2024 meeting, the Committee reviewed the current position statement and discussed making revisions, including removing the language regarding partner management of patients and creating a separate position statement for that guidance. The Committee directed staff to make the revisions to the position statement, including creating the new position statement, and to provide a copy of the revised "Contact with Patients Before Prescribing" to the stakeholders who had provided the additional feedback regarding the "Telemedicine" position statement. Staff will then bring back the proposed revisions and any additional comments from the stakeholders at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to make proposed revisions to the position statement, including creating the new position statement, and to provide a copy of the revised "Contact with Patients Before Prescribing" to the stakeholders who had provided the additional feedback regarding the "Telemedicine" position statement. Bring back the proposed revisions and any additional comments from the stakeholders at a later meeting, with the anticipated date of May 2024.

Board Action: Accept Committee recommendation. Staff to make proposed revisions to the position statement, including creating the new position statement, and to provide a copy of the revised "Contact with Patients Before Prescribing" to the stakeholders who had provided the additional feedback regarding the "Telemedicine" position statement. Bring back the proposed revisions and any additional comments from the stakeholders at a later meeting, with the anticipated date of May 2024.

b. 9.1.2: Professional Behavior Within the Healthcare Team

During the March 2024 meeting, the Committee reviewed the current position statement and discussed making revisions. The Committee directed staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Board Action: Accept Committee recommendation. Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

c. 2.2.1: Sexual Misconduct

During the March 2024 meeting, the Committee reviewed the current position statement and discussed making revisions. The Committee directed staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Board Action: Accept Committee recommendation. Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

d. 2.2.2: Guidelines for Avoiding Misunderstandings During Patient Encounters and Physical Examinations

During the March 2024 meeting, the Committee reviewed the current position statement and discussed making revisions. The Committee directed staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Committee recommendation: Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Board Action: Accept Committee recommendation. Staff to make revisions to the position statement and bring it back at a later meeting, with the anticipated date of May 2024.

Miscellaneous:

a. Position Statement Review Tracking Chart

During the March 2024 meeting, the Committee discussed the position statement review tracking chart and the additional position statements that have been identified for upcoming review. The Committee members also discussed the potential need for additional position statements to be added. Staff was asked to re-circulate the tracking chart prior to the May 2024 meeting, in order for Committee members to identify position statements that may be particularly ripe for review and have not been previously identified.

Committee recommendation: Staff to re-circulate the tracking chart prior to the May 2024 Committee meeting, in order for Committee members to identify position statements that may be particularly ripe for review and have not been previously identified.

Board Action: Accept Committee recommendation. Staff to re-circulate the tracking chart prior to the May 2024 Committee meeting, in order for Committee members to identify position statements that may be particularly ripe for review and have not been previously identified.

Licensing Committee Report

Members present were: W. Howard Hall, MD, Chairperson; Candace A. Bradley, DO, MBA; Sharona Y. Johnson, PhD, FNP-BC; Joshua D. Malcolm, JD; Devdutta G. Sangvai, MD, MBA; David P. Sousa, JD, MBA

New Business

At the January 2024 meeting, the Board approved a recommendation to submit the rules for Military Relocation Licensure with the modification to direct staff to insert language that a military relocation license based on spousal status will end when a marriage ends, and to notify the Board within 15 days of such marriage ending.

Board staff began to amend the proposed rules based on this directive and, as part of that process, members of the Board's legal department reviewed the proposed rules and recommended against these changes because they could have unintended negative consequences for licensees. For example, some military spouses may still receive military benefits even after the dissolution of a marriage. Inactivating a license on the basis of the dissolution of the marriage to a military service member could cause undue burden and should be handled carefully.

The staff also proposed a policy for addressing qualification for this license type due to dissolution of a marriage at the time of renewal, offering to either go inactive or apply for a full license.

Committee Recommendation: Accept the Military Relocation License rules as written and adopt the proposed policy for handling spousal military relocation licenses when a marriage ends.

Board Action: Accept Committee recommendation. Accept the Military Relocation License rules as written and adopt the proposed policy for handling spousal military relocation licenses when a marriage ends.

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 six 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.

Ten 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.

Disciplinary (Malpractice) Committee Report

Members present were: Anuradha Rao-Patel, MD, Chair; N. Melinda Hill-Price, MD, JD; Sharona Y. Johnson, PhD, FNP-BCN; Mark A. Newell, MD, MMM; Miguel A. Pineiro, PA-C, MHPE; Robert L. Rich, Jr., MD; David P. Sousa, JD, MBA

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 35 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: Anuradha Rao-Patel, MD, Chair; N. Melinda Hill-Price, MD, JD; Sharona Y. Johnson, PhD, FNP-BCN; Mark A. Newell, MD, MMM; Miguel A. Pineiro, PA-C, MHPE; Robert L. Rich, Jr., MD; David P. Sousa, JD, MBA

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 56 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.

Disciplinary (Complaints) Committee Report

Members present were: Anuradha Rao-Patel, MD, Chair; N. Melinda Hill-Price, MD, JD; Sharona Y. Johnson, PhD, FNP-BCN; Mark A. Newell, MD, MMM; Miguel A. Pineiro, PA-C, MHPE; Robert L. Rich, Jr., MD; David P. Sousa, JD, MBA

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 72 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 (Compliance) Committee Report

Members present were: Anuradha Rao-Patel, MD, Chair; N. Melinda Hill-Price, MD, JD; Sharona Y. Johnson, PhD, FNP-BCN; Mark A. Newell, MD, MMM; Miguel A. Pineiro, PA-C, MHPE; Robert L. Rich, Jr., MD; David P. Sousa, JD, MBA

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 (Compliance) Committee reviewed four 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.

Ten 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.

Outreach Committee Report

Members present were: N. Melinda Hill-Price, MD, JD; Chair; William M. Brawley; W. Howard Hall, MD; Miguel A. Pineiro, PA-C, MHPE; Robert L. Rich, Jr., MD; Devdutt, G. Sangvai, MD, MBA

Old Business

a. Update on presentations
    i. Professional and public presentations
    ii. Regulatory Immersion Series events
        (a) Modified RIMS sessions

The Communications Director gave an update on professional outreach activities, noting that requests for talks are up, particularly on the topic of responsible opioid prescribing. In addition,

NCMB had the opportunity in February to present a one-hour version of its Regulatory Immersion Series (RIMS) mock disciplinary committee session to non-licensee audiences: members of the Pre-Health Society at NC State University and credentialling professionals at a meeting of the NC Medical Staff Services Association at Duke Regional Hospital. The content was well received, and the shortened format worked well. A session with a resident audience is in the planning stages. It was suggested that staff look at the recent PA Discipline Study for ideas to generate RIMS case studies that mirror actual misconduct observed among licensed PAs. The Chief Administrative and Communications Officer reported on recent public outreach activities. Efforts to reach senior citizens with presentations at retirement communities have been fruitful, with several presentations scheduled in the months ahead. Also, progress has been made in NCMB's efforts to reach Spanish-speaking audiences. Staff are working with the city of Raleigh to participate in events aimed at the LatinX community.

Committee recommendation: Accept as information.

Board action: Accept Committee recommendation. Accept as information.

New Business:

a. NCMB Board Member Recruitment Outreach
    i. Ideas for outreach
    ii. Recruitment within your network/employer

The Communications Director outlined current and past activities to promote the opportunity to serve as a Board Member with NCMB. Currently, NCMB uses its website, social media and email newsletter to make licensees aware of openings on the Board and educate them about qualifications and the application process. In addition, the Communications Department coordinates with a variety of stakeholder groups that have licensees as members to secure help spreading the word about Board Member openings and also seeks assistance from past Board Presidents through a bimonthly newsletter staff send to them. The most recent issue included the Call for Board Member Applicants and invited past Board Presidents to share their thoughts about the value of serving with NCMB, not just to the medical profession but also to the Board Member's employer. Committee members expressed interest in making Board Member recruitment an ongoing effort, rather than limiting it to periods when applicants are being sought. It was noted that considering serving as a Board Member is not a quick decision and potential applicants may need time to embrace the idea of service. In addition, with so few openings available in a given year, interested applicants may need to apply more than once to be nominated, let alone selected. Ideas to nurture interest in serving with NCMB included scheduling "coffees" or other informal gatherings during which senior staff and current or former Board Members could discuss Board service and including slides on Board service in NCMB presentations to licensee audiences.

Committee recommendation: Direct staff to review ideas from Committee members and incorporate them into the communication plan.

Board action: Accept Committee recommendation. Direct staff to review ideas from Committee members and incorporate them into the communication plan.

Advanced Practice Providers & Allied Health Committee Report

Members present were: Miguel Pineiro, PA-C, MHPE, Chairperson; Candace A. Bradley, DO, MBA; Sharona Y. Johnson, PhD, FNP-BC; Robert L. Rich, Jr. MD; David P. Sousa, JD, MBA

Old Business:

a. Midwifery Joint Subcommittee Governance Update – Marcus Jimison, Deputy General Counsel

Committee Recommendation: Accept as information.

Board Action: Accepted committee recommendation. Accept as information.

b. Update on Intent to Practice Project – Malinda Sink, APP Supervisory Coordinator

Committee Recommendation: Accept as information.

Board Action: Accepted 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 Advanced Practice Providers and Allied Health Committee received as information a report from the Nurse Practitioner Joint Subcommittee Panel ("Panel"). The Panel'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.

JSC Panel Recommendations – September 2023, November 2023 and January 2024 – M. Jimison

Committee Recommendation: Accept as information.

Board Action: Accepted committee recommendation. Accept as information.

Health Equity Workgroup

Members present were: Sharona Y. Johnson, PhD, FNP-BC, Chair; Candace A. Bradley, DO, MBA; Miguel A. Pineiro, PA-C, MHPE;; Anuradha Rao-Patel, MD

New Business:

a. Health Equity Strategic Framework: Licensing

The Committee reviewed the licensing recommendations from the Quality Improvement Report. The report made recommendations pertaining to testing on examinations and requirements on licensing applications.

i. USMLE Committee

The report recommended that the NCMB consider having representation on USMLE exam question development committee. The USMLE Committee is comprised is several different committees. There are opportunities for all board members to serve on the Composite, Management, Budget and Advisory Committees. There is a higher need for clinician board members to serve on the Test Material Development Committee, which creates the test questions and involves the most time commitment. Board members interested in volunteering should discuss with the Chief Executive Office or the Chief Legal Officer.

Workgroup Recommendation: Accept as Information.

Board Recommendation: Accept committee recommendation. Accept as Information.

ii. Licensing Applications: Photographs and Reference Forms

(1) The report recommended continued review of the application process, including the requirement to provide a photograph or reference forms. Photographs are not part of the review process. Licensing staff use a checklist and check a box if the photograph is submitted. If the photograph and all other required information is submitted, then the applicant is provided with a NC Medical License. The application only undergoes further review if the application has presented an item of concern, such as a criminal history, disciplinary actions, or malpractice information. The review process includes review by multiple individuals in the Legal Department, Office of the Medical Director and a board member or the Senior Staff Review Committee. There are also additional layers of review that may include a licensing interview with board members and staff present. Before denying any license, the review process includes a presentation to the Licensing Committee and approval by the full board. As background, the NCMB received 6,468 applications and issued 6,197 licenses. Only 67 licensing cases were opened and only two resulted in a denial.

At this time, there is no evidence of any bias in the licensing process due to the photograph requirement. In addition, photographs can be useful in disciplinary matters to confirm identity and distributed in the event an applicant or licensee communicates any threats.

Workgroup Recommendation: Accept as Information.

Board Recommendation: Accept committee recommendation. Accept as Information.

(2) Applicants are also required to submit recommendation reference forms. Reference forms are subjective and have the potential for favorable bias from the reviewer. Eliminating the reference form requirement would relieve the applicant of the requirement. However, there may still be some utility in the reference forms and the issue should be referred to the Licensing Committee to examine closely.

Workgroup Recommendation: Due to the high potential of favorable bias in reference forms, staff recommend the issue to the Licensing Committee for further review of eliminating the reference requirement.

Board Recommendation: Accept workgroup recommendation. Due to the high potential of favorable bias in reference forms, staff recommend the issue to the Licensing Committee for further review of eliminating the reference requirement.

ADJOURNMENT

The Medical Board officially adjourned at 1:37 p.m. on Friday, March 22, 2024.

The next meeting of the Medical Board will be in-person, May 15-17, 2024.

Anuradha Rao-Patel, MD, Secretary/Treasurer

5.1.4: Telemedicine

"Telemedicine" is the practice of medicine using electronic communication, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. The term telemedicine incorporates the practices of telehealth. It is one component of the delivery of healthcare.

The Board recognizes that technological advances have made it possible for licensees to provide medical care to patients who are separated by some geographical distance. As a result, telemedicine can be a useful practice model that, if employed appropriately, can provide important benefits to patients, including: increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and the potential of reduced healthcare costs, increased efficiency, and improved overall healthcare outcomes. The call for ongoing research and formal training in the care models and technologies associated with telemedicine reflects the evolving nature of telemedicine practice.

Standard of Care

The Board cautions that licensees providing care to North Carolina patients via telemedicine will be held to the same established standard of care as those practicing in traditional in-person medical settings. The Board does not endorse a separate standard of care for telemedicine.

Licensees utilizing telemedicine in the provision of medical services to a patient (whether existing or new) are encouraged to take appropriate steps to establish the licensee-patient relationship, conduct all appropriate evaluations consistent with established evidenced based standards of care for the particular patient presentation, and protect and maintain patient confidentiality. When the standard of care that is ordinarily applied to an in-person encounter cannot be met by virtual means, the use of telemedicine technologies is not appropriate. Licensees, who fail to conform to the North Carolina statewide standard of care, may be subject to discipline by this Board.

The Board provides the following considerations to licensees as guidance in providing medical services via telemedicine:

Licensure

The Board deems the practice of medicine to occur in the state where the patient is located. Therefore, any provider[1] using telemedicine to provide medical services to patients located in North Carolina should be licensed in North Carolina unless an appropriate exception, such as those listed below, applies. Licensees need not reside in North Carolina if they have a valid, current license with the Board.
There are exceptions in North Carolina to the requirement that a physician, physician assistant, or nurse practitioner possess a North Carolina license prior to providing care for patients located in North Carolina. Those exceptions include, but are not limited to: (1) provider-to-provider consultations across state lines where a North Carolina licensee remains responsible for the care of the North Carolina patient, but an out-of-state provider consults "on an irregular basis" with the North Carolina licensee (N.C. Gen. Stat. § 90-18(c)(11)); and (2) episodic follow-up care in which the patient is temporarily located in North Carolina but has an established relationship with an out-of-state provider, i.e., the patient is attending college or vacationing in North Carolina.

North Carolina licensees intending to practice medicine via telemedicine technology to treat or diagnose patients outside of North Carolina should check with the state licensing board in the state where they intend to provide care. Most states require medical providers to be licensed in the state

[1] For the purpose of this position statement, "provider" includes any person legally authorized to provide health care services by means of telemedicine, who is licensed in North Carolina or by a regulatory agency outside of North Carolina.

where the patient is located, and some have enacted limitations on telemedicine practice or require or offer a special registration. A directory of all U.S. medical boards may be accessed at the Federation of State Medical Boards' website.

Scope of Practice

A licensee who uses telemedicine should ensure that the services provided are consistent with the licensee's scope of practice, including the licensee's education, training, experience, and ability.

Training of Staff

Staff involved in the telemedicine visit should be trained in the appropriate use of the technology being used to deliver care and competent in its operation. Such training includes applicable federal and state legal requirements of medical/health information privacy, including compliance with Health Insurance Portability and Accountability Act ("HIPAA") and state privacy, confidentiality, security, and medical retention rules. Licensees may supervise and delegate tasks to qualified individuals via telemedicine technologies so long as doing so is permitted by law or established by custom.

Licensee-Patient Relationship

The Board stresses the importance of proper patient identification prior to any telemedicine encounter. Failure to verify the patient's identity may lead to fraudulent activity or the improper disclosure of confidential patient information. The licensee using telemedicine should verify the identity and location of the patient. Furthermore, the licensee's name, location, and professional credentials should be provided to the patient. Licensees using telemedicine should also ensure the availability for appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care providers.

Although it may be difficult in some circumstances to precisely define the beginning of the licensee-patient relationship, particularly when the licensee and patient are in separate locations, it tends to begin when an individual with a health-related matter seeks care from a licensee. The relationship is clearly established when the licensee agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an in-person encounter between the licensee and patient. A licensee-patient relationship may be established via either synchronous or asynchronous telemedicine technologies without any requirement of a prior in-person meeting, so long as the standard of care is met.

Evaluations and Examinations

Licensees using telemedicine technologies to provide care to patients located in North Carolina are encouraged to provide, or rely upon, an appropriate evaluation prior to diagnosing and/or treating the patient. This evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care. There are situations, however, (*see* below under Prescribing and the Board's Position Statement "4.1.1. Contact with Patients Before Prescribing") where an initial in-person evaluation is necessary. A diagnosis should be established using accepted medical practices, i.e., a patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing.

Evaluations may also be considered appropriate if a licensed health care professional is able to facilitate aspects of the patient assessment needed to render reasonable diagnostic possibilities and care plans.

As part of meeting the standard of care, licensees should use digital images, live video, or other modalities as needed to make a diagnosis if the standard of care in-person would have required physical examination. Treatment and consultation recommendations made in a virtual setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in in-person settings. If the standard of care requires an evaluation utilizing additional ancillary diagnostic testing under the standard of care, the licensee is encouraged to complete such diagnostics, arrange for the patient to obtain the needed testing, or refer the patient to another provider.

In those instances when images are being transmitted for diagnostic interpretation purposes, it is incumbent on the licensee to assure that all necessary information is obtained for review. If not, then the diagnosis provided should reflect the incomplete nature of the material and be deemed preliminary until such time as the study can be reviewed in its entirety.

Diagnosis, prescribing, or other treatment based solely on static online questionnaires, or those that do not obtain all of the information necessary to meet applicable standards of care, are not acceptable. Licensees practicing telemedicine utilizing questionnaires should have the ability to ask follow-up questions or obtain further history, especially when doing so is required to collect adequate information to appropriately diagnosis or treat.

Prescribing

Licensees are expected to practice in accordance with the Board's Position Statement "4.1.1. Contact with Patients Before Prescribing." The Board expects the proper prescribing and monitoring of controlled substances, emphasizing the importance of appropriate and safe practices. Patient encounters conducted exclusively through telemedicine may not be deemed suitable in specific circumstances, including but not limited to, the treatment of pain. Licensees prescribing medications by means of telemedicine should comply with all relevant federal and state laws and are expected to participate in the Controlled Substances Reporting System.

Prescribing medications via telemedicine, as is the case during in-person care, is at the professional discretion of the licensee. The indication, appropriateness, and safety considerations for each prescription issued during a telemedicine encounter should be evaluated by the licensee in accordance with state and federal laws, as well as current standards of practice, and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, licensees may exercise their judgment and prescribe medications as part of telemedicine encounters.

Medical Records

The licensee treating a patient via telemedicine should maintain a complete record of the telemedicine patient's care consistent with the prevailing medical record standards. The medical record should clearly document all aspects of care including email, text, photos, phone contact, and other forms of communication. HIPAA and related privacy and security documents should be present and signed where appropriate. Appropriate informed consent documents acknowledging the risks, limitations, alternatives, and benefits of the telemedicine encounter should be included.

The licensee should maintain the medical record's confidentiality and provide a copy of the medical record to the patient in a manner consistent with state and federal law. Licensees practicing via telemedicine will be held to the same standards of professionalism concerning the transfer of medical records and communications with the patient's primary care provider and medical home as those licensees practicing via traditional means.

Continuity of Care and Referral for Emergent Situations

Patients should be able to seek, with relative ease, follow-up care or information from the licensee [or licensee's designee] who conducts an encounter using telemedicine technologies. Licensees solely providing services using telemedicine technologies with no existing licensee-patient relationship prior

to the encounter should document the encounter using telemedicine technologies that are easily available to the patient and, subject to the patient's consent, any identified care provider of the patient immediately after the encounter. Licensees have the responsibility to refer patients for in-person follow-up care when a patient's medical issue requires an additional in-person physical exam, diagnostic procedure, ancillary lab, or radiologic test.
If a patient is not an appropriate candidate for care via telemedicine technologies or experiences an emergent situation, complication, or side effects after an encounter using telemedicine technologies, licensees should have a standing plan in place and have the responsibility to refer the patient to appropriate in-person care (e.g., acute care, emergency room, or another provider) to ensure patient safety. It is insufficient for licensees to simply refer all patients to the emergency department; each situation should be evaluated on an individual basis and an appropriate referral should be made based on the severity and urgency of the situation. Licensees have an obligation to support continuity of care for their patients. In cases wherein telemedicine encounter is insufficient, but an emergency does not exist, the provider should be capable of making an appropriate referral to an ambulatory provider within a reasonable geographical approximation to the patient and not rely on emergency or urgent care services alone.

Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient may be considered patient abandonment and may result in discipline by the Board. Subsection B: Termination of the Licensee-Patient Relationship of the Board's Position Statement titled "2.1.1: The Licensee-Patient Relationship" is applicable in the context of telemedicine/telehealth provider including the written notice, timeline, and provision of continuity of care in the interim of transfer of care to a new provider.

Disclaimers

Providers of telemedicine should consider providing a statement identifying any unique limitations of the electronic model by which care is being provided. Such patient notification can be distributed prior to providing services and included in all direct advertising to the public.

Additional Considerations

Licensees may choose to make health-related and non-health-related goods or products available to patients to meet a legitimate patient need in instances where the goods are medically necessary for patients and not immediately or reliably available to patients by other means. Licensees who choose to make goods available to patients should be mindful of the inherent power differential that characterizes the licensee-patient relationship and therefore the significant potential for exploitation of patients. The principle of non-exploitation of patients also applies to scenarios involving physician-owned pharmacies located in practice offices. In such instances, licensees should offer patients freedom of choice in filling any prescriptions and allow prescriptions to be filled elsewhere.

A licensee who incorporates artificial intelligence ("AI") tools as part of telemedicine to diagnose or treat a patient in North Carolina should (a) understand that the use of an AI tool and acceptance of suggested diagnosis or related treatment plan is at the discretion of the treating practitioner; and (b) understand the limitations of using an AI tool, including the potential bias against populations that were not adequately represented in original testing of the tool.

(Adopted: July 2010) (Amended: November 2014; March 2019; September 2023)