



BOARD MEETING MINUTES

September 18-20, 2024

**3127 Smoketree Court
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board (NCMB) Meeting held September 18-20, 2024.

The September 18-20, 2024, meeting of the North Carolina Medical Board was held in person at 3127 Smoketree Court, Raleigh, NC 27604 and certain closed portions of the meeting were conducted virtually, including licensing and investigative interviews. Christine M. Khandelwal, DO, President, called the meeting to order. Board members in attendance were Devdutta G. Sangvai, MD, JD, MBA, President-Elect; Anuradha Rao-Patel, MD, Secretary/Treasurer; Candace A. Bradley, DO, MBA; J. Nelson Dollar; N. Melinda Hill-Price, MD, JD.; W. Howard Hall, MD; 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.

PRESIDENTIAL REMARKS

Dr. Christine M. Khandelwal 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.

PRESENTATION(S)

Elizabeth Meredith, Board Attorney, introduced Professor Jim Drennan, who provided training on Bias.

ANNOUNCEMENTS and UPDATES

Dr. Khandelwal recognized new staff, and staff promotions since the July 2024 Board meeting.

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. Joseph Jordan gave the NCPHP 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.

NCMB ATTORNEYS' REPORT

Mr. Brian Blankenship, Chief Legal Officer, gave the Attorneys' Report on Friday, September 20, 2024.

Mr. Marcus Jimison, Deputy General Counsel, presented an overview of *Chevron, USA, Inc. v. NRDC, Inc.* ("Chevron Doctrine") and the U.S. Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, overturning the Chevron Doctrine. Mr. Blankenship discussed the potential impact of the decision on the North Carolina Medical Board.

Additionally, Mr. Blankenship updated the Board on the schedule of the upcoming hearings and hearing assignments.

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

Mr. Blankenship provided information and legal advice within the attorney-client privilege regarding attorney-work product occurring since the last Attorneys' Report was presented.

A motion was passed to return to open session.

The Attorneys' Report was concluded.

The Board accepted the report as information.

NCMB COMMITTEE REPORTS

Executive Committee Report

Members present were: Christine M. Khandelwal, DO, MHPE, Chair; Devdutta G. Sangvai, MD, JD, MBA; W. Howard Hall, MD, and Miguel A. Pineiro, PA-C, MHPE; and Anu Rao-Patel, MD.

Financial Update

a. Year-To-Date Financials

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

Committee Recommendation: Accept the financial information as reported.

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

b. Investment Account Update

The Committee reviewed the investment statements for July and August 2024 with the Board Controller.

Committee Recommendation: Accept the investment statements as reported.

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

Old Business:

a. Board Retreat Debrief

Dr. Khandelwal led a debrief of the Board retreat and gave Board members an opportunity to provide comments. It was determined that the Board would hold a retreat in 2025.

Committee Recommendation: Accept the debrief as information.

Board Action: Accept Committee recommendation. Accept the debrief as information.

New Business:

a. 2024 NCMB Appointments/Review Panel Update

There are four seats to be appointed by the Governor this year via the NCMB Review Panel:

- Dr. Melinda Hill-Price (eligible for reappointment; seeking reappointment)
- Dr. Sharona Johnson (eligible for reappointment; seeking reappointment)
- Mr. Miguel Pineiro (eligible for reappointment; seeking reappointment)
- Dr. Khandelwal (not eligible for reappointment)

The Review Panel met on August 10 - 11 to conduct interviews, discuss the candidates, and decide whom to nominate.

By letter dated August 13, 2024, the Review Panel submitted its slate of nominees to the Governor.

We anticipate having notification of the Governor's appointments by late September or early October. The new terms will start November 1.

Committee Recommendation: Accept NCMB Review Panel update as information.

Board Action: Accept Committee recommendation. Accept NCMB Review Panel update as information.

b. Introduction to new Legislative Staff

Mr. Mansfield introduced Sam DeLuca, Director of External Affairs, to the committee. Sam's first day was August 1st and he and Brian Blankenship are the registered Legislative Liaisons for the Medical Board.

Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as information.

c. Legislative Update

The Committee was informed that there are no new bills for discussion and staff are monitoring committee meetings and the remaining sessions scheduled for this year.

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; and Mark A. Newell, MD, MMM and Anuradha Rao-Patel, MD.

Old Business:

- a. 2.2.2: Guidelines for Avoiding Misunderstandings During Patient Encounters and Physical Examinations (Appendix A)

The Committee reviewed the revisions made prior to the meeting and requested a few additional changes. Staff was directed to adopt the revisions and publish the position statement.

Committee recommendation: Adopt and publish the revised position statement.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement.

- b. 3.1.1: Professional Use of Social Media (Appendix B)

The Committee reviewed the revisions made prior to the meeting and requested one additional change. Staff was directed to adopt the revisions and publish the position statement.

Committee recommendation: Adopt and publish the revised position statement.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement.

- c. 3.1.2: Policy for the Use of Audio or Visual Recordings in Patient Care (Appendix C)

The Committee reviewed and discussed the revisions made prior to the meeting and requested staff make additional revisions. Staff was directed to adopt the revisions and publish the position statement.

Committee recommendation: Adopt and publish the revised position statement.

Board Action: Accept Committee recommendation. Adopt and publish the revised position statement.

- a. 3.2.1: MEDICAL RECORDS – Documentation, Electronic Health Records, Access, and Retention

The Committee reviewed and discussed the revisions made prior to the meeting and requested staff make additional revisions and bring back for further discussion at a later meeting, with an anticipated date of November 2024.

Committee recommendation: Staff to make additional revisions and bring back for further discussion at a later meeting, with an anticipated date of November 2024.

Board Action: Accept Committee recommendation. Staff to make additional revisions and bring back for further discussion at a later meeting, with an anticipated date of November 2024.

New Business:

Due to time constraints no new or additional business was addressed at this meeting.

Licensing Committee Report

Members present were: W. Howard Hall, MD, Chairperson; Sharona Y. Johnson, PhD, FNP-BC, Joshua Malcolm, JD; Devdutta G. Sangvai, MD, JD, MBA; David P. Sousa, JD, MBA. Absent were: Candace A. Bradley, DO, 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 License Committee reviewed 6 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.

a. Presentation: License Verification Process

- i. The Committee received a presentation on the license verification process. The Chief Administrative and Communications Officer presented information comparing credentials required for the three most common application types, primary source verification, identification of issues and changes implemented, as well as some recommendations for possible future changes to the licensure process and/or requirements. After discussion, the Committee accepted the report as information.

Committee Recommendation: Accept as information. Direct the licensing staff to bring any future updates in the list of recommendations back to the Licensing Committee.

Board Action: Accept Committee recommendation. Accept as information. Direct the licensing staff to bring any future updates in the list of recommendations back to the Licensing Committee.

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.

Six licensure interviews were conducted virtually. 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; Miguel A. Pineiro, PA-C, MHPE; Mark A. Newell, MD, MMM; 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 34 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 60 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.

Final Approval for **21 NCAC 32N .0107 INVESTIGATIONS AND COMPLAINTS**

At the Board's November 2023 meeting, the Board approved a proposed rule amendment defining the six-month time period for Board staff to complete an investigation. In May 2024, counsel for the Rules Review Commission (RRC) provided comments during what is called a pre-review process. (Appendix D). The proposed rule amendment incorporating RRC counsel's comments are attached to this memo. (Appendix E).

The rule was published in the North Carolina Register and a public hearing was scheduled for August 30, 2024. The Board received no written comments from the public regarding the proposed rule amendment. No one from the public appeared at the August 30 hearing. The proposed rule amendment incorporating RRC counsel's comments and Mr. David Sousa's edits are attached to this memo, and it was presented before the Board for final approval.

Committee Recommendation: Adopt proposed rule amendment with changes suggested by RRC counsel and Mr. Sousa.

Board Action: Accept Committee recommendation. Adopt proposed rule amendment with changes suggested by RRC counsel and Mr. Sousa.

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

A motion passed to return to open session.

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.

Four investigative interviews were conducted virtually. 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.

Advanced Practice Providers & Allied Health Committee Report

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

Old Business:

- a. Final Approval for 21 NCAC 32M .0110 and 32S .0213 – Marcus Jimison, Deputy General Counsel

Committee Recommendation: Final Approval for 21 NCAC 32M .0110 and 32S .0213

Board Action: Accept Committee recommendation. Final Approval for 21 NCAC 32M .0110 and 32S .0213

New Business:

- a. North Carolina Office of Emergency Medical Services Advisory Council Update – Pascal O. Udekwu, MD, Council Member

Committee Recommendation: Accept as information.

Board Action: Accepted Committee recommendation. Accept as information.

- b. Appointment of NC Medical Board Licensed Perfusionist to the Perfusionist Advisory Committee (PAC) – M. Jimison, Deputy General Counsel and Malinda M. Sink, APP Coordinator

Committee Recommendation: Appoint Michele Heath, LP to the PAC, for a three-year term.

Board Action: Accept Committee recommendation. Appoint Michele Heath, LP to the PAC, for a three-year term.

Outreach Committee Report

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

Old Business

- a. Update on presentations
 - i. Professional and public presentations
 - ii. Regulatory Immersion Series events

The Communications Director gave an update on public and professional outreach, including the Regulatory Immersion Series (RIMS) mock disciplinary committee educational program. Professional presentations, including RIMS, are currently fully staffed. NCMB will continue to pursue additional opportunities for professional outreach and schedule more talks for this year and into 2025.

Communications staff continue to make progress in their efforts to experiment with strategies to reach new and diverse audiences. Recent or planned public outreach include a community health fair for adults age 55+, placement of a general information article in the newsletter of the NC Occaneechi Saponi tribe, and an upcoming talk to a group of individuals and organizations dedicated to addressing health disparities among NC Latinas. The Communications Director noted that referrals for public and private outreach opportunities are welcome and asked that any Board Member or staff member with a lead send it by email.

Committee action: Accept as Information.

Board Action: Accept Committee recommendation. Accept as Information.

b. Follow up: Updating mobile website experience

The Communications Director informed the Committee that NCMB's website vendor has provided a quote that indicates a new mobile website interface can be developed at a cost of \$1,000 or less. The Committee reacted favorably to a rendering of the planned mobile interface, which aims to guide users to high value but often overlooked web content with attention getting icons and fewer choices to click on. Staff will consult internally with Managers and Directors to finalize the specific content to be linked on the mobile interface home screen; Once this is done the project will be ready to proceed.

Committee Recommendation: Direct staff to finalize design for mobile website interface and proceed with project.

Board Action: Accept Committee recommendation. Direct staff to finalize design for mobile website interface and proceed with project.

New Business:

a. Board Member Recruitment

The Committee reviewed current strategies staff have used to raise awareness of the opportunity to serve as a clinician Board Member with NCMB and considered ways to strengthen and expand these. The Communications Director outlined an idea for a series of short videos featuring Board Members talking about the value of Board Service, to be shared via the website and social media. The Committee also discussed ways to deepen NCMB's contact with stakeholder groups and secure more opportunities to "plant the seed" about serving as a Board Member with NCMB with members of these groups. It was noted that NCMB could pursue opportunities to attend more professional meetings, such as regional or county medical societies and annual specialty group meetings, across the state to create more ways for Board Members and staff to have conversations with licensees about Board service.

Committee Recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as Information.

b. Miscellaneous Communications Updates

- i. New Licensee Resources Email Campaign
- ii. Social Media Campaigns
- iii. Complaint Process Page

The Communications staff updated Committee Members on three recent projects that have come to fruition.

First, staff have completed the first cycle of emails to newly licensed physicians to connect them with information and resources to help them be successful in practice in NC. This includes position statements, podcast, the Forum newsletter, laws and rules, wellness resources and more. Early signs indicate that these communications will be well received by new licensees – analytics show that well over 50 percent of new licensees opened the emails sent by NCMB. Some clicked on the many links in the emails, and a few have reached out to staff with questions. Staff will continue to track progress.

Next, Communications staff discussed a recent social media campaign that promoted past episodes of the MedBoard Matters podcast during NCMB’s “summer break” from creating new content. The campaign promoted patient/public focused episodes on Facebook and professional/licensee focused episodes in LinkedIn. The campaign received good engagement and generated many new downloads of past podcast episodes.

Finally, Communications recently worked the NCMB’s Administrative Investigations Department to implement a new website feature that aims to redirect visitors who come to NCMB’s Complaint Form intending to report a non-jurisdictional or otherwise non-actionable matter to a more appropriate regulatory board or authority. The goal is to reduce the number of non-actionable complaints submitted; Each year up to 25 percent of complaints from patients and the public fall in this category, taking up staff time that could be focused on actionable cases. Staff will track cases opened by type and allegation to capture the impact of the new filtering tool.

Committee recommendation: Accept as information.

Board Action: Accept Committee recommendation. Accept as Information.

Board Meeting Workgroup Report

Members present were: Anuradha Rao-Patel, MD, Chair; Devdutta G. Sangvai, MD, JD, MBA; David Sousa, JD.

a. New Business:

The Workgroup discussed focusing on the problem we are trying to solve, which has been identified as managing the volume of cases to review and the time to review board materials for Disciplinary Committee. Before adopting any method, the Workgroup wanted to avoid solutions that have been tried and abandoned in the past as well as solutions that may not work for future board members and staff. The Workgroup also wanted to avoid creating unnecessary delays for cases. The following methods were considered:

- i. Increasing the number of board members on Disciplinary Committee (either additional members or to include all board members)
 - Allows for distribution of work and easy to implement, but could create a perception of bias impacting subsequent hearings
- ii. Increasing the number of seats on the Board
 - Requires a statutory change, which takes time
- iii. Receiving the Board Book (or Disciplinary materials) earlier
 - Not feasible with current software and staff processes but staff are looking at alternatives to the current Board Book software.
- iv. Separate committee for AAI recommendations
 - The Board has used this model in the past and found it to be not a meaningful use of time
- v. Monthly disciplinary committee meetings
 - Impacts staff processes and may conflict with hearings
- vi. Board member access to TSPAN or new method for board member access to cases
 - May not be feasible, would require additional costs and take significant time

Additional alternatives were presented including conducting interviews outside of meetings, evaluating the need for certain committees to meet at every board meeting, eliminating the Senior Staff Review Committee, utilizing the Office of the Administrative Hearings, conducting closed sessions in odd months and open sessions in even months, and delegating to committees and staff. The Workgroup commented that additional data would be helpful to understand the problem we are trying to solve, including calculating the time submitted by board members, disciplinary caseload, and the number of cases that automatically require extraction because the Senior Staff Review Committee deferred to the Disciplinary Committee. Understanding other boards processes and software may also be helpful.

Workgroup Recommendation: Accept as Information.

Board Action: Accept Workgroup recommendation. Accept as Information.

Health Equity Workgroup Report

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

New Business

- a. Health Equity Strategic Framework: Outreach

Staff discussed the ways the Communications Department has responded to the Quality Improvement Report, including:

- i. Website
 - Reorganizing the website and making it user friendly, providing more patient resources and updating the website for mobile users.

- Obtaining skills to begin generating short videos to engage with the public to present useful information about the board
- Creating health equity vignettes can be challenging to identify issues that tie within the mission and authority of the Board but can work with DHHS on public health issues to educate licensees; recommend the Board identify a few specific issues that Outreach can create resources or toolkits.

ii. Social Media

- Through social media, the Communications Department promotes the resources we have available and, once staff are more comfortable with the media, short form videos and vignettes

iii. Publications

- Most resources are available in English and Spanish
- Promoting a slide that links the ability to translate the page
- The website has accessibility for common disability technologies but may require a consultant to fill in any gaps.

Workgroup Recommendation: Accept as Information.

Board Recommendation: Accept Workgroup recommendation. Accept as Information.

b. Next Steps for Health Equity

Staff reviewed the Workgroup’s charge and the work to date. Throughout the year, the workgroup has pondered the purpose of the workgroup, the meaning of health equity, its place within the organization and where the workgroup is headed. It is important for the entire organization to understand its mission, its authority and the meaning of health equity. The cornerstone of health equity is about being patient focused and ensuring they receive quality care from licensees so that they can live their healthiest lives.

Rather than continuing to have one workgroup dedicated to health equity, staff propose embedding health equity initiatives throughout the organization. Health equity initiatives should be focused on patients and ensuring that that receive quality care from NCMB licensees. For example, Disciplinary Committee is where Board members learn the most information about patients from the complaints the Board receives and has the distinct ability to identify trends in disciplinary matters where further education on matters of health equity is warranted. Outreach Committee can continue its efforts to educate licensees on these identified initiatives. Executive Committee can continue working with the Review Panel to highlight the need to have a board that represent all people of North Carolina. Board members and staff can work to ensure that all licensing, complaints, investigations, disciplinary decisions and hearings are handled with consideration of initiatives that serve to protect patients and their right to quality care.

Workgroup Recommendation: Discontinue the Workgroup at this time and embed health equity initiatives that promote quality care for all North Carolinians throughout the organization to the extent the NCMB has authority to license, discipline and education licenses.

Board Recommendation: Accept Workgroup recommendation. Discontinue the Workgroup at this time and embed health equity initiatives that promote quality care for all North Carolinians throughout the organization to the extent the NCMB has authority to license, discipline and education licenses.

ADJOURNMENT

The Medical Board officially adjourned at 11:21 p.m. on Friday, July 19, 2024.

The next meeting of the Medical Board will be in-person, November 20-22, 2024.

A handwritten signature in black ink that reads "Anuradha Rao-Patel MD". The signature is written in a cursive, flowing style.

Anuradha Rao-Patel, MD, Secretary/Treasurer

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

It is the position of the Board that respect, empathy, and sensitivity to the vulnerability of patients are needed required at all times during a patient encounter in order to avoid misunderstandings that could lead to charges of boundary violation or sexual misconduct against licensees. The Board offers the following guidelines to assist licensees in reducing the possibility of such misunderstandings.

- Licensees should recognize that misunderstandings regarding boundaries may occur at any time during a patient encounter, but particularly during disclosure of private information by the patient about symptoms, prior personal experiences, or during the physical examination. The licensee should maintain a professional demeanor at all times. While some licensees have adopted a more informal approach to patient interactions, such as use of first names for both patients and the licensee, this may blur boundaries and result in later misunderstandings.
- Sensitivity to patient modesty and dignity must be maintained at all times. The patient should be assured of adequate privacy and should never be asked to disrobe in the presence of the licensee. Examining rooms should be well maintained and equipped with appropriate furniture and supplies for examination and treatment. Gowns, sheets, and/or other appropriate apparel should be made available to the patient.
- Regardless of the patient's or licensee's gender, it is recommended that a responsible, non-familial, third-party adult chaperone be readily available at all times during a physical examination, and it is strongly advised that a third party be present when the licensee performs an examination of the breasts, genitalia, or rectum. It is the licensee's responsibility to have a staff member available at any point during the examination. If no chaperone is available, then the patient should be clearly advised of what will occur during the examination and provide their verbal, informed consent for an unchaperoned examination. This verbal consent should be documented in the patient's chart.
- The licensee should individualize the approach to physical examinations so that each patient's senses of vulnerability, apprehension, fear, and embarrassment are diminished to the extent possible. An explanation of the necessity of a complete physical examination, the components of that examination, and the purpose of disrobing may make the patient more comfortable. Such explanation is advised when there is the potential for exposure or manipulation of sensitive areas during the course of a non-sensitive area examination (e.g., explaining the rationale for auscultating and manipulating the breast during a cardiac examination; during a femoral pulse examination of an adolescent patient, etc.).
- The licensee and staff should exercise the same degree of professionalism and care when performing diagnostic procedures (e.g., electrocardiograms, electromyograms, endoscopic procedures, and radiological studies, etc.), as well as during surgical procedures and postsurgical follow-up examinations when the patient is in varying stages of consciousness.

- The licensee should also be alert for suggestive or flirtatious behavior or mannerisms on the part of the patient and should not permit a compromising situation to develop.

(Adopted: May 1991) (Amended: May 1993; May 1996; January 2001; February 2001; October 2002; July 2010; November 2017; March 2019; January 2021; September 2024)

3.1.1: Professional Use of Social Media

The Board recognizes that social media has increasing relevance to the Board’s licensees and supports its responsible use. However, licensed health care professionals are held to a higher standard than others with respect to social media because health care professionals, unlike members of the lay public, are bound by ethical, legal, and professional obligations that extend beyond the exam room.

The informality of social media sites may obscure the serious implications and long-term consequences of certain types of postings. The Board encourages licensees to consider the implications of their online activities including, but not limited to, the following:

- Licensees must understand that the code of conduct that governs their face-to-face encounters with patients also extends to online activity. As such, licensees interacting with patients online must maintain appropriate boundaries in accordance with professional ethical guidelines, just as they would in any other context.
- Licensees have an absolute obligation to maintain patient privacy and security and must refrain from posting identifiable patient information online regardless of the practice location, circumstance (i.e., volunteer services or services provided abroad), or whether it is in response to a post initiated by a patient.
- A licensee’s publicly available online content may affect patient or public perceptions of his or her professionalism. It is advisable that licensees separate their professional and personal identities online (i.e., maintain separate email accounts for personal and professional use; establish a social media presence for professional purposes and one for personal use, etc.).
- Because privacy is never absolute, considerations of professionalism should also extend to a licensee’s personal accounts. Posting of material that demonstrates, or appears to demonstrate, behavior that might be considered unprofessional, inappropriate, or unethical should be avoided.
- The online use of profane, disparaging, or discriminatory remarks about individual patients or types of patients is unacceptable.
- Licensees should routinely monitor their own online presence to ensure that the personal and professional information on their own sites is accurate and appropriate.

The Board also endorses the Federation of State Medical Boards’ policy on “[Social Media and Electronic Communications](#)” (2019). Further discussion of this issue by the Board’s Office of the Medical Director can be found [here](#).

(Adopted: September 2008) (Amended: March 2013; January 2017; March 2021; September 2024)

3.1.2: Policy for the Use of Audio or Visual Recordings in Patient Care

The Board recognizes that there may be valid reasons for licensees to make audio or visual recordings of patients during a healthcare encounter. However, such recordings must be made for appropriate professional reasons and employ safeguards that protect a patient's autonomy, privacy, confidentiality, and dignity. **In instances where a patient may be asked to disrobe, the patient should be provided an opportunity to disrobe beyond the view of any camera.**

Recordings that could lead to disclosure of the patient's identity constitute protected health information and must be managed and transmitted in a manner that complies with HIPAA and other privacy and security requirements.

(Adopted: July 2017) (Amended: March 2021; September 2024)

Electronic Notary Public Requirements**Pre-Review: 21 NCAC 32N .0107****Seth Ascher****May 2024****21 NCAC 32N .0107**

- As an initial matter, it does appear to me that the Board has authority to by rule establish the procedures related to this investigation and provide additional clarification to fill in interstices in the statute, so long as the rules are otherwise consistent with the statutory requirements.
- For the purposes of clarity, I would avoid using the term “deem” in paragraph (f). Instead, you can simply use “is” in this context. I.e. on line 25 “For purposes of G.S. 90-14(l) an investigation is complete when . . .” and on line 30 “. . . as provided to the Board is compliant with the written . . .”
- G.S. 90-14(l) applies to *any* investigation, which would seem to include the follow-up investigation described on lines 27 and 28. Would a follow up investigation also trigger a written notification? Or am I missing something?
- As written, I find the third sentence of paragraph (f) somewhat awkward and passive. Consider rephrasing along these lines: “If an investigation is extended beyond six months, within six months of beginning the investigation Board staff will provide written notification pursuant to G.S. 90-14(l) by sending an email to the licensee or the licensee’s attorney at his or her last known email address provided to the board explaining the reasons for extending the investigation.”
- If there are consequences to the Board for failing to notify a licensee about extending the investigation, I am not sure if paragraph (g) would remedy them. That said, I do think it is fine as a rule and as a good governance practice to resolve an accidental oversight.

1 21 NCAC 32N .0107 is proposed for amendment as follows:

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3 **21 NCAC 32N .0107 INVESTIGATIONS AND COMPLAINTS**

4 (a) At the time of first oral or written communication from the Board or staff or agent of the Board to a licensee
5 regarding a complaint or investigation, the Board shall provide the notices set forth in G.S. 90-14(i), except as provided
6 in Paragraph (e) of this Rule.

7 (b) A licensee shall submit a written response to a complaint received by the Board within 45 days from the date of a
8 written request by Board staff. The Board shall grant up to an additional 30 days for the response where the licensee
9 demonstrates good cause for the extension of time. The response shall contain accurate and complete information.
10 Where a licensee fails to respond in the time and manner provided herein, the Board may treat that as a failure to
11 respond to a Board inquiry in a reasonable time and manner as required by G.S. 90-14(a)(14).

12 (c) The licensee's written response to a complaint submitted to the Board in accordance with Paragraph (b) of this
13 Rule shall be provided to the complainant upon written request as permitted in G.S. 90-16(e1), except that the response
14 shall not be provided where the Board determines that the complainant has misused the Board's complaint process or
15 that the release of the response would be harmful to the physical or mental health of the complainant who was a patient
16 of the responding licensee.

17 (d) A licensee shall submit to an interview within 30 days from the date of an oral or written request from Board staff.
18 The Board may grant up to an additional 15 days for the interview where the licensee demonstrates good cause for the
19 extension of time. The responses to the questions and requests for information, including documents, during the
20 interview shall be complete and accurate. Where respondent fails to respond in the time and manner provided herein,
21 the Board may treat that as a failure to respond to a Board inquiry in a reasonable time and manner as required by G.S.
22 90-14(a)(14).

23 (e) The licensee who is the subject of a Board inquiry may retain and consult with legal counsel of his or her choosing
24 in responding to the inquiries as set out in G.S. 90-14(i).

25 (f) For purposes of G.S. 90-14(l) an investigation shall be deemed is complete when the Board's Chief Investigative
26 Officer, or his or her designee, approves an investigative report for submission to the Board's Disciplinary Committee.
27 Once approved, subsequent consideration of the report by the Disciplinary Committee and any follow-up investigation
28 requested by the Disciplinary Committee shall not be considered part of the six-month period contained in G.S. 90-
29 14(l). If an investigation is extended beyond six-months, then within six-months of beginning an investigation An e-
30 mail from Board staff explaining the reasons for extending an investigation that is sent will shall provide written
31 notification pursuant to G.S. 90-14(l) by sending an email to the licensee or the licensee's attorney at his or her last
32 known email address as provided to the Board explaining the reasons for the extending the investigation. shall be
33 deemed compliant with the written notification requirement contained in G.S. 90-14(l) so long as the email is sent
34 within the six-month period.

35 (g) Should a licensee not receive a written explanation of the circumstances or reasons for extending an investigation
36 within the applicable six-month period, the licensee, or his or her attorney, may request a written explanation from the
37 Board as to the reasons why the investigation has not yet been completed. The Board shall respond to the request

1 within 15 days from the date of receipt of the request. In the response the Board shall provide the reasons for extending
2 the investigation along with an estimate as to when the investigation may be completed.

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*History Note: Authority G.S. 90-5.1(a)(3); 90-14(a)(14); ~~90-14(i)~~; 90-14(a)(i) and (l); 90-16(e1);
Eff. February 1, 2012;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,
2016.*