Report to the Oversight Committee on the Department of Health and Human Services

Pursuant to its deliberations of 3 October 2022 the Sub-Committee on NH Board of Medicine Transparency advises the Oversight Committee on the Department of Health and Human Services as follows:

Purpose and Intent

The Joint Committee on Oversight of DHHS appointed a sub-committee to make recommendations regarding the operations of the NH Board of Medicine. It was the purpose and intent of the sub-committee to examine the operations of the Board of Medicine with special regards to the issue of transparency and to make recommendations to the Joint Committee for further action as the Joint Committee sees fit.

Scope

The scope of the sub-committee's deliberations was the operation of the NH Board of Medicine. Its task was only that, without regard to any single specific matter which has come before the board and without regard to those investigations which might be conducted within specific hospitals.

Background

"The NH Board of Medicine (BoM) was created by the legislature in 1897 to ensure that all physicians had the training and skills necessary to practice safe and effective medicine for the people of the State. The Board grants licenses to qualified applicants. It is responsible for monitoring its licensees to ensure that they maintain a level of current medical knowledge and skill and that they can practice safely and ethically. [from the Board of Medicine website]. As such, the Board is responsible for investigating possible misconduct by licensees through the Medical Review Subcommittee of the BoM (MRSC) and determine if a licensee shall have their license to practice medicine either revoked or suspended" (taken from the BoM website). However, the Board can only act on information that it receives from outside sources such as patients, colleagues, hospitals, states other than NH and the National Practitioner Data Bank. Only then can the Board fulfill its obligations to the State and its citizens.

The citizens of NH have a right to information that they need in order to make informed decisions about the health care professionals that they ask to care for them.

Any health care organization such as a hospital, group practice, multi-disciplinary practice or solo practitioners shall report any provider misconduct or known malpractice law suits to the BoM. Each organization shall establish an internal review committee monitoring the quality and performance of individual providers. This committee shall meet regularly and could take the form of credentialing and privileging committees, quality assurance committees of the

organization's board or the medical staff committee. This committee report directly to the organization's Board with the authority to also bring to the NH BoM (with the organization's board notification) any issues regarding provider misconduct as it relates to patient safety and ethical behavior.

Organizations must report any resulting provider disciplinary action to the National Provider Data Bank (NPDB). This would include non-voluntary license or privilege revocations or suspensions and any malpractice suits found in favor of the plaintiff over the past 10 years.

The BoM shall investigate any organization's submission of information regarding any providers misconduct, disciplinary actions or lapses in ethical behavior that might have or has caused any harm to or threats of danger to life or health of any patient. It shall also review any complaints from patients, professional staff and colleagues who have similar concerns.

The BoM shall, with the intent of transparency, inform the public of its actions regarding any provider misconduct which threatens the quality of care or well being of patients. It shall report any non-voluntary license revocations or suspensions on it website. It shall report any non-voluntary hospital privilege revocations or suspensions on its website. It shall report any NH or out-of-state malpractice suits found in favor of a patient over the past 10 years. It shall report any NH or out-of-state Medical Board disciplinary actions.

Recommendations:

In review of the above Background and in light of current concerns about the efficient processing of complaints to the Board of Medicine, the Oversight Committee has acted as below and forwards the following:

Specific areas of attention on the part of the sub-committee included

a. The flow of complaints and information to the Board of Medicine

b. Processes of investigation by the Board as these investigations are conducted

c. The responsibilities and processes of the Board with regard to reporting their findings

d. The resources, staffing and funding required by the Board to fulfill its mission

It is recommended that the Oversight Committee consider the following issues with regard to the Board of Medicine:

Flow of Complaints

Recommend: It shall be the responsibility of any organization which employs physicians licensed to practice in New Hampshire or other organizations which employ physicians to convene in timely fashion such internal review committees as is customary and appropriate to investigate the performance of individual physicians. Such committees may include but not be limited to credentialing and privileging committees, or complaint committees.

The Board of Medicine shall place prominently on its web site a button labelled "Complaint" which will be the access point for anyone who wishes to report a complaint directly to the Board. The Board of Medicine shall review complaints filed by citizens, colleagues, professional staff, and health care organizations. It is the obligation of all licensed physicians to report instances of suspected malpractice to the Board of Medicine.

Investigations

In the course of its deliberations to consider possible professional lapses of any physician such internal review committees must investigate allegations of improper practice and must discipline physicians appropriately. Investigations shall be conducted for complaints lodged by citizens, colleagues, professional staff, and health care organizations. Reporting

In any case in which an internal review committee, the Chief Medical Officer of a health care organization or the President of the Medical Staff finds what it deems to be a lapse in professional practice and in which it recommends disciplinary action and in which that disciplinary action directs the limitation or suspension of physician privileges in protection of patient well-being it shall be the responsibility of the employing organization, the Chef of Medicine or the President of the Medical Staff to report such disciplinary action to the NH Board of Medicine. Such actions shall also be reported to the National Practitioner Data Bank. This provision shall stand alongside the current practice in which the Clerk of Superior Court is likewise directed to report to the NH Board of Medicine any judicial finding of malpractice which comes before it and which results in a finding of malpractice.

It shall be the responsibility of the President of the medical staff of any health care organization to report lapses in professional practice which result in disciplinary action directly to the Board of Medicine.

The Board shall exercise due diligence in informing the public of disciplinary actions imposed on physicians by hospitals or the Board itself. The Board shall make public all disciplinary actions including any voluntary or involuntary restriction of privileges, licensure, fines, etc. The Board shall report suspension of license either in NH or in another state and suspension or non-voluntary limitation of privileges as a result of quality of care issues in NH and in another state,

Board Investigation

The Board of Medicine shall investigate any disciplinary action by a health care organization resulting in limitation or suspension of privileges It shall report any non-voluntary privilege revocations, limitations or suspensions on its website and shall consider actions appropriate within its authority to regulate the privileges of physician practice. Wherever possible and practicable investigating committees shall include citizens, attorneys, medical ethicists and clergy in addition to health care professionals.

Staffing and Funding

The Board of Medicine, functioning as a body of volunteer professionals shall seek such additional funding as is necessary to staff its responsibilities, remunerate volunteer physicians for all travel expenses, and make known to the public by means of appropriate media its findings