

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 703  
Committee Substitute Favorable 3/24/09  
Third Edition Engrossed 3/31/09  
Senate Health Care Committee Substitute Adopted 6/17/09

Short Title: Disapprove NCMB Rule/Rept. Pub. Certain JAPS.

(Public)

Sponsors:

Referred to:

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE RULES ADOPTED BY THE NORTH CAROLINA MEDICAL BOARD AND APPROVED BY THE RULES REVIEW COMMISSION, TO REQUIRE THE NORTH CAROLINA BOARD OF MEDICINE TO PUBLISH CERTAIN JUDGMENTS, AWARDS, PAYMENTS, AND SETTLEMENTS, TO DISAPPROVE A RULE ADOPTED BY THE DEPARTMENT OF LABOR AND TO AUTHORIZE THE ADOPTION OF A TEMPORARY RULE TO REPLACE THE DISAPPROVED RULE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Pursuant to G.S. 150B-21.3(b1), 21 NCAC 32X .0103 (Reporting of Medical Judgments, Awards, Payments or Settlements) and 21 NCAC 32X .0105 (Publication of Judgments, Awards, Payments or Settlements), as adopted by the North Carolina Medical Board on July 16, 2008, and approved by the Rules Review Commission on August 21, 2008, are disapproved.

**SECTION 2.** G.S. 90-5.2(a) reads as rewritten:

"§ 90-5.2. Board to collect and publish certain data.

(a) The Board shall require all physicians and physician assistants to report to the Board certain information, including, but not limited to, the following:

- (1) The names of any schools of medicine or osteopathy attended and the year of graduation.
- (2) Any graduate medical or osteopathic education at any institution approved by the Accreditation Council of Graduate Medical Education, the Committee for the Accreditation of Canadian Medical Schools, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.
- (3) Any specialty board of certification as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.
- (4) Specialty area of practice.
- (5) Hospital affiliations.
- (6) Address and telephone number of the primary practice setting.
- (7) An e-mail address or facsimile number which shall not be made available to the public and shall be used for the purpose of expediting the dissemination of information about a public health emergency.



- 1 (8) Any final disciplinary order or other action required to be reported to the  
2 Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of  
3 privileges.
- 4 (9) Any final disciplinary order or action of any regulatory board or agency  
5 including other state medical boards, the United States Food and Drug  
6 Administration, the United States Drug Enforcement Administration,  
7 Medicare, or the North Carolina Medicaid program.
- 8 (10) Conviction of a felony.
- 9 (11) Conviction of certain misdemeanors, occurring within the last 10 years, in  
10 accordance with rules adopted by the Board.
- 11 (12) Any medical license, active or inactive, granted by another state or country.
- 12 (13) Certain malpractice information received pursuant to  
13 ~~G.S. 90-14.13~~G.S. 90-5.3, G.S. 90-14.13, or from other sources in  
14 accordance with rules adopted by the Board."

15 **SECTION 3.** Chapter 90 of the General Statutes is amended by adding a new  
16 section to read:

17 **"§ 90-5.3. Reporting and publication of medical judgments, awards, payments, and**  
18 **settlements.**

19 (a) All physicians and physician assistants licensed or applying for licensure by the  
20 Board shall report to the Board:

- 21 (1) All medical malpractice judgments or awards affecting or involving the  
22 physician or physician assistant.
- 23 (2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or  
24 more related to an incident of alleged medical malpractice affecting or  
25 involving the physician or physician assistant where the settlement occurred  
26 on or after May 1, 2008.
- 27 (3) All settlements in the aggregate amount of seventy-five thousand dollars  
28 (\$75,000) or more related to any one incident of alleged medical malpractice  
29 affecting or involving the physician or physician assistant not already  
30 reported pursuant to subdivision (2) of this subsection where, instead of a  
31 single payment of seventy-five thousand dollars (\$75,000) or more occurring  
32 on or after May 1, 2008, there is a series of payments made to the same  
33 claimant which, in the aggregate, equal or exceed seventy-five thousand  
34 dollars (\$75,000).

35 (b) The report required under subsection (a) of this section shall contain the following  
36 information:

- 37 (1) The date of the judgment, award, payment, or settlement.
- 38 (2) The specialty in which the physician or physician assistant was practicing at  
39 the time the incident occurred that resulted in the judgment, award, payment,  
40 or settlement.
- 41 (3) The city, state, and country in which the incident occurred that resulted in  
42 the judgment, award, payment, or settlement.
- 43 (4) The date the incident occurred that resulted in the judgment, award,  
44 payment, or settlement.

45 (c) The Board shall publish on the Board's Web site or other publication information  
46 collected under this section. The Board shall publish this information for seven years from the  
47 date of the judgment, award, payment, or settlement. The Board shall not release or publish  
48 individually identifiable numeric values of the reported judgment, award, payment, or  
49 settlement. The Board shall not release or publish the identity of the patient associated with the  
50 judgment, award, payment, or settlement. The Board shall allow the physician or physician  
51 assistant to publish a statement explaining the circumstances that led to the judgment, award,

1 payment, or settlement, and whether the case is under appeal. The Board shall ensure these  
2 statements:

3 (1) Conform to the ethics of the medical profession.

4 (2) Not contain individually identifiable numeric values of the judgment, award,  
5 payment, or settlement.

6 (3) Not contain information that would disclose the patient's identity.

7 (d) The term "settlement" for the purpose of this section includes a payment made from  
8 personal funds, a payment by a third party on behalf of the physician or physician assistant, or a  
9 payment from any other source of funds.

10 (e) Nothing in this section shall limit the Board from collecting information needed to  
11 administer this Article."

12 **SECTION 4.** Notwithstanding G.S. 150B-21.3(b1), 13 NCAC 07F.0901 (Scope) as  
13 adopted by the Department of Labor on February 19, 2009, and approved by the Rules Review  
14 Commission on March 19, 2009, is disapproved.

15 **SECTION 5.** Notwithstanding G.S. 150B-21.1, upon the effective date of this act,  
16 the Department of Labor shall immediately adopt a temporary rule that is consistent with the  
17 requirements of Section 6 of this act without prior notice or hearing. When the Department  
18 adopts the rule, it shall submit the rule and a copy of this act to the Codifier of Rules. Within  
19 two business days after submission of the rule, the Codifier must review the rule to determine  
20 whether the rule as adopted is consistent with the requirements of this act. If the Codifier of  
21 Rules finds that the rule as adopted is consistent with the requirements of this act, the Codifier  
22 shall notify the Department and enter the rule in the North Carolina Administrative Code on the  
23 sixth business day following approval by the Codifier of Rules. The rule shall become effective  
24 and shall expire in accordance with G.S. 150B-21.1(d).

25 **SECTION 6.** The Department of Labor shall adopt a temporary rule in accordance  
26 with the procedure set forth in Section 5 of this act. The temporary rule shall establish the scope  
27 of application for the Department's rules governing the standards for cranes and derricks in a  
28 manner substantially identical to the rule disapproved by this act, except that the temporary rule  
29 shall include an exclusion for service trucks with mobile lifting devices designed specifically  
30 for use in the power line and electric service industries such as digger derricks (radial boom  
31 derricks).

32 **SECTION 7.** This act is effective when it becomes law.