

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 228\*  
Committee Substitute Favorable 3/19/19  
Committee Substitute #2 Favorable 4/3/19  
Committee Substitute #3 Favorable 6/5/19

Short Title: Modernize Laws Pertaining to NC Medical Board.-AB

(Public)

Sponsors:

Referred to:

March 4, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODERNIZE LAWS PERTAINING TO THE NORTH CAROLINA MEDICAL  
3 BOARD AND THE PRACTICE OF MEDICINE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. PRACTICE OF MEDICINE**

7 **SECTION 1.** G.S. 90-1.1 reads as rewritten:

8 **"§ 90-1.1. Definitions.**

9 The following definitions apply in this Article:

10 ...

11 (4) License. – An authorization issued by the Board to a ~~physician or physician,~~  
12 ~~physician assistant assistant, or anesthesiologist assistant to practice perform~~  
13 medical acts, tasks, or functions.

14 (4a) Licensee. – Any person issued a license by the Board, whether the license is  
15 active or inactive, including an inactive license by means of surrender.

16 (4b) Inactive license. – A license that no longer grants the authorization to perform  
17 medical acts, tasks, or functions. A license can become inactive upon a  
18 licensee's request, a licensee's failure to annually register, a licensee's  
19 voluntary surrender, or based on any disciplinary order issued by the Board.

20 (4c) Modality. – A method of medical treatment.

21 (5) The practice of medicine or surgery. – Except as otherwise provided by this  
22 subdivision, the practice of medicine or surgery, for purposes of this Article,  
23 includes any of the following acts:

24 ...

25 d. Offering or undertaking to perform any surgical ~~operation-procedure~~  
26 on any individual.

27 ...."

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

29 **"§ 90-2. Medical Board.**

30 (a) There is established the North Carolina Medical Board to regulate the practice of  
31 medicine and surgery for the benefit and protection of the people of North Carolina. The Board  
32 shall consist of 13 members:

33 ...

34 (2) Five members shall all be appointed by the Governor as follows:



\* H 2 2 8 - V - 4 \*

1 ...  
 2 e. One shall be a duly licensed physician who is a doctor of ~~osteopathy~~  
 3 osteopathic medicine or a full-time faculty member of one of the  
 4 medical schools in North Carolina who utilizes integrative medicine  
 5 in that person's clinical practice, as recommended by the Review Panel  
 6 pursuant to G.S. 90-3.

7 ...."

8 **SECTION 2.(b)** G.S. 90-2(d) reads as rewritten:

9 "(d) Any member of the Board may be removed from office by the Governor for good  
 10 cause shown. Any vacancy in the physician, physician assistant, or nurse practitioner  
 11 membership of the Board shall be filled for the period of the unexpired term by the Governor  
 12 from a list submitted by the Review Panel pursuant to ~~G.S. 90-3~~ ~~except as provided in~~  
 13 ~~G.S. 90-2(a)(2)a.~~ ~~G.S. 90-3.~~ Any vacancy in the public membership of the Board shall be filled  
 14 by the appropriate appointing authority for the unexpired term."

15 **SECTION 2.(c)** Section 2(a) becomes effective October 31, 2019.

16 **SECTION 3.** G.S. 90-3 reads as rewritten:

17 "**§ 90-3. Review Panel recommends certain Board members; criteria for recommendations.**

18 (a) There is created a Review Panel to review all applicants for the physician positions,  
 19 the physician assistant position, and the nurse practitioner position on the ~~Board~~ ~~except as~~  
 20 ~~provided in G.S. 90-2(a)(2)a.~~ Board. The Review Panel shall consist of nine members, including  
 21 four from the Medical Society, one from the Old North State Medical Society, one from the North  
 22 Carolina Osteopathic Medical Association, one from the North Carolina Academy of Physician  
 23 Assistants, one from the North Carolina Nurses Association Council of Nurse Practitioners, and  
 24 one public member currently serving on the Board. All physicians, physician assistants, and nurse  
 25 practitioners serving on the Review Panel shall be actively practicing in North Carolina.

26 The Review Panel shall contract for the independent administrative services needed to  
 27 complete its functions and duties. The Board shall provide funds to pay the reasonable cost for  
 28 the administrative services of the Review Panel. The Board shall convene the initial meeting of  
 29 the Review Panel. The Review Panel shall elect a chair, and all subsequent meetings shall be  
 30 convened by the Review Panel.

31 The Governor shall appoint Board members as provided in G.S. 90-2. The Review Panel shall  
 32 attempt to make its recommendations to the Governor reflect the composition of the State with  
 33 regard to gender, ethnic, racial, and age composition.

34 The Review Panel and its members and staff shall not be held liable in any civil or criminal  
 35 proceeding for exercising, in good faith, the powers and duties authorized by law.

36 (b) To be considered qualified for a physician position, the physician assistant position,  
 37 or nurse practitioner position on the Board, an applicant shall meet each of the following criteria:

38 ...

39 (9) Indicate, in a manner prescribed by the Review Panel, that the applicant: (i)  
 40 understands that the primary purpose of the Board is to protect the public; (ii)  
 41 is willing to take appropriate disciplinary action against his or her peers for  
 42 misconduct or violations of the standards of ~~care or practice of medicine;~~  
 43 medical care; and (iii) is aware of the time commitment needed to be a  
 44 constructive member of the Board.

45 ...

46 (f) Notwithstanding any provision of G.S. 90-16, the Board may provide confidential and  
 47 nonpublic licensing and investigative information in its possession to the Review ~~Panel~~ Panel  
 48 regarding applicants.

49 ...."

50 **SECTION 4.** G.S. 90-5 reads as rewritten:

51 "**§ 90-5. Meetings of Board.**

1 The North Carolina Medical Board shall assemble ~~once in every year in the City of Raleigh,~~  
 2 ~~and shall remain in session from day to day until all applicants who may present themselves for~~  
 3 ~~examination within the first two days of this meeting have been examined and disposed of; other~~  
 4 ~~meetings in each year may be held at some suitable point in the State if deemed advisable.~~ meet  
 5 at least once quarterly within the State of North Carolina and may hold any other meetings  
 6 necessary to conduct the business of the Board."

7 **SECTION 5.** G.S. 90-5.1(a) reads as rewritten:

8 "(a) The Board ~~shall~~ shall have the following powers and duties:

9 ...

10 (8) Develop and implement methods to identify dyscompetent ~~physicians~~  
 11 licensees and ~~physicians~~ licensees who fail to meet acceptable standards of  
 12 care.

13 (9) Develop and implement methods to assess and improve ~~physician~~ licensee  
 14 practice.

15 ...."

16 **SECTION 6.** G.S. 90-5.2(a) reads as rewritten:

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

19 (1) The names of any schools of medicine or osteopathy attended and the year of  
 20 graduation.

21 (2) Any graduate medical or osteopathic ~~education at any institution approved by~~  
 22 ~~the Accreditation Council of Graduate Medical Education, the Committee for~~  
 23 ~~the Accreditation of Canadian Medical Schools, the American Osteopathic~~  
 24 ~~Association, or the Royal College of Physicians and Surgeons of~~  
 25 ~~Canada.~~ education.

26 ...."

27 **SECTION 7.** G.S. 90-5.3 reads as rewritten:

28 "**§ 90-5.3. Reporting and publication of medical judgments, awards, payments, and**  
 29 **settlements.**

30 (a) All ~~physicians and physician assistants licensed or applying for licensure by the Board~~  
 31 applicants and licensees shall report the following to the Board:

32 (1) All medical malpractice judgments or awards affecting or involving the  
 33 ~~physician or physician assistant~~ applicant or licensee.

34 (2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or  
 35 more related to an incident of alleged medical malpractice affecting or  
 36 involving the ~~physician or physician assistant~~ applicant or licensee where the  
 37 settlement occurred on or after May 1, 2008.

38 (3) All settlements in the aggregate amount of seventy-five thousand dollars  
 39 (\$75,000) or more related to any one incident of alleged medical malpractice  
 40 affecting or involving the ~~physician or physician assistant~~ applicant or  
 41 licensee not already reported pursuant to subdivision (2) of this subsection  
 42 where, instead of a single payment of seventy-five thousand dollars (\$75,000)  
 43 or more occurring on or after May 1, 2008, there is a series of payments made  
 44 to the same claimant which, in the aggregate, equal or exceed seventy-five  
 45 thousand dollars (\$75,000).

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

48 (1) The date of the judgment, award, payment, or settlement.

49 (2) The specialty in which the ~~physician or physician assistant~~ applicant or  
 50 licensee was practicing at the time the incident occurred that resulted in the  
 51 judgment, award, payment, or settlement.

- 1 (3) The city, state, and country in which the incident occurred that resulted in the  
2 judgment, award, payment, or settlement.  
3 (4) The date the incident occurred that resulted in the judgment, award, payment,  
4 or settlement.

5 (c) The Board shall publish on the Board's Web site or other publication information  
6 collected under this section. The Board shall publish this information for seven years from the  
7 date of the judgment, award, payment, or settlement. The Board shall not release or publish  
8 individually identifiable numeric values of the reported judgment, award, payment, or settlement.  
9 The Board shall not release or publish the identity of the patient associated with the judgment,  
10 award, payment, or settlement. The Board shall allow the ~~physician or physician assistant~~  
11 applicant or licensee to publish a statement explaining the circumstances that led to the judgment,  
12 award, payment, or settlement, and whether the case is under appeal. The Board shall ensure  
13 these statements:

- 14 (1) Conform to the ethics of the medical profession.  
15 (2) Not contain individually identifiable numeric values of the judgment, award,  
16 payment, or settlement.  
17 (3) Not contain information that would disclose the patient's identity.

18 (d) The term "settlement" for the purpose of this section includes a payment made from  
19 personal funds, a payment by a third party on behalf of the ~~physician or physician assistant,~~  
20 applicant or licensee, or a payment from any other source of funds.

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

23 **SECTION 8.** Article 1 of Chapter 90 of the General Statutes is amended by adding  
24 a new section to read:

25 **"§ 90-5.4. Duty to report.**

26 (a) Every licensee has a duty to report in writing to the Board within 30 days any incidents  
27 that licensee reasonably believes to have occurred involving any of the following:

- 28 (1) Sexual misconduct of any person licensed by the Board under this Article with  
29 a patient. Patient consent or initiation of acts or contact by a patient shall not  
30 constitute affirmative defenses to sexual misconduct. For purposes of this  
31 section, the term "sexual misconduct" means vaginal intercourse, or any  
32 sexual act or sexual contact or touching as described in G.S. 14-27.20. Sexual  
33 misconduct shall not include any act or contact that is for an accepted medical  
34 purpose.  
35 (2) Fraudulent prescribing, drug diversion, or theft of any controlled substances  
36 by another person licensed by the Board under this Article. For purposes of  
37 this section, "drug diversion" means transferring controlled substances or  
38 prescriptions for controlled substances to (i) the licensee for personal use; (ii)  
39 a licensee's immediate family member; (iii) any other person living in the  
40 same residence as the licensee; (iv) any person with whom the licensee is  
41 having a sexual relationship; or (v) any individual unless for a legitimate  
42 medical purpose by an individual practitioner acting in the usual course of his  
43 professional practice. For the purposes of this section, the term "immediate  
44 family member" means a spouse, parent, child, sibling, and any step-family  
45 member or in-law coextensive with the preceding identified relatives.

46 (b) For persons issued a license to practice by the Board under this Article, failure to  
47 report under this section shall constitute unprofessional conduct and shall be grounds for  
48 discipline under G.S. 90-14(a)(6). However, persons licensed by the Board who are employed  
49 by or serving as a director or agent of the North Carolina Physicians Health Program and who  
50 obtain information exclusively while functioning in their role as employee, director, or agent of  
51 the North Carolina Physicians Health Program that causes them to reasonably believe that

1 incidents referred to in subdivisions (1) and (2) of subsection (a) of this section occurred shall  
2 not be required to report pursuant to this section but shall comply with the reporting provisions  
3 contained in G.S. 90-21.22.

4 (c) Any person who reports under this section in good faith and without fraud or malice  
5 shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall  
6 constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-14(a)(6).

7 (d) The Board may adopt rules to implement this section."

8 **SECTION 9.** G.S. 90-7 is repealed.

9 **SECTION 10.** G.S. 90-8.1 is amended by adding a new subsection to read:

10 "(c) By submitting an application for licensure, the applicant submits to the jurisdiction of  
11 the Board."

12 **SECTION 11.** G.S. 90-9.1(a) reads as rewritten:

13 "(a) Except as provided in G.S. 90-9.2, to be eligible for licensure as a physician under  
14 this Article, an applicant shall submit proof satisfactory to the Board that the ~~applicant~~applicant  
15 meets all of the following criteria:

16 (1) ~~Has~~The applicant has passed each part of an examination described in  
17 ~~G.S. 90-10.1;~~G.S. 90-10.1.

18 (2) ~~Is a graduate of~~The applicant has completed at least 130 weeks of medical  
19 education and satisfies any of the following:

20 a. ~~A~~The applicant is a graduate of a medical college approved by the  
21 Liaison Commission on Medical Education, the Committee for the  
22 Accreditation of Canadian Medical Schools, or an osteopathic college  
23 approved by the American Osteopathic Association and has  
24 successfully completed one year of training in a medical education  
25 program approved by the Board after graduation from medical school;  
26 or

27 b. ~~A~~The applicant is a graduate of a medical college approved or  
28 accredited by the Liaison Commission~~Committee~~ on Medical  
29 Education, the Committee for~~the~~ on Accreditation of Canadian  
30 Medical Schools, or an osteopathic college approved by the American  
31 Osteopathic Association, is a dentist licensed to practice dentistry  
32 under Article 2 of Chapter 90 of the General Statutes, and has been  
33 certified by the American Board of Oral and Maxillofacial Surgery  
34 after having completed a residency in an Oral and Maxillofacial  
35 Surgery Residency program approved by the Board before completion  
36 of medical school; and~~school.~~

37 c. The applicant may satisfy the education and graduation requirements  
38 of subdivision (2) of this subsection by providing proof of current  
39 certification by a specialty board recognized by the American Board  
40 of Medical Specialties, Certificate of the College of Family  
41 Physicians, Fellowship of the Royal College of Physicians of Canada,  
42 Fellowship of the Royal College of Surgeons of Canada, American  
43 Osteopathic Association, the American Board of Oral and  
44 Maxillofacial Surgery, or any other specialty board the Board  
45 recognizes pursuant to rules.

46 (3) ~~Is~~The applicant is of good moral character."

47 **SECTION 12.** G.S. 90-9.2 reads as rewritten:

48 "**§ 90-9.2. Requirements for graduates of ~~foreign~~international medical schools.**

49 (a) To be eligible for licensure under this section, an applicant who is a graduate of a  
50 medical school not approved by the Liaison Commission on Medical Education, the Committee  
51 for the Accreditation of Canadian Medical Schools, or the American Osteopathic Association

1 shall submit proof satisfactory to the Board that the ~~applicant~~applicant has met all of the  
2 following:

- 3 (1) ~~Has successfully~~The applicant has successfully completed ~~three~~two years of  
4 training in a medical education program approved by the Board after  
5 graduation from medical ~~school~~school, or provides proof of current  
6 certification by a specialty board recognized by the American Board of  
7 Medical Specialties, Certificate of the College of Family Physicians,  
8 Fellowship of the Royal College of Physicians of Canada, Fellowship of the  
9 Royal College of Surgeons of Canada, American Osteopathic Association, the  
10 American Board of Oral and Maxillofacial Surgery, or any specialty board the  
11 Board recognizes pursuant to rules.  
12 (2) ~~Is of good~~The applicant has good moral ~~character~~character.  
13 (3) ~~Has a~~The applicant has a currently valid standard certificate of Educational  
14 Commission for Foreign Medical ~~Graduates (ECFMG); and~~Graduates.  
15 (4) ~~Is able~~The applicant has the ability to communicate in English.  
16 (5) The applicant has successfully passed each part of an examination described  
17 in G.S. 90-10.1.

18 ...."

19 **SECTION 13.** G.S. 90-9.3 reads as rewritten:

20 **"§ 90-9.3. Requirements for licensure as a physician assistant.**

21 (a) To be eligible for licensure as a physician assistant, an applicant shall submit proof  
22 satisfactory to the Board that the ~~applicant~~applicant has met all of the following:

- 23 (1) ~~Has successfully~~The applicant has successfully completed an educational  
24 program for physician assistants or surgeon assistants accredited by the  
25 ~~Committee on Allied Health Education and Accreditation~~Accreditation  
26 Review Commission on Education for the Physician Assistant or by the  
27 Committee's its predecessor or successor entities; entities.  
28 (2) ~~Holds or previously held a certificate~~The applicant has a current or previous  
29 certification issued by the National Commission on Certification of Physician  
30 ~~Assistants; and~~Assistants or its successor.  
31 (3) ~~Is~~The applicant is of good moral character.

32 (b) Before initiating practice of medical acts, tasks, or functions as a physician assistant,  
33 the physician assistant shall provide the Board the name, address, and telephone number of the  
34 physician who will supervise the physician assistant in the relevant medical setting.

35 (c) The Board may, by rule, require an applicant to comply with other requirements or  
36 submit additional information the Board deems appropriate. ~~The Board may set fees for physician~~  
37 ~~assistants pursuant to rules adopted by the Board.~~"

38 **SECTION 14.** G.S. 90-9.4 reads as rewritten:

39 **"§ 90-9.4. Requirements for licensure as an anesthesiologist assistant.**

40 Every applicant for licensure as an anesthesiologist assistant in the State shall meet the  
41 following criteria:

- 42 ...  
43 (3) Submit to the Board proof of current certification from the National  
44 Commission of Certification of Anesthesiologist Assistants (NCCAA) or its  
45 successor ~~organization, including passage of a certification examination~~  
46 ~~administered by the NCCAA.~~organization. The applicant shall take the  
47 certification exam within 12 months after completing training.  
48 (4) Meet any additional qualifications for licensure pursuant to rules adopted by  
49 the Board."

50 **SECTION 15.** Article 1 of Chapter 90 of the General Statutes is amended by adding  
51 a new section to read:

1 **"§ 90-9.5. Inactive licenses.**

2 The Board retains jurisdiction over an inactive license, regardless of how it became inactive,  
3 including a request for inactivation, surrender of a license, or by operation of an order entered by  
4 the Board. The Board's jurisdiction over the licensee extends for all matters, known and unknown  
5 to the Board, at the time of the inactivation or surrender of the license."

6 **SECTION 16.** G.S. 90-10.1(1) is repealed.

7 **SECTION 17.** G.S. 90-11(b) reads as rewritten:

8 "(b) The Department of Public Safety may provide a criminal record check to the Board  
9 for a person who has applied for a license through the Board. The Board shall provide to the  
10 Department of Public Safety, along with the request, the fingerprints of the applicant, any  
11 additional information required by the Department of Public Safety, and a form signed by the  
12 applicant consenting to the check of the criminal record and to the use of the fingerprints and  
13 other identifying information required by the State or national repositories. The applicant's  
14 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's  
15 criminal history record file, and the State Bureau of Investigation shall forward a set of the  
16 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The  
17 Board shall keep all information pursuant to this subsection privileged, in accordance with  
18 applicable State law and federal guidelines, and the information shall be confidential and shall  
19 not be a public record under Chapter 132 of the General Statutes.

20 The Department of Public Safety may charge each applicant a fee for conducting the checks  
21 of criminal history records authorized by this subsection. The Board has the authority to collect  
22 this fee from each applicant and remit it to the Department of Public Safety."

23 **SECTION 18.** G.S. 90-12.01 reads as rewritten:

24 **"§ 90-12.01. Limited license to practice in a medical education and training program.**

25 (a) As provided in rules adopted by the Board, the Board may issue a limited license  
26 known as a "resident's training license" to a physician not otherwise licensed by the Board who  
27 is participating in a graduate medical education training program.

28 (b) A resident's training license shall become inactive at the time its holder ceases to be  
29 a resident in a training program or obtains any other license to practice medicine issued by the  
30 Board. The Board shall retain jurisdiction over the holder of the inactive license.

31 (c) The program director of every graduate medical education program shall report to the  
32 Board the following actions involving a physician participating in a graduate medical education  
33 training program within 30 days of the date that the action takes effect:

34 (1) Any revocation or termination, including, but not limited to, any nonrenewal  
35 or dismissal of a physician from a graduate medical education training  
36 program.

37 (2) A resignation from, or completion of, a graduate medical education program  
38 or a transfer to another graduate medical education training program."

39 **SECTION 19.** G.S. 90-12.1A reads as rewritten:

40 **"§ 90-12.1A. Limited volunteer license.**

41 (a) The Board may issue a "limited volunteer license" to an applicant ~~who~~ who does all  
42 of the following:

43 (1) Has a license to practice medicine and surgery in another ~~state; and~~ state.

44 (2) Produces a ~~letter~~ verification from the state of licensure indicating the  
45 applicant's license is active and in good standing.

46 (3) Repealed by Session Laws 2011-355, s. 1, effective June 27, 2011.

47 ...

48 (e) The holder of a limited license under this section may practice medicine and surgery  
49 only ~~at~~ in association with clinics that specialize in the treatment of indigent patients. The holder  
50 of the limited license may not receive compensation for services rendered at clinics specializing  
51 in the care of indigent patients.

1 ...  
2 (f) The holder of a limited license issued pursuant to this section who practices medicine  
3 or surgery ~~at places other than~~ outside of an association with clinics that specialize in the  
4 treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction,  
5 shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not  
6 more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may  
7 revoke the limited license after due notice is given to the holder of the limited license.

8 ...."

9 **SECTION 20.** G.S. 90-12.1B reads as rewritten:

10 **"§ 90-12.1B. Retired limited volunteer license.**

11 ...

12 (c) The holder of a limited license under this section may practice medicine and surgery  
13 only ~~at~~ in association with clinics that specialize in the treatment of indigent patients. The holder  
14 of the limited license may not receive compensation for services rendered at clinics specializing  
15 in the care of indigent patients.

16 ...

17 (e) The holder of a limited license issued pursuant to this section who practices medicine  
18 or surgery ~~at places other than~~ outside of an association with clinics that specialize in the  
19 treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction,  
20 shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not  
21 more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may  
22 revoke the limited license after due notice is given to the holder of the limited license.

23 ...."

24 **SECTION 21.** G.S. 90-12.2A reads as rewritten:

25 **"§ 90-12.2A. Special purpose license.**

26 (a) The Board may issue a special purpose license to practice medicine to an applicant  
27 ~~who~~ who does all of the following:

- 28 (1) Holds a full and unrestricted license to practice in at least one other  
29 ~~jurisdiction; and~~ jurisdiction.
- 30 (2) Does not have any current or pending disciplinary or other action against him  
31 or her by any medical licensing agency in any state or other jurisdiction.

32 (b) The holder of the special purpose license practicing medicine or surgery beyond the  
33 limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be  
34 fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not more than  
35 five hundred dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the  
36 special license after due notice is given to the holder of the special purpose license.

37 ...."

38 **SECTION 22.** G.S. 90-12.3 reads as rewritten:

39 **"§ 90-12.3. Medical school faculty license.**

40 (a) The Board may issue a medical school faculty license to practice medicine and  
41 surgery to a physician ~~who~~ who has met all of the following:

- 42 (1) ~~Holds~~ The applicant holds a full-time faculty appointment as either a ~~an~~ an  
43 instructor, lecturer, assistant professor, associate professor, or full professor at  
44 one of the following medical schools: a North Carolina medical school that is  
45 certified by the Liaison Committee on Medical Education or the Commission  
46 of Osteopathic College Accreditation of the American Osteopathic  
47 Association.

48 a. ~~Duke University School of Medicine;~~

49 b. ~~The University of North Carolina at Chapel Hill School of Medicine;~~

50 c. ~~Wake Forest University School of Medicine; or~~

51 d. ~~East Carolina University School of Medicine; and~~



(2) ~~Is~~The applicant is not subject to disciplinary order or other action by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the medical school faculty license issued under this section shall not practice medicine or surgery outside the confines of the medical school or ~~an affiliate of the medical school.~~its affiliates. The holder of the medical school faculty license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~not more than five hundred dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the medical school faculty license.

(b1) A medical school faculty license shall become inactive at the time its holder does one or more of the following:

(1) Ceases to hold a full-time appointment as an instructor, lecturer, assistant professor, or full professor at a certified North Carolina medical school.

(2) Ceases to be employed in a full-time capacity by a certified North Carolina medical school.

(3) Obtains any other license to practice medicine issued by the Board.

The Board shall retain jurisdiction over the holder of the inactive license.

(c) The Board may adopt rules and set fees related to issuing medical school faculty licenses. The Board may, by rule, set a time limit for the term of a medical school faculty license."

**SECTION 23.** G.S. 90-12.4 reads as rewritten:

**"§ 90-12.4. Physician assistant limited volunteer license.**

...

(c) The holder of a limited license may perform medical acts, tasks, or functions as a physician assistant only ~~at~~in association with clinics that specialize in the treatment of indigent patients. The holder of a limited license may not receive payment or other compensation for services rendered at clinics specializing in the care of indigent patients. The holder of a limited volunteer license shall practice as a physician assistant within this State for no more than 30 days per calendar year.

...

(e) The holder of a limited license issued pursuant to this section who practices as a physician assistant ~~at places other than~~outside an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~not more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

...."

**SECTION 24.** G.S. 90-12.4B reads as rewritten:

**"§ 90-12.4B. Physician Assistant retired limited volunteer license.**

...

(c) The holder of a retired limited volunteer license under this section may perform medical acts, tasks, or functions as a physician assistant only ~~at~~in association with clinics that specialize in the treatment of indigent patients. The holder of a retired limited volunteer license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

...

(e) The holder of a retired limited volunteer license issued pursuant to this section who practices as a physician assistant ~~at places other than~~outside an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~not more than five hundred dollars (\$500.00) for each offense. The Board, in its

1 discretion, may revoke the limited license after due notice is given to the holder of the limited  
2 license.

3 ...."

4 **SECTION 25.** G.S. 90-13.2 reads as rewritten:

5 **"§ 90-13.2. Registration every year with Board.**

6 (a) Every ~~person licensed to practice medicine by the North Carolina Medical Board~~  
7 licensee shall register annually with the Board ~~within no later than 30 days of~~ after the person's  
8 birthday.

9 ...

10 (d) A ~~physician licensee~~ who is not actively engaged in the ~~practice of medicine~~  
11 performance of medical acts, tasks, or functions in North Carolina and who does not wish to  
12 register the license may direct the Board to place the license on inactive status.

13 ...

14 (g) Upon payment of all accumulated fees and penalties, the license of the ~~physician~~  
15 licensee may be reinstated, subject to the Board requiring the ~~physician licensee~~ to appear before  
16 the Board for an interview and to comply with other licensing requirements. The penalty may  
17 not exceed the applicable maximum fee for a license under G.S. 90-13.1.

18 ...."

19 **SECTION 26.** G.S. 90-14 reads as rewritten:

20 **"§ 90-14. Disciplinary Authority.**

21 (a) The Board shall have the power to place on probation with or without -conditions,  
22 impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public  
23 letters of concern, mandate free medical services, require satisfactory completion of treatment  
24 programs or remedial or educational training, fine, deny, annul, suspend, or revoke a license, or  
25 other authority to practice medicine in this State, issued by the Board to any person who has been  
26 found by the Board to have committed any of the following acts or conduct, or for any of the  
27 following reasons:

28 ...

29 (5) Being unable to practice medicine with reasonable skill and safety to patients  
30 by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals,  
31 or any other type of material or by reason of any physical or mental  
32 abnormality. The Board is empowered and authorized to require a ~~physician~~  
33 licensed by it an applicant or licensee to submit to a mental or physical  
34 examination by physicians or physician assistants, or mental examinations by  
35 other licensed health care providers acting within the scope of their practice  
36 as allowed by law designated by the Board during the pendency of a license  
37 application and before or after charges may be presented against the ~~physician,~~  
38 applicant or licensee, and the results of the examination shall be admissible in  
39 evidence in a hearing before the Board. Failure to comply with an order  
40 pursuant to this subsection may be considered unprofessional conduct as  
41 defined in G.S. 90-14(a)(6).

42 (6) Unprofessional conduct, including, but not limited to, departure from, or the  
43 failure to conform to, the standards of acceptable and prevailing medical  
44 practice, or the ethics of the medical profession, irrespective of whether or not  
45 a patient is injured thereby, or the committing of any act contrary to honesty,  
46 justice, or good morals, whether the same is committed in the course of the  
47 licensee's practice or otherwise, and whether committed within or without  
48 North Carolina. The Board shall not revoke the license of or deny a license to  
49 a person, or discipline a licensee in any manner, solely because of that person's  
50 practice of a therapy that is experimental, nontraditional, or that departs from  
51 acceptable and prevailing medical practices unless, by competent evidence,

- 1 the Board can establish that the treatment has a safety risk greater than the  
 2 prevailing treatment or that the treatment is generally not effective.  
 3 ...
- 4 (11) Lack of professional competence to practice medicine with a reasonable  
 5 degree of skill and safety for patients or failing to maintain acceptable  
 6 standards of ~~one or more areas of professional physician practice care~~. In this  
 7 connection the Board may consider repeated acts of ~~a physician indicating the~~  
 8 ~~physician's~~ an applicant or licensee's failure to properly treat a patient. The  
 9 Board may, upon reasonable grounds, require ~~a physician~~ an applicant or  
 10 licensee to submit to inquiries or examinations, written or oral, as the Board  
 11 deems necessary to determine the professional qualifications of ~~such that~~  
 12 applicant or licensee. Failure to comply with an order pursuant to this  
 13 subsection may be considered unprofessional conduct as defined in  
 14 G.S. 90-14(a)(6). In order to annul, suspend, deny, or revoke a license of an  
 15 accused person, the Board shall find by the greater weight of the evidence that  
 16 the care provided was not in accordance with the standards of practice for the  
 17 procedures or treatments administered.
- 18 (11a) Not actively practiced ~~medicine or practiced as a physician assistant, as a~~  
 19 licensee, or having not maintained continued competency, as determined by  
 20 the Board, for the two-year period immediately preceding the filing of an  
 21 application for an initial license from the Board or the filing of a request,  
 22 petition, motion, or application to reactivate or reinstate an inactive,  
 23 suspended, or revoked license previously issued by the Board. The Board is  
 24 authorized to adopt any rules or regulations it deems necessary to carry out  
 25 the provisions of this subdivision.
- 26 (12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or  
 27 providing services to a patient, in such a manner as to exploit the patient, and  
 28 upon a finding of the exploitation, the Board may order the licensee pay  
 29 restitution be made to the payer of the bill, whether the patient or the insurer,  
 30 by the physician; provided that a determination of the amount of restitution  
 31 shall be based on credible testimony in the record.
- 32 (13) Having a license ~~to practice medicine or the authority to practice medicine~~  
 33 ~~revoked, suspended, restricted, or acted against or having a license to practice~~  
 34 ~~medicine denied by the licensing authority of any jurisdiction.~~ jurisdiction,  
 35 including Canada, the United Kingdom, and Australia. For purposes of this  
 36 subdivision, the licensing authority's acceptance of a license to practice  
 37 ~~medicine~~ voluntarily relinquished by a physician licensee or relinquished by  
 38 stipulation, consent order, or other settlement in response to or in anticipation  
 39 of the filing of administrative charges against the ~~physician's licensee's~~  
 40 license, or an inactivation or voluntary surrender of a license while under  
 41 investigation is an action against a license to practice medicine. practice.
- 42 (14) The failure to comply with an order issued under this Article or the failure  
 43 to respond, within a reasonable period of time and in a reasonable manner as  
 44 determined by the Board, to inquiries from the Board concerning any matter  
 45 affecting the license to practice medicine.
- 46 (15) The failure to complete an amount not to exceed 150 hours of continuing  
 47 medical education during any three consecutive calendar years pursuant to  
 48 rules adopted by the Board.
- 49 (16) A violation of any provision of this Article.
- 50 (17) Failure to make reports as required by this Article.

1        ~~The Board may, in its discretion and upon such terms and conditions and for such period of~~  
2 ~~time as it may prescribe, restore a license so revoked or otherwise acted upon, except that no~~  
3 ~~license that has been revoked shall be restored for a period of two years following the date of~~  
4 ~~revocation.~~

5        ...

6        (c) ~~A~~ Except as provided in subsection (c1) of this section, a felony conviction shall result  
7 in the automatic revocation of a license issued by the Board, unless the Board orders otherwise  
8 or receives a request for a hearing from the person within 60 days of receiving notice from the  
9 Board, after the conviction, of the provisions of this subsection. If the Board receives a timely  
10 request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

11        (c1) A felony conviction under Article 7B of Chapter 14 of the General Statutes shall result  
12 in the automatic denial or revocation of a license issued by the Board, and that denial or  
13 revocation shall be permanent, and the applicant or licensee shall be ineligible for reapplication,  
14 relicensure, reinstatement, or restoration under subsection (c2) of this section.

15        (c2) Except as provided in subsection (c1) of this section, where the Board has exercised  
16 its authority pursuant to this section to revoke a license, the holder of the revoked license will  
17 not be eligible to make an application for reinstatement before two years from the effective date  
18 of the revocation.

19        ...

20        (g) Prior to taking action against any licensee for providing care not in accordance with  
21 the standards of ~~practice of care~~ for the procedures or treatments administered, the Board shall  
22 whenever practical consult with a licensee who routinely utilizes or is familiar with the same  
23 modalities and who has an understanding of the standards of practice for the modality  
24 administered. Information obtained as result of the consultation shall be available to the licensee  
25 at the informal nonpublic precharge conference.

26        ...

27        (i) At the time of first communication from the Board or agent of the Board to a licensee  
28 regarding a complaint or investigation, the Board shall provide notice in writing to the licensee  
29 that informs the licensee: (i) of the existence of any complaint or other information forming the  
30 basis for the initiation of an investigation; (ii) that the licensee may retain counsel; (iii) how the  
31 Board will communicate with the licensee regarding the investigation or disciplinary proceeding  
32 in accordance with subsections (m) and (n) of this ~~section;~~ section; (iv) that the licensee has  
33 a duty to respond to inquiries from the Board concerning any matter affecting the license, and all  
34 information supplied to the Board and its staff will be considered by the Board in making a  
35 determination with regard to the matter under investigation; (v) that the Board will complete its  
36 investigation within six months or provide an explanation as to why it must be extended; and (vi)  
37 that if the Board makes a decision to initiate public disciplinary proceedings, the licensee may  
38 request in writing an informal nonpublic precharge conference.

39        (j) After the Board has made a nonpublic determination to initiate disciplinary  
40 proceedings, but before public charges have been issued, the licensee requesting so in writing,  
41 shall be entitled to an informal nonpublic precharge conference. At least five days prior to the  
42 informal nonpublic precharge conference, the Board will provide to the licensee the following:  
43 (i) all relevant information obtained during an investigation, including exculpatory evidence  
44 except for information that would identify an anonymous complainant; (ii) the substance of any  
45 written expert opinion that the Board relied upon, not including information that would identify  
46 an anonymous complainant or expert reviewer; (iii) notice that the licensee may retain counsel,  
47 and if the licensee retains counsel all communications from the Board or agent of the Board  
48 regarding the disciplinary proceeding will be made through the licensee's counsel; (iv) notice that  
49 if a Board member initiated the investigation then that Board member will not participate in the  
50 adjudication of the matter before the Board or hearing committee; (v) notice that the Board may  
51 use an administrative law judge or designate hearing officers to conduct hearings as a hearing

1 committee to take evidence; (vi) notice that the hearing shall proceed in the manner prescribed  
2 in Article 3A of Chapter 150B of the General Statutes and as otherwise provided in this Article;  
3 and (vii) any Board member who serves as a hearing officer in this capacity shall not serve as  
4 part of the quorum that determines the final agency decision. The provisions of this section do  
5 not apply where the Board has exercised its authority under G.S. 150B-3(c) and issued an order  
6 of summary suspension.

7 (k) ~~Unless the conditions specified in G.S. 150B-3(e) exist, the Board shall not~~ When the  
8 Board has made a determination that the public health, safety, or welfare requires emergency  
9 action, the Board may seek to require of a licensee the taking of any action adversely impacting  
10 the licensee's medical practice or license without first giving notice of the proposed action, the  
11 basis for the proposed action, and information required under subsection (i) of this section.

12 ...."

13 **SECTION 27.** G.S. 90-14.1 reads as rewritten:

14 "**§ 90-14.1. Judicial review of Board's decision denying issuance of a license.**

15 ~~Whenever the North Carolina Medical Board has determined that a person who has duly~~  
16 ~~made application to take an examination to be given by the Board showing his education, training~~  
17 ~~and other qualifications required by said Board, or that a person who has taken and passed an~~  
18 ~~examination given by the Board, has failed to satisfy the Board of his qualifications to be~~  
19 ~~examined or an applicant fails to satisfy the Board of the applicant's qualifications to be issued a~~  
20 ~~license, for any cause other than failure to pass an examination, the Board shall immediately~~  
21 ~~notify such person of its decision, and indicate in what respect the applicant has so failed to~~  
22 ~~satisfy the Board. Such applicant shall be given a formal hearing before the Board upon request~~  
23 ~~of such applicant filed with or mailed by registered mail to the secretary of the Board at Raleigh,~~  
24 ~~North Carolina, within 10 days after receipt of the Board's decision, stating the reasons for such~~  
25 ~~request. The Board shall within 20 days of receipt of such request notify such applicant of the~~  
26 ~~time and place of a public hearing, which shall be held within a reasonable time. The burden of~~  
27 ~~satisfying the Board of his the applicant's qualifications for licensure shall be upon the applicant.~~  
28 ~~Following such hearing, the Board shall determine whether the applicant is qualified to be~~  
29 ~~examined or is entitled to be licensed as the case may be. licensed. Any such decision of the~~  
30 ~~Board shall be subject to judicial review upon appeal to the Superior Court of Wake County~~  
31 ~~superior court of the county where the Board is located upon the filing with the Board of a written~~  
32 ~~notice of appeal with exceptions taken to the decision of the Board within 20 days after service~~  
33 ~~of notice of the Board's final decision. Within 30 days after receipt of notice of appeal, the~~  
34 ~~secretary of the Board shall certify to the clerk of the Superior Court of Wake County superior~~  
35 ~~court of the county where the Board is located the record of the case which shall include a copy~~  
36 ~~of the notice of hearing, a transcript of the testimony and evidence received at the hearing, a copy~~  
37 ~~of the decision of the Board, and a copy of the notice of appeal and exceptions. Upon appeal the~~  
38 ~~case shall be heard by the judge without a jury, upon the record, except that in cases of alleged~~  
39 ~~omissions or errors in the record, testimony may be taken by the court. The decision of the Board~~  
40 ~~shall be upheld unless the substantial rights of the applicant have been prejudiced because the~~  
41 ~~decision of the Board is in violation of law or is not supported by any evidence admissible under~~  
42 ~~this Article, or is arbitrary or capricious. Each party to the review proceeding may appeal to the~~  
43 ~~Supreme Court as hereinafter provided in G.S. 90-14.11."~~

44 **SECTION 28.** G.S. 90-14.2(a) reads as rewritten:

45 "(a) Before the Board shall take disciplinary action against any license granted by it, the  
46 licensee shall be given a written notice indicating the charges made against the licensee, ~~which~~  
47 ~~notice may be prepared by a committee or one or more members of the Board designated by the~~  
48 ~~Board, licensee~~ and stating that the licensee will be given an opportunity to be heard concerning  
49 the charges at a time and place stated in the notice, or at a time and place to be thereafter  
50 designated by the Board, and the Board shall hold a public hearing not less than 30 days from the  
51 date of the service of notice upon the licensee, at which the licensee may appear personally and

1 through counsel, may cross examine witnesses and present evidence in the licensee's own behalf.  
2 A licensee who is mentally incompetent shall be represented at such hearing and shall be served  
3 with notice as herein provided by and through a guardian ad litem appointed by the clerk of the  
4 court of the county in which the licensee resides. The licensee may file written answers to the  
5 charges within 30 days after the service of the notice, which answer shall become a part of the  
6 record but shall not constitute evidence in the case."

7 **SECTION 29.** G.S. 90-14.5 reads as rewritten:

8 "**§ 90-14.5. Use of ~~hearing committee and depositions; recommended decisions;~~**  
9 **appointment of hearing officers.**

10 ...

11 (a1) The Board may use an administrative law judge consistent with Article 3A of Chapter  
12 150B of the General Statutes in lieu of a hearing committee so long as the Board has not solely  
13 alleged that the licensee failed to meet an applicable standard of medical care. Notwithstanding  
14 this subsection, the Board may use an administrative law judge consistent with Article 3A of  
15 Chapter 150B of the General Statutes if the licensee is a current or former Board member.

16 (b) ~~Evidence and testimony may be presented at hearings before the Board or a hearing~~  
17 ~~committee in the form of depositions before any person authorized to administer oaths in~~  
18 ~~accordance with the procedure for the taking of depositions in civil actions in the superior court.~~

19 ...."

20 **SECTION 30.** G.S. 90-14.6 reads as rewritten:

21 "**§ 90-14.6. Evidence admissible.**

22 ...

23 (c1) Evidence and testimony may be presented at hearings before the Board or a hearing  
24 committee in the form of depositions before any person authorized to administer oaths in  
25 accordance with the procedure for the taking of depositions in civil actions in the superior court.

26 (d) When evidence is not reasonably available under the Rules of Civil Procedure and  
27 Rules of Evidence to show relevant facts, then the most reliable and substantial evidence  
28 available shall be admitted. At the discretion of the presiding officer of the hearing, the Board  
29 may receive witness testimony at a hearing by means of telephone or videoconferencing."

30 **SECTION 31.** G.S. 90-14.8(b) reads as written:

31 "(b) A licensee against whom any public disciplinary sanction is imposed by the Board  
32 may obtain a review of the decision of the Board in the ~~Superior Court of Wake County,~~ superior  
33 court of the county where the Board is located or the county in which the licensee resides, upon  
34 filing with the secretary of the Board a written notice of appeal within 30 days after the date of  
35 the service of the decision of the Board, stating all exceptions taken to the decision of the Board  
36 and indicating the court in which the appeal is to be heard. The court shall schedule and hear the  
37 case within six months of the filing of the appeal."

38 **SECTION 32.** G.S. 90-14.13 reads as rewritten:

39 "**§ 90-14.13. Reports of disciplinary action by health care institutions; reports of**  
40 **professional liability insurance awards or settlements; immunity from liability.**

41 (a) The chief administrative officer of every licensed hospital or other health care  
42 institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred  
43 providers, as defined in G.S. 58-50-56, and all other provider organizations that issue credentials  
44 to ~~physicians who practice medicine in the State,~~ persons licensed under this Article shall, after  
45 consultation with the chief of staff of that institution, report to the Board the following actions  
46 involving a physician's privileges to practice in that institution within 30 days of the date that the  
47 action takes effect:

48 (1) A summary revocation, summary suspension, or summary limitation of  
49 privileges, regardless of whether the action has been finally determined.

50 (2) A revocation, suspension, or limitation of privileges that has been finally  
51 determined by the governing body of the institution.

- 1 (3) A resignation from practice or voluntary reduction of ~~privileges~~privileges  
 2 while under investigation or threat of investigation.  
 3 (4) Any action reportable pursuant to Title IV of P.L. 99-660, the Health Care  
 4 Quality Improvement Act of 1986, as amended, not otherwise reportable  
 5 under subdivisions (1), (2), or (3) of this subsection.  
 6 (a1) A hospital is not required to ~~report~~report any of the following:  
 7 (1) The suspension or limitation of a ~~physician's~~licensee's privileges for failure  
 8 to timely complete medical records.  
 9 (2) A resignation from practice due solely to the ~~physician's~~licensee's completion  
 10 of a medical residency, internship, or fellowship.

11 The Board is authorized to adopt rules limiting the reporting requirements of subsection (a)  
 12 of this section.

13 ...

14 (b) Any ~~licensed physician~~licensee who does not possess professional liability ~~insurance~~  
 15 insurance, or possess professional liability insurance from entities not owned and operated within  
 16 this State, shall report to the Board any award of damages or any settlement of any malpractice  
 17 complaint affecting his or her practice within 30 days of the award or settlement.

18 (c) The chief administrative officer of each insurance company providing professional  
 19 liability insurance for ~~physicians who practice medicine in North Carolina,~~ persons licensed  
 20 under this Article, the administrative officer of the Liability Insurance Trust Fund Council created  
 21 by G.S. 116-220, and the administrative officer of any trust fund or other fund operated or  
 22 administered by a hospital authority, group, or provider shall report to the Board within 30 days  
 23 any of the following:

- 24 (1) Any award of damages or settlement of any claim or lawsuit affecting or  
 25 involving a ~~person licensed under this Article~~licensee that it insures.  
 26 (2) Any cancellation or nonrenewal of its professional liability coverage of a  
 27 ~~physician,~~ licensee, if the cancellation or nonrenewal was for cause.  
 28 (3) A malpractice payment that is reportable pursuant to Title IV of P.L. 99-660,  
 29 the Health Care Quality Improvement Act of 1986, as amended, not otherwise  
 30 reportable under subdivision (1) or (2) of this subsection.

31 For the purposes of this subsection, a "claim" means an oral or written request for  
 32 compensation made by a patient or a patient's representative, or an offer of compensation to a  
 33 patient or a patient's representative, based on a belief that the patient was injured due to care  
 34 affecting or involving a licensee. The Board shall determine whether the patient's care affected  
 35 or involved a licensee under this Article.

36 ...."

37 **SECTION 33.** G.S. 90-16 reads as rewritten:

38 **"§ 90-16. Self-reporting requirements; confidentiality of Board investigative information;**  
 39 **cooperation with law enforcement; patient protection; Board to keep public**  
 40 **records.**

41 (a) The North Carolina Medical Board shall keep a regular record of its proceedings with  
 42 the names of the members of the Board ~~present, the names of the applicants for license,~~ present  
 43 and other information as to its actions. The North Carolina Medical Board shall publish the names  
 44 of those licensed within 30 days after granting the license.

45 ...

46 (c) All records, papers, investigative files, investigative reports, other investigative  
 47 information and other documents containing information in the possession of or received or  
 48 gathered by the Board, or its members or employees or consultants as a result of investigations,  
 49 inquiries, assessments, or interviews conducted in connection with a licensing, complaint,  
 50 assessment, potential impairment matter, disciplinary matter, or report of professional liability  
 51 insurance awards or settlements pursuant to G.S. 90-14.13, shall not be considered public records

1 within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and  
 2 not subject to discovery, subpoena, or other means of legal compulsion for release to any person  
 3 other than the Board, its employees or consultants involved in the application for license,  
 4 impairment assessment, or discipline of a license holder, except as provided in ~~subsections (d)~~  
 5 ~~and subsection (e1)~~ of this section. For purposes of this subsection, investigative information  
 6 includes information relating to the identity of, and a report made by, a physician or other person  
 7 performing an expert review for the Board and transcripts of any deposition taken by Board  
 8 counsel in preparation for or anticipation of a hearing held pursuant to this Article but not  
 9 admitted into evidence at the hearing.

10 (d) Repealed by Session Laws 2016-117, s. 2(o), effective October 1, 2016.

11 (e) Information furnished to a licensee or applicant, or counsel for a licensee or applicant,  
 12 under ~~subsection (d) of this section~~ G.S. 90-14.2(c) shall be subject to discovery or subpoena  
 13 between and among the parties in a civil case in which the licensee is a party.

14 ...

15 (h) If investigative information in the possession of the Board, its employees, or agents  
 16 indicates that a crime may have been committed, the Board may report the information to the  
 17 appropriate law enforcement ~~agency~~ agency, the North Carolina Department of Justice, the  
 18 United States Department of Justice, the United States Attorney, or the district attorney of the  
 19 district in which the offense was committed.

20 (i) The Board shall cooperate with and assist a law enforcement ~~agency~~ agency, the  
 21 North Carolina Department of Justice, the United States Department of Justice, the United States  
 22 Attorney, or the district attorney conducting a criminal investigation or prosecution of a licensee  
 23 by providing information that is relevant to the criminal investigation or prosecution to the  
 24 ~~investigating agency or district attorney.~~ attorney as required by this subsection. Information  
 25 disclosed by the Board to an investigative agency or district attorney pursuant to this subsection  
 26 or subsection (h) of this section remains confidential and may not be disclosed by the  
 27 investigating agency except as necessary to further the investigation or prosecution.

28 ...

29 (k) The Board, its members and staff, may release confidential or nonpublic information  
 30 to any health care licensure board in this State or another state or authorized Department of Health  
 31 and Human Services personnel with enforcement or investigative responsibilities about the  
 32 issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of  
 33 a license by a licensee of the Board, including the reasons for the action, or an investigative report  
 34 made by the Board. The Board shall notify the licensee within 60 days after the information is  
 35 transmitted. A summary of the information that is being transmitted shall be furnished to the  
 36 licensee. If the licensee requests in writing within 30 days after being notified that the information  
 37 has been transmitted, the licensee shall be furnished a copy of all information so transmitted. The  
 38 notice or copies of the information shall not be provided if the information relates to an ongoing  
 39 criminal investigation by any law enforcement agency or authorized Department of Health and  
 40 Human Services personnel with enforcement or investigative responsibilities."

41 **SECTION 34.** G.S. 90-18(c) reads as rewritten:

42 "(c) The following shall not constitute practicing medicine or surgery as defined in this  
 43 Article:

44 ...

45 (9) ~~The practice of osteopathy by any legally licensed osteopath when engaged in~~  
 46 ~~the practice of osteopathy as defined by law, and especially G.S. 90-129.~~

47 ...

48 (12) Any person practicing radiology as hereinafter defined shall be deemed to be  
 49 engaged in the practice of medicine within the meaning of this Article.  
 50 "Radiology" ~~shall be defined as, that method of medical practice in which~~  
 51 ~~demonstration and examination of the normal and abnormal structures, parts~~



or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter. "Radiology" is a specialty branch of the practice of medicine in which illness or disease is diagnosed or treated using various techniques or modalities, including radiant energy or ionizing radiation, and ultrasound and magnetic resonance. The education and training for the practice of radiology includes extensive study in the physics of radiant energy and medical imaging, radiation protection, and the application of ionizing radiation in the diagnosis and treatment of disease.

...

(18) The practice of medicine by any nonregistered physician residing in another state or foreign country who is contacted by one of the physician's regular patients for treatment by use of ~~the Internet or a toll free telephone number~~ any method of communication while the physician's patient is temporarily in this State.

...."

**SECTION 35.** G.S. 90-18.1 reads as rewritten:

**"§ 90-18.1. Limitations on physician assistants.**

(a) Any person who is licensed under the provisions of G.S. 90-9.3 to perform medical acts, tasks, and functions as ~~an assistant to a physician~~ assistant may use the title "physician ~~assistant~~ assistant" or "PA." Any other person who uses the title in any form or holds out to be a physician assistant or to be so licensed, shall be deemed to be in violation of this Article.

(b) Physician assistants are authorized to write prescriptions for drugs under the following conditions:

...

~~(3) The North Carolina Medical Board has assigned an identification number to the physician assistant which is shown on the written prescription.~~

...

(d) Physician assistants are authorized to order medications, tests and treatments in hospitals, clinics, nursing homes, and other health facilities under the following conditions:

...

(4) The hospital or other health facility has adopted a written ~~policy, approved by the medical staff after consultation with the nursing administration,~~ policy about ordering medications, tests, and treatments, including procedures for verification of the physician assistants' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

...

(g) Any person who is licensed under G.S. 90-9.3 to perform medical acts, tasks, and functions as ~~an assistant to a physician~~ assistant shall comply with each of the following:

(1) Maintain a current and active license to practice in this State.

- 1 (2) Maintain an active registration with the Board.  
2 (3) Have a current Intent to Practice form filed with the Board.  
3 ...."

4 **SECTION 36.** G.S. 90-18.2 reads as rewritten:

5 **"§ 90-18.2. Limitations on nurse practitioners.**

6 (a) Any nurse approved under the provisions of ~~G.S. 90-18(14)~~-G.S. 90-18(c)(14) to  
7 perform medical acts, tasks or functions may use the title "nurse practitioner." Any other person  
8 who uses the title in any form or holds out to be a nurse practitioner or to be so approved, shall  
9 be deemed to be in violation of this Article.

10 (b) Nurse practitioners are authorized to write prescriptions for drugs under all of the  
11 following conditions:

12 (1) The North Carolina Medical Board and Board of Nursing have adopted  
13 regulations developed by a joint subcommittee governing the approval of  
14 individual nurse practitioners to write prescriptions with such limitations as  
15 the boards may determine to be in the best interest of patient health and  
16 ~~safety;~~safety.

17 (2) The nurse practitioner has current approval from the ~~boards;~~boards.

18 ~~(3) The North Carolina Medical Board has assigned an identification number to~~  
19 ~~the nurse practitioner which is shown on the written prescription; and~~

20 (4) The supervising physician has provided to the nurse practitioner written  
21 instructions about indications and contraindications for prescribing drugs and  
22 a written policy for periodic review by the physician of the drugs prescribed.

23 (5) A nurse practitioner shall personally consult with the supervising physician  
24 prior to prescribing a targeted controlled substance as defined in Article 5 of  
25 this Chapter when all of the following conditions apply:

26 a. The patient is being treated by a facility that primarily engages in the  
27 treatment of pain by prescribing narcotic medications or advertises in  
28 any medium for any type of pain management services.

29 b. The therapeutic use of the targeted controlled substance will or is  
30 expected to exceed a period of 30 days.

31 When a targeted controlled substance prescribed in accordance with this  
32 subdivision is continuously prescribed to the same patient, the nurse  
33 practitioner shall consult with the supervising physician at least once every 90  
34 days to verify that the prescription remains medically appropriate for the  
35 patient.

36 (c) Nurse practitioners are authorized to compound and dispense drugs under the  
37 following conditions:

38 (1) The function is performed under the supervision of a licensed pharmacist; and

39 (2) Rules and regulations of the North Carolina Board of Pharmacy governing  
40 this function are complied with.

41 (d) Nurse practitioners are authorized to order medications, tests and treatments in  
42 hospitals, clinics, nursing homes and other health facilities under all of the following conditions:

43 (1) The North Carolina Medical Board and Board of Nursing have adopted  
44 regulations developed by a joint subcommittee governing the approval of  
45 individual nurse practitioners to order medications, tests and treatments with  
46 such limitations as the boards may determine to be in the best interest of  
47 patient health and ~~safety;~~safety.

48 (2) The nurse practitioner has current approval from the ~~boards;~~boards.

49 (3) The supervising physician has provided to the nurse practitioner written  
50 instructions about ordering medications, tests and treatments, and when  
51 appropriate, specific oral or written instructions for an individual patient, with

1 provision for review by the physician of the order within a reasonable time, as  
 2 determined by the Board, after the medication, test or treatment is ~~ordered;~~  
 3 ~~and ordered.~~

- 4 (4) The hospital or other health facility has adopted a written policy, approved by  
 5 the medical staff after consultation with the nursing administration, about  
 6 ordering medications, tests and treatments, including procedures for  
 7 verification of the nurse practitioners' orders by nurses and other facility  
 8 employees and such other procedures as are in the interest of patient health  
 9 and safety.

10 ...."

11 **SECTION 37.** G.S. 90-18.3 reads as rewritten:

12 "**§ 90-18.3. Physical-Medical or physical examination by nurse practitioners and physician**  
 13 **assistants.**

14 (a) Whenever a statute or State agency rule requires that a medical or physical  
 15 examination shall be conducted by a physician, the examination may be conducted and the form  
 16 signed by a nurse practitioner or a ~~physician's-physician~~ assistant, and a physician need not be  
 17 present. Nothing in this section shall otherwise change the scope of practice of a nurse  
 18 practitioner or a ~~physician's-physician~~ assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2,  
 19 respectively.

20 ...."

21 **SECTION 38.** G.S. 90-18.7 is repealed.

## 22 **PART II. PROFESSIONAL CORPORATION ACT**

23 **SECTION 39.** G.S. 55B-14(c) reads as rewritten:

24 "(c) A professional corporation may also be formed by and between or among:

- 25 ...  
 26 (6) A physician practicing anesthesiology and any combination of a physician  
 27 assistant, an anesthesiology assistant, or a certified nurse anesthetist to render  
 28 anesthesia and related medical services that the respective stockholders are  
 29 licensed, certified, or otherwise approved to provide.

30 ...."

## 31 **PART III. EMERGENCY MEDICAL SERVICES ACT**

32 **SECTION 40.** G.S. 143-519(b) reads as rewritten:

33 "(b) The Emergency Medical Services Disciplinary Committee shall consist of seven  
 34 members appointed by the Secretary of the Department of Health and Human Services to serve  
 35 four-year terms. Two of the members shall be currently practicing local EMS physician medical  
 36 directors. One member each shall be a current or former physician member of the North Carolina  
 37 Medical Board, a current EMS administrator, a current EMS educator, and two currently  
 38 practicing and credentialed EMS personnel, one of whom shall be an emergency medical  
 39 technician-paramedic."  
 40  
 41  
 42

## 43 **PART IV. COMPETENCY OF WITNESSES**

44 **SECTION 41.** G.S. 8-53 reads as rewritten:

45 "**§ 8-53. Communications between physician-health care provider and patient.**

46 No person, duly authorized to practice ~~physic or surgery,~~ under Article 1 of Chapter 90 of the  
 47 General Statutes, shall be required to disclose any information which he may have acquired in  
 48 attending a patient in a professional character, and which information was necessary to enable  
 49 him to prescribe for such patient as a physician, or to do any act for him as a surgeon, and no  
 50 such information shall be considered public records under G.S. 132-1. Confidential information  
 51 obtained in medical records shall be furnished only on the authorization of the patient, or if

1 deceased, the executor, administrator, or, in the case of unadministered estates, the next of kin.  
2 Any resident or presiding judge in the district, either at the trial or prior thereto, or the Industrial  
3 Commission pursuant to law may, subject to G.S. 8-53.6, compel disclosure if in his opinion  
4 disclosure is necessary to a proper administration of justice. If the case is in district court the  
5 judge shall be a district court judge, and if the case is in superior court the judge shall be a superior  
6 court judge."  
7

## 8 PART V. MEDICAL RECORDS

9 SECTION 42. G.S. 90-411 reads as rewritten:

### 10 "§ 90-411. Record copy fee.

11 A health care provider may charge a reasonable fee to cover the costs incurred in searching,  
12 handling, copying, and mailing medical records to the patient or the patient's designated  
13 representative. ~~The maximum fee for each request shall be seventy five cents (75¢) per page for~~  
14 ~~the first 25 pages, fifty cents (50¢) per page for pages 26 through 100, and twenty five cents~~  
15 ~~(25¢) for each page in excess of 100 pages, provided that the health care provider may impose a~~  
16 ~~minimum fee of up to ten dollars (\$10.00), inclusive of copying costs. The fee for copying any~~  
17 ~~document or record on file shall bear a reasonable relation to the quantity of copies supplied and~~  
18 ~~the cost of purchasing or leasing and maintaining copying equipment. These fees may be changed~~  
19 ~~from time to time, but a schedule of fees shall be available on request at all times. If requested~~  
20 ~~by the patient or the patient's designated representative, nothing herein shall limit a reasonable~~  
21 ~~professional fee charged by a physician for the review and preparation of a narrative summary~~  
22 ~~of the patient's medical record. This section shall only apply with respect to liability claims for~~  
23 ~~personal injury, and claims for social security disability, except that charges for medical records~~  
24 ~~and reports related to claims under Article 1 of Chapter 97 of the General Statutes shall be~~  
25 ~~governed by the fees established by the North Carolina Industrial Commission pursuant to G.S.~~  
26 ~~97-26.1. Charges for medical records and reports related to claims under Article 1 of Chapter 97~~  
27 ~~of the General Statutes shall be governed by the fees established by the North Carolina Industrial~~  
28 ~~Commission pursuant to G.S. 97-26.1. This section shall not apply to Department of Health and~~  
29 ~~Human Services Disability Determination Services requests for copies of medical records made~~  
30 ~~on behalf of an applicant for Social Security or Supplemental Security Income disability."~~  
31

## 32 PART VI. RAPE AND OTHER SEX OFFENSES

33 SECTION 43.(a) Article 7B of Chapter 14 of the General Statutes is amended by  
34 adding a new section to read:

### 35 "§ 14-27.33A. Sexual contact or penetration under pretext of medical treatment.

36 (a) Definitions. – The following definitions apply in this section:

- 37 (1) Incapacitated. – A patient's incapability of appraising the nature of a medical  
38 treatment, either because the patient is unconscious or under the influence of  
39 an impairing substance, including, but not limited to, alcohol, anesthetics,  
40 controlled substances listed under Chapter 90 of the General Statutes, or any  
41 other drug or psychoactive substance capable of impairing a person's physical  
42 or mental faculties.
- 43 (2) Medical treatment. – Includes an examination or a procedure.
- 44 (3) Patient. – A person who has undergone or is seeking to undergo medical  
45 treatment.
- 46 (4) Sexual contact. – The intentional touching of a person's intimate parts or the  
47 intentional touching of the clothing covering the immediate area of the  
48 person's intimate parts, if that intentional touching can reasonably be  
49 construed as being for the purpose of sexual arousal or gratification, done for  
50 a sexual purpose, or done in a sexual manner.

1           (5) Sexual penetration. – Sexual intercourse, cunnilingus, fellatio, anal  
2 intercourse, or any other intrusion, however slight, of any part of a person's  
3 body or of any object into the genital or anal openings of another person's  
4 body, regardless of whether semen is emitted, if that intrusion can reasonably  
5 be construed as being for the purpose of sexual arousal or gratification, done  
6 for a sexual purpose, or done in a sexual manner.

7           (b) Offense; Penalty. – Unless the conduct is covered under some other provision of law  
8 providing greater punishment, a person who undertakes medical treatment of a patient is guilty  
9 of a Class C felony if the person does any of the following in the course of that medical treatment:

10           (1) Represents to the patient that sexual contact between the person and the  
11 patient is necessary or will be beneficial to the patient's health and induces the  
12 patient to engage in sexual contact with the person by means of the  
13 representation.

14           (2) Represents to the patient that sexual penetration between the person and the  
15 patient is necessary or will be beneficial to the patient's health and induces the  
16 patient to engage in sexual penetration with the person by means of the  
17 representation.

18           (3) Engages in sexual contact with the patient while the patient is incapacitated.

19           (4) Engages in sexual penetration with the patient while the patient is  
20 incapacitated.

21           (c) This section does not prohibit a person from being charged with, convicted of, or  
22 punished for any other violation of law that is committed by that person while violating this  
23 section.

24           (d) The court may order a term of imprisonment imposed for a violation of this section  
25 to be served consecutively to a term of imprisonment imposed for any other crime, including any  
26 other violation of law arising out of the same transaction as the violation of this section."

27           **SECTION 43.(b)** This section becomes effective December 1, 2019, and applies to  
28 offenses committed on or after that date.

## 30 **PART VII. DEATH CERTIFICATES**

31           **SECTION 44.** G.S. 130A-115 reads as rewritten:

32 **"§ 130A-115. Death registration.**

33           ...

34           (c) The medical certification shall be completed and signed by the physician in charge of  
35 the patient's care for the illness or condition which resulted in death, except when the death falls  
36 within the circumstances described in G.S. 130A-383. In the absence of the physician or with the  
37 physician's approval, the certificate may be completed and signed by an associate physician, a  
38 physician assistant in a manner consistent with G.S. 90-18.1(e1), a nurse practitioner in a manner  
39 consistent with G.S. 90-18.2(e1), the chief medical officer of the hospital or facility in which the  
40 death occurred or a physician who performed an autopsy upon the decedent under the following  
41 circumstances: the individual has access to the medical history of the deceased; the individual  
42 has viewed the deceased at or after death; and the death is due to natural causes. In the absence  
43 of a treating physician, physician assistant, or nurse practitioner in charge of the patient's care at  
44 the time of death, the chief medical officer of the hospital or facility in which the death occurred,  
45 or a physician performing an autopsy, the death certificate may be completed by any other  
46 physician, physician assistant, or nurse practitioner who undertakes reasonable efforts to  
47 ascertain the events surrounding the patient's death. When specifically approved by the State  
48 Registrar, an electronic signature or facsimile signature of the physician, physician assistant, or  
49 nurse practitioner shall be acceptable. As used in this section, the term electronic signature has  
50 the same meaning as applies in G.S. 66-58.2. The physician, physician assistant, or nurse  
51 practitioner shall state the cause of death on the certificate in definite and precise terms. A

1 certificate containing any indefinite terms or denoting only symptoms of disease or conditions  
2 resulting from disease as defined by the State Registrar, shall be returned to the person making  
3 the medical certification for correction and more definite statement.

4 ...

5 (f) A physician, physician assistant, or nurse practitioner, who completes a death  
6 certificate in good faith, and without fraud or malice, shall be immune from civil liability or  
7 professional discipline."

8  
9 **PART VIII. RULE MAKING**

10 **SECTION 45.** Notwithstanding any other provision of law, the North Carolina  
11 Medical Board shall not set fees pursuant to rules. Any fees set pursuant to rules adopted by the  
12 Board and applicable on June 1, 2019, remain valid.

13  
14 **PART IX. EFFECTIVE DATES**

15 **SECTION 46.** Except as otherwise provided, this act becomes effective October 1,  
16 2019.