

April 9, 2009

H 1352. DUE PROCESS/PHYSICIANS' & PATIENTS' RIGHTS. Filed 4/8/09. *ESTABLISHING DUE PROCESS FOR PHYSICIANS' AND PATIENTS' RIGHTS.*

Amends GS 90-5.1(a) to require the NC Medical Board (Board) (1) to hire independent counsel to advise the Board or hearing committee in all contested matters before the Board to avoid a conflict of interest with Board employees and (2) to regulate the practice of medicine to protect the public from incompetent physicians and to allow physicians to practice the modalities of choice. Also provides that a patient has the right to consent to treatment and that a consent is presumed valid if the consent is obtained in writing from a patient or the patient's authorized representative and the consent fully evidences the treatment of modality and the treatment's potential benefit or harm to the patient. Amends GS 90-8 to require the Board to advise a licensee of the reason for an investigation and that the licensee has the right to consult with an attorney before submitting any records, documents, or other materials to the Board. Amends GS 90-14(a) to prohibit disciplinary action against a physician for exploitation if the patient or the patient's authorized representative has given written consent to the treatment and the cost of treatment before commencing the course of treatment. Makes clarifying changes. Amends GS 90-14(g) to require the Board, before taking action against any licensee (was, licensee who practices integrative medicine) for providing care not in accordance with the standards of practice for the procedures or treatments administered, to consult with and obtain the expert opinion of a Board licensee who routinely uses the same modalities of treatment and who finds that the practitioner has not provided care in accordance with the standards of practice for the care administered. Provides that this expert opinion must be made available to the licensee before any informal meeting but is not a public record. Amends GS 90-14.5(a) to require the Board to appoint a non-Board member, as necessary, to ensure that at least one hearing officer is a physician who routinely uses the same treatment modalities as the licensee who is the subject of the hearing. Amends GS 90-14.8 to allow a physician who is disciplined in any manner or who is denied a license by the Board to seek judicial review of the Board's action in superior court in Wake County *or in the county of the licensee's residence*. Amends GS 90-14.10 to provide that judicial review hearings may be conducted upon the record with the consent of both parties. Amends GS 90-16(e1) to require the Board, when it receives a complaint regarding a licensee, to (1) immediately make the licensee aware of the nature of the complaint, the identity of the complainant, and the substance of the complaint, and (2) provide the licensee with an opportunity to review the complaint with the complainant. Prohibits the Board from initiating an investigation pursuant to an anonymous complaint unless the basis of the complaint constitutes grounds for summary suspension of a licensee's license.

Intro. by Harrison, Fisher, Blue, Howard.

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