

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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PROPOSED SENATE COMMITTEE SUBSTITUTE H703-PCS30412-RO-61

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.



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- 1 (7) An e-mail address or facsimile number which shall not be made available to
2 the public and shall be used for the purpose of expediting the dissemination
3 of information about a public health emergency.
- 4 (8) Any final disciplinary order or other action required to be reported to the
5 Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of
6 privileges.
- 7 (9) Any final disciplinary order or action of any regulatory board or agency
8 including other state medical boards, the United States Food and Drug
9 Administration, the United States Drug Enforcement Administration,
10 Medicare, or the North Carolina Medicaid program.
- 11 (10) Conviction of a felony.
- 12 (11) Conviction of certain misdemeanors, occurring within the last 10 years, in
13 accordance with rules adopted by the Board.
- 14 (12) Any medical license, active or inactive, granted by another state or country.
- 15 (13) Certain malpractice information received pursuant to
16 ~~G.S. 90-14.13~~G.S. 90-5.3, G.S. 90-14.13, or from other sources in
17 accordance with rules adopted by the Board."

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

20 "**§ 90-5.3. Reporting and publication of medical judgments, awards, payments, and**
21 **settlements.**

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

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

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

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

48 (c) The Board shall publish on the Board's Web site or other publication information
49 collected under this section. The Board shall publish this information for seven years from the
50 date of the judgment, award, payment, or settlement. The Board shall not release or publish
51 individually identifiable numeric values of the reported judgment, award, payment, or

1 settlement. The Board shall not release or publish the identity of the patient associated with the
2 judgment, award, payment, or settlement. The Board shall allow the physician or physician
3 assistant to publish a statement explaining the circumstances that led to the judgment, award,
4 payment, or settlement, and whether the case is under appeal. The Board shall ensure these
5 statements:

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

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

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

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

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

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

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

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

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