NORTH CAROLINA MEDICAL BOARD

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President-Elect

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2014 ANNUAL REPORT

October 12, 2015

The Honorable Elaine Marshall, Secretary of State
By email to: Ms. Cathy Moss: pubs@sosnc.com

The Honorable Roy Cooper, Attorney General
By email to: Ms. Melissa Lovell; MLOVELL@ncdoj.gov

Ms. Karen Cochrane-Brown, Staff Attorney
The Joint Legislative Administrative Procedure Oversight Committee
By email to: karen.cochrane-brown@ncleg.net

Dear All:

The North Carolina Medical Board is filing this report in compliance with N.C.Gen.Stat.§ 93B-2.

(a) Annual reports required; contents; open to inspection.

(1). The address of the board, and the names of its members and officers.

The NCMB is located at 1203 Front Street, Raleigh, NC 27609. Its mailing address is: P.O. Box 20007, Raleigh NC 27619.

The following persons are current members of the Medical Board:

Cheryl L. Walker-McGill, MD, President
Pascal O. Udekwu, MD, President-Elect
Eleanor E. Greene, MD, Secretary-Treasurer
Michael J. Arnold, public member
Debra A. Bolick, MD
Subhash C. Gumber, MD
A. Wayne Hollomon, public member
Timothy E. Lietz, MD
Bryant. A Murphy, MD
H. Diane Meelheim, FNP
Barbara E. Walker, DO
Ralph A. Walker, JD, public member

(1a). The total number of licensees supervised by the Board.

License/Certification Type	Aug 2015
Physician (MD/DO)	36,048
Physician Assistant	5,736
Nurse Practitioners*	5,923
Resident Training License	3,010
Clinical Pharmacist Practitioner*	164
Licensed Perfusionist	148
Anesthesiologist Assistant	25
Polysomnographic Technologists	721
Total Licensees	**51,775**

* NPs are regulated jointly by the Board of Nursing and the NCMB. CPPs are regulated jointly by the Board of Pharmacy and the NCMB.

(2). The number of persons who applied to the board for examination.

Not applicable.
Pursuant to N.C.G.S. 90-10.1, the NCMB accepts licensing examinations administered by: the National Board of Medical Examiners (NBME) or its successor; the United States Medical Licensing Examination (USMLE) or its successor; or the Federation Licensing Examination (FLEX) or its successor. The NCMB may also administer or accept other State Board licensing examinations or other examinations the Board deems equivalent to the examinations described in subdivisions (1) through (3) of N.C.Gen.Stat.§ 90-10.1, pursuant to rules adopted by the Board.

(3). The number of persons who were refused examination.

Not applicable.

(4). The number who took the examination.

Not applicable.

(5). The number to whom initial licenses were issued:

Medical Doctors (MDs): 2,091
Doctors of Osteopathy (DOs): 227
Total physician licenses: 2,318

Resident Training Licenses: 927
Physician Assistants (PAs): 622
Licensed Perfusionists: 10
Anesthesiologist Assistants: 4

The NCMB maintains a registry of polysomnographic technicians ("sleep techs") but does not license them. In 2014, the NCMB registered 839 sleep techs in North Carolina.

(5a). The number who failed the examination.

Not applicable.

(6). The number who applied for license or approval by reciprocity or comity:

Not applicable.

(7) The number who were granted licenses or approvals by reciprocity or comity:

Not applicable.

(7a). The number of official complaints received involving licensed and unlicensed activities:

The Board received 1,304 complaints in 2014.

(7b). The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

The Medical Board took 189 prejudicial actions* against licensees or Nurse Practitioners in 2014. Please note that some individuals had more than one action for the year.

**prejudicial action includes: revocation, suspension, surrender or mandatory of a license, loss of privileges afforded by that license, probation, limitation or restriction of license or of license privileges, letters of reprimand or warning, and/or fines.*

(8). The number of licenses suspended or revoked.

Thirty-two licenses were suspended. Three licenses were revoked.

(9). The number of licenses terminated for any reason other than failure to pay a required renewal fee.

In 2014, the NC Medical Board revoked three licenses; suspended 29 licenses; summarily suspended three licenses; and accepted the surrender of license of six licensees.

(10). The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

Please see attached memo outlining the House Bill 543 that has been introduced in the General Assembly to amend statutes relating to the NC Medical Board.

(11).The substance of any anticipated change in the rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

Please see the attached memo outlining the NC Medical Board's rule activity. Additionally, Session Law 2015-214 (b) and (c) requires the NC Medical Board to require continuing education on the abuse of controlled substances as a condition of license renewal for providers who prescribe controlled substances. It is anticipated that this rule will go through the rule review process at some point in 2016.

(b) Financial report.

A financial report that includes the source and amount of all funds credited to the Medical Board and the purpose and amount of all funds disbursed by the Medical Board during the previous 12-month period is attached. This Independent Auditors' Report was created by Koonce, Wooten & Haywood, LLP, CPAs, and is titled: "North Carolina Medical Board Financial Statements October 31, 2014 and 2013".

If you have any questions, please do not hesitate to contact me.

Very truly yours,

R David Henderson

R. David Henderson
Chief Executive Officer

NC Medical Board Proposed Legislative Changes

These changes have been proposed and introduced in House Bill 543: Amend Laws Pertaining to NC Medical Board.

G.S. 90-2: This change limits a Board member to serving two complete three-year terms in their lifetime.

G.S. 90-3: This change permits the Board to share investigative information with the Review Panel in case applicants omit or misstate relevant information on their application or during their interview. This change also requires the Review Panel to publish the names of applicants and the names of nominees on its website. Finally, this change makes it clear that certain information received by the Review Panel in connection with an application is confidential and may be discussed in a closed session. This change strikes the appropriate balance between transparency and public participation on the one hand and, on the other hand, a thorough application and interview process.

G.S. 90-5.2: This change permits the Board to share information with its licensees via e-mail and share licensee e-mail addresses with others so long as it is in connection with public health or practice of medicine issues.

G.S. 90-8.1: This change codifies current Board practice of not denying an application for licensure solely because the applicant is not board certified.

G.S. 90-13.1 and 90-13.2: The Board has not requested or received a fee increase in approximately nine years. This fee increase will ensure the continued effective and efficient operations of the Board and preserve fee funded, self-regulation of the medical profession at no cost to the taxpayer.

G.S. 90-14: This change permits the Board to serve orders for assessment or examination and orders following a hearing directly to the licensee with a copy to the licensee's attorney. This will ensure that licensees receive important communications from the Board in a timely manner.

G.S. 90-14: Presently, Chapter 90 is unclear about the discovery process in contested cases before the Board. This change makes clear that, once charges have been issued, the Board and respondent may engage in discovery pursuant to the North Carolina Rules of Civil Procedure. Moreover, this change provides additional protections to the licensee and creates an affirmative obligation on the Board to turn over certain information.

G.S. 90-14.13: Removes the requirement of hospitals to report suspensions for delinquent medical records. Experience has shown that the issue of delinquent medical records is best handled at the local level by hospitals.

G.S. 90-21.22: This change rewrites the North Carolina Physician Health Program (PHP) enabling statute to, among other things, update the language and make it clear that participants are entitled to a summary of PHP's assessment. The change also makes clear that PHP must report immediately to the Board detailed information about any licensee of the Board who constitutes an imminent danger to patient safety or care.

HOUSE BILL 543
Committee Substitute Favorable 4/15/15
Committee Substitute #2 Favorable 4/21/15

Short Title: Amend Laws Pertaining to NC Medical Board. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT AMENDING LAWS PERTAINING TO THE NORTH CAROLINA MEDICAL BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-2(b) reads as rewritten:

"(b) No member shall serve more than two complete ~~consecutive~~ three-year ~~terms,~~ terms in a lifetime, except that each member shall serve until a successor is chosen and qualifies."

SECTION 2. G.S. 90-3(b) reads as rewritten:

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

…

(10) Have not served more than 72 months as a member of the Board."

SECTION 3. G.S. 90-3(c) reads as rewritten:

"(c) The ~~review panel~~ Review Panel shall recommend at least two qualified nominees for each open position on the Board. If the Governor chooses not to appoint either of the recommended nominees, the Review Panel shall recommend at least two new qualified nominees."

SECTION 4. G.S. 90-3 is amended by adding new subsections to read:

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

(g) All applications, records, papers, files, reports, and all investigative and licensing information received by the Review Panel from the Board and other documents received or gathered by the Review Panel, its members, employees, agents, and consultants as a result of soliciting, receiving, and reviewing applications and making recommendations as required in this section shall not be considered public records within the meaning of Chapter 132 of the General Statutes. All such information shall be privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Review Panel, the Board, and their employees, agents, or consultants, except as provided in this section. The Review Panel shall publish on its Internet Web site the names and practice addresses of all applicants within 10 days after the application deadline. The Review Panel shall publish on its Internet Web site the names and practice addresses of the nominees recommended to the Governor within 10 days after notifying the Governor of those recommendations and not less than 30 days prior to the expiration of the open position on the Board.

(h) The Review Panel is a public body within the meaning of Article 33C of Chapter 143 of the General Statutes. In addition to the provisions contained in Article 33C of Chapter 143 of the General Statutes permitting a public body to conduct business in a closed session, the Review Panel shall meet in closed session to review applications; interview applicants; review and discuss information received from the Board; and discuss, debate, and vote on recommendations to the Governor."

SECTION 5. G.S. 90-5.2(7) reads as rewritten:

"(7) ~~An~~ A current, active e-mail ~~address or facsimile number~~ address, which shall not be ~~made available to the public and shall~~ considered a public record within the meaning of Chapter 132 of the General Statutes. This information may be used or made available by the Board for the purpose of ~~expediting the dissemination of~~ disseminating or soliciting information ~~about a~~ affecting public health ~~emergency.~~or the practice of medicine."

SECTION 6. G.S. 90-5.2(a1) reads as rewritten:

"(a1) The Board shall make e-mail addresses ~~and facsimile numbers~~ reported pursuant to G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the North Carolina Controlled Substance Reporting System established by Article 5E of this Chapter."

SECTION 7. G.S. 90-8.1 reads as rewritten:

"**§ 90-8.1. Rules governing applicants for licensure.**

(a) The North Carolina Medical Board is empowered to adopt rules that prescribe additional qualifications for an applicant, including education and examination requirements and application procedures.

(b) The Board shall not deny an application for licensure based solely on the applicant's failure to become board certified."

SECTION 8. G.S. 90-13.1(a) reads as rewritten:

"(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of ~~three~~ four hundred ~~fifty~~ dollars ~~($350.00).~~($400.00)."

SECTION 9. G.S. 90-13.2 reads as rewritten:

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

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay an annual registration fee of ~~one hundred seventy-five~~ two hundred fifty dollars ~~($175.00),~~ ($250.00), except those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars ~~($125.00),~~ ($125.00) and those who have a retired limited volunteer license pursuant to G.S. 90-12.1B ~~shall pay an annual registration fee of twenty-five dollars ($25.00), and those who have~~ or a limited volunteer license pursuant to G.S. 90-12.1A shall pay no annual registration fee. However, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12.01 shall not be required to pay more than one annual registration fee for each year of training.

~~(c) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.~~

(d) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(e) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars ($50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. The Board shall retain jurisdiction over the holder of the inactive license.

(f) Except as provided in G.S. 90-12.1B, a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee.

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

(h) The Board shall not deny a licensee's annual registration based solely on the licensee's failure to become board certified."

SECTION 10. G.S. 90-14(n) reads as rewritten:

"(n) Notwithstanding subsection (m) of this section, if the licensee has retained ~~counsel and the Board has not made a nonpublic determination to initiate disciplinary proceedings,~~ counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, ~~orders to~~ appear, ~~or~~ submit to assessment, examination, or orders following a hearing, or provide notice that the Board will not be taking any further action against a ~~licensee to both the licensee and the licensee's counsel.~~licensee."

SECTION 11. G.S. 90-14.2 is amended by adding a new subsection to read:

"(c) Once charges have been issued, the parties may engage in discovery as provided in G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, pursuant to any written request by the respondent or respondent's counsel, the Board shall provide information obtained during an investigation, except for the following:

(1) Information that is subject to attorney-client privilege or is attorney work product.

(2) Information that would identify an anonymous complainant.

(3) Information generated during an investigation that will not be offered into evidence by the Board and is related to:

a. Advice, opinions, or recommendations of the Board staff, consultants, or agents.

b. Deliberations by the Board and its committees during an investigation."

SECTION 12. G.S. 90-14.13(a1)(1) reads as rewritten:

"(a1) A hospital is not required to report:

(1) The suspension or limitation of a physician's privileges for failure to timely complete medical ~~records unless the suspension or limitation is the third within the calendar year for failure to timely complete medical records. Upon reporting the third suspension or limitation, the hospital shall also report the previous two suspensions or limitations.~~records."

SECTION 13. Article 1D of Chapter 90 of the General Statutes is renamed as follows:

"Article 1D.

~~"Peer Review.~~"Health Program for Medical Professionals."

SECTION 14. G.S. 90-21.22 reads as rewritten:

"**§ 90-21.22. ~~Peer review agreements.~~Health program for medical professionals.**

(a) The North Carolina Medical Board ~~may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes,~~ (Board) may enter into agreements with the North Carolina Medical Society ~~and its local medical society components, and with~~ (Society), the North Carolina Academy of Physician Assistants (Academy), and the North

Carolina Physicians Health Program (Program) for the ~~purpose~~ purposes of ~~conducting peer review activities. Peer review activities to be covered by such agreements shall include investigation, review, and evaluation of records, reports, complaints, litigation and other information about the practices and practice patterns of physicians licensed by the Board, and of physician assistants approved by the Board, and shall include programs for impaired physicians and impaired physician assistants. Agreements between the Academy and the Board shall be limited to programs for impaired physicians and physician assistants and shall not include any other peer review activities.~~identifying, reviewing, and evaluating the ability of licensees of the Board who have been referred to the Program to function in their professional capacity and to coordinate regimens for treatment and rehabilitation. The agreement shall include guidelines for all items outlined below:

(1) The assessment, referral, monitoring, support, and education of licensees of the Board by reason of a physical or mental illness, a substance use disorder, or professional sexual misconduct.

(2) Procedures for the Board to refer licensees to the Program.

(3) Criteria for the Program to report licensees to the Board.

(4) A procedure by which licensees may obtain review of recommendations by the Program regarding assessment or treatment.

(5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy.

(6) Maintaining the confidentiality of nonpublic information.

~~(b) Peer review agreements shall include provisions for the society and for the Academy to receive relevant information from the Board and other sources, conduct the investigation and review in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the review process, make reports of investigations and evaluations to the Board, and to do other related activities for promoting a coordinated and effective peer review process. Peer review agreements shall include provisions assuring due process.~~

(c) ~~Each society which enters a peer review agreement with the Board shall establish and maintain a program for impaired physicians licensed by the Board. The Academy, after entering a peer review agreement with the Board, shall either enter an agreement with the North Carolina Medical Society for the inclusion of physician assistants in the Society's program for impaired physicians, or shall establish and maintain the Academy's own program for impaired physician assistants. The purpose of the programs shall be to identify, review, and evaluate the ability of those physicians and physician assistants to function in their professional capacity and to provide programs for treatment and rehabilitation.~~ The North Carolina Physicians Health Program (Program) is an independent organization for medical professionals that provides screening, referral, monitoring, educational, and support services. The ~~Board~~ Board, Society, and the Academy may provide funds for the administration of ~~impaired physician and impaired physician assistant programs and shall adopt rules with provisions for definitions of impairment; guidelines for program elements; procedures for receipt and use of information of suspected impairment; procedures for intervention and referral; monitoring treatment, rehabilitation, post-treatment support and performance; reports of individual cases to the Board; periodic reporting of statistical information; assurance of confidentiality of nonpublic information and of the review process.~~the Program.

(d) ~~Upon investigation and review of a physician licensed by the Board, or a physician assistant approved by the Board, or upon receipt of a complaint or other information, a society which enters a peer review agreement with the Board, or the Academy if it has a peer review agreement with the Board, as appropriate,~~ The Program shall report immediately to the Board detailed information about any ~~physician or physician assistant licensed or approved by the Board if:~~licensee of the Board who meets any of the following criteria:

(1) ~~The physician or physician assistant constitutes~~ The licensee constitutes an imminent danger to ~~the public or to himself~~ patient care by reason of ~~impairment,~~ mental illness, physical illness, ~~the commission of~~ substance use disorder, professional sexual ~~boundary violations,~~ misconduct, or any other ~~reason;~~reason.

(2) ~~The physician or physician assistant~~ The licensee refuses to ~~cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or~~submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with the terms of the Program's monitoring contract, or is still unsafe to practice medicine after treatment.

~~(3) It reasonably appears that there are other grounds for disciplinary action.~~

(e) Any ~~confidential patient~~ information ~~and other nonpublic information~~ acquired, created, or used in good faith by the ~~Academy or a society~~ Program pursuant to this section ~~shall remain confidential and shall not be subject to discovery or subpoena in a civil case.~~ is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than to the Board, the Program, or their employees or consultants. No person participating in good faith in the ~~peer review or impaired physician or impaired physician assistant programs of this section~~ Program shall be required in a civil case to disclose the fact of participation in the Program or any information acquired or opinions, recommendations, or evaluations acquired or developed solely in the course of participating in ~~any agreements~~ the Program pursuant to this section.

(f) ~~Peer review activities~~ Activities conducted in good faith pursuant to ~~any~~ the agreement ~~under~~ authorized by subsection (a) of this section shall not be grounds for civil action under the laws of this ~~State and are deemed to be State directed and sanctioned and shall constitute State action for the purposes of application of antitrust laws.~~State.

(g) Upon the written request of a licensee, the Program shall provide the licensee and the licensee's legal counsel with a copy of a written assessment of the licensee prepared as part of the licensee's participation in the Program. In addition, the licensee shall be entitled to a copy of any written assessment created by a treatment provider or facility at the recommendation of the Program, to the extent permitted by State and federal laws and regulations. Any information furnished to a licensee pursuant to this subsection shall be inadmissible in evidence and shall not be subject to discovery in any civil proceeding. However, this subsection shall not be construed to make information, documents, or records otherwise available for discovery or use in a civil action immune from discovery or use in a civil action merely because the information, documents, or records were included as part of the Program's assessment of the licensee or were the subject of information furnished to the licensee pursuant to this subsection. For purposes of this subsection, a civil action or proceeding shall not include administrative actions or proceedings conducted in accordance with Article 1 of Chapter 90 and Chapter 150B of the General Statutes.

(h) The Board has authority to adopt, amend, or repeal rules as may be necessary to carry out and enforce the provisions of this section."

SECTION 15. G.S. 90-16(d) is repealed.

SECTION 16. This act becomes effective October 1, 2015.

NC Medical Board Anticipated Rule Activity

Changes in Process (see attached):

21 NCAC 32B .1370 REENTRY TO ACTIVE PRACTICE
21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE
21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
21 NCAC 32M .0117 REPORTING CRITERIA

As a result of the Periodic Review of the NC Medical Board's rules, the following rules will be repealed or go thru the rule-making process for possible amendment: (the Medical Board's Periodic Review before the Rules Review Commission is scheduled for February 2016)

Determined to be Unnecessary – to be repealed:

21 NCAC 32F .0105 FORMS
21 NCAC 32S .0205 INACTIVE LICENSE STATUS
21 NCAC 32S .0211 AGENCY
21 NCAC 32S .0214 SUPERVISING PHYSICIAN
21 NCAC 32S .0223 SCOPE OF PRACTICE
21 NCAC 32V .0101 SCOPE

Determined to be necessary with substantial public interest - to go thru the rule-making process:

21 NCAC 32A .0104 MEETINGS
21 NCAC 32A .0111 REQUEST FOR DECLARATORY RULING
21 NCAC 32K .0101 DEFINITIONS
21 NCAC 32K .0201 RECEIPT AND USE OF INFORMATION OF POTENTIAL IMPAIRMENT
21 NCAC 32K .0202 ASSESSMENT AND REFERRAL
21 NCAC 32K .0203 MONITORING TREATMENT SOURCES
21 NCAC 32K .0204 MONITORING REHABILITATION AND PERFORMANCE
21 NCAC 32K .0205 MONITORING POST-TREATMENT SUPPORT
21 NCAC 32K .0206 REPORTS OF INDIVIDUAL CASES TO THE BOARD
21 NCAC 32K .0207 PERIODIC REPORTING OF STATISTICAL INFORMATION
21 NCAC 32K .0208 CONFIDENTIALITY

21 NCAC 32B .1370 is proposed to be amended as follows:

21 NCAC 32B .1370 REENTRY TO ACTIVE PRACTICE

(a) ~~A~~ An applicant for licensure ~~physician or physician assistant applicant ("applicant" or "licensee")~~ who has not actively practiced or who has not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for a license ~~from the Board~~ shall complete a reentry agreement as a condition of licensure.

(b) ~~The applicant shall identify a mentoring physician.~~ The first component of a reentry agreement involves formulating a reentry plan that assesses the applicant's current strengths and weaknesses in the intended area(s) of practice. The process may include testing and evaluation by colleagues, educators or others.

(c) ~~The applicant shall propose a reentry plan containing the components outlined in Paragraphs (g) and (h) of this Rule to the Board. The Board shall review the proposed reenter plan and interview the applicant.~~ The second component of the reentry plan is education. Education shall address the applicant's area(s) of needed improvement and consist of a reentry period of retraining and education upon terms as the Board may decide.

(d) Factors that may affect the length and scope of the reentry plan include:

(1) The applicant's amount of time out of practice;

(2) The applicant's prior intensity of practice;

(3) The reason for the interruption in practice;

(4) The applicant's activities during the interruption in practice, including the amount of practice-relevant continuing medical education;

(5) The applicant's previous and intended area(s) of practice;

(6) The skills required of the intended area(s) of practice;

(7) The amount of change in the intended area(s) of practice over the time the applicant has been out of continuous practice;

(8) The applicant's number of years of graduate medical education;

(9) The number of years since completion of graduate medical education; and

(10) As applicable, the date of the most recent ABMS, AOA or equivalent specialty board, or National Commission on Certification of Physician Assistant certification or recertification.

(e) If the Board approves an applicant's reentry plan, it shall be incorporated by reference into a reentry agreement and executed by the applicant, the Board and ~~the mentoring physician.~~ any applicable Board agents assisting with the reentry plan.

(f) After the reentry agreement has been executed, and the applicant has completed all other requirements for licensure, the applicant shall receive a ~~restricted~~ License. The licensee may not practice outside of the scope of the reentry agreement and its referenced reentry plan during the reentry period.

~~(g) The first component of a reentry plan is an assessment of the applicant's current strengths and weaknesses in his or her intended area of practice. The process used to perform the assessment shall be described by the applicant and confirmed by the mentoring physician. The process may include self-reflection, self-assessment, and testing and~~

evaluation by colleagues, educators or others. The applicant and mentoring physician shall evaluate and describe applicant's strengths and areas of needed improvement in regard to the core competencies. The assessment shall continue throughout the reentry period as the licensee and the mentoring physician practice together.

(h) The second component of the reentry plan is education. Education shall address the licensee's areas of needed improvement. Education shall consist of:

(1) a reentry period of retraining and education under the guidance of a mentoring physician, upon terms as the Board may decide, or

(2) a reentry period of retraining and education under the guidance of a mentoring physician consisting of the following:

(A) Phase I – The observation phase. During the observation phase, the licensee will not practice, but will observe the mentoring physician in practice.

(B) Phase II – Direct supervision phase. During the direct supervision phase, the licensee shall practice under the direct supervision of the mentoring physician. Guided by the core competencies, the mentoring physician shall reassess the licensee's progress in addressing identified areas of needed improvement.

(C) Phase III – Indirect supervision phase. During the indirect supervision phase, the licensee shall continue to practice with supervision of the mentoring physician. Guided by the core competencies, and using review of patient charts and regular meetings, the mentoring physician shall reassess the licensee's progress in addressing the areas of needed improvement.

(D) No later than 30 days after the end of phase I and II, the mentoring physician shall send a report to the Board regarding the licensee's level of achievement in each of the core competencies. At the completion of phase III the mentoring physician shall submit a summary report to the Board regarding the licensee's level of achievement in each of the core competencies and affirm the licensee's suitability to resume practice as a physician or to resume practice as a physician assistant.

(E) If the mentoring physician reassesses the licensee and concludes that the licensee requires an extended reentry period or if additional areas of needed improvement are identified during Phases II or III, the Board, the licensee and the mentoring physician shall amend the reentry agreement.

(i) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the mentoring physician may terminate his role as the mentoring physician upon written notice to the Board. Such written notice shall state the reasons for termination. The licensee's approval is not required for the mentoring physician to terminate his role as mentoring physician. Upon receipt of the notice of termination, the Board shall place the licensee's license on inactive status. Within six months from the effective date of the mentoring physician's termination, the licensee shall provide a substitute mentoring physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are acceptable to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the

~~reentry plan. If licensee does not resume the reentry plan as required herein within six months from the effective date of the mentoring physician's termination, then the Board shall not return the licensee to active status unless and until licensee applies and is approved for reactivation of the license with a new reentry agreement and reentry plan, which must be in place before licensee may resume practice as a physician or physician assistant.~~

~~(j) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the licensee may terminate the relationship with the mentoring physician upon written notice to the Board. Such written notice shall state the reasons for termination. The mentoring physician's approval is not required for the licensee to terminate this relationship. Upon receipt of the notice of termination, the Board shall place the licensee's license on inactive status. Within six months from the effective date of the mentoring physician's termination, the licensee shall provide a substitute mentoring physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are acceptable to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the reentry plan. If licensee does not resume the reentry plan as required herein within six months from the effective date of the mentoring physician's termination, then the Board shall not return the licensee to active status unless and until licensee applies and is approved for reactivation of the license with a new reentry agreement and reentry plan, which must be in place before licensee may resume practice as a physician or physician assistant.~~

~~(k) The licensee shall meet with members of the Board at such dates, times and places as directed by the Board to discuss the licensee's transition back into practice and any other practice related matters.~~

~~(l)~~(g) Unsatisfactory completion of the reentry plan or practicing outside the scope of the reentry agreement, as determined by the Board, shall result in the automatic inactivation of the licensee's license, unless the licensee requests a hearing within 30 days of receiving notice from the Board.

~~(m)~~(h) ~~If the Board determines the licensee has successfully completed~~ Upon successful completion of the reentry plan, the Board shall terminate the reentry agreement and notify the licensee that the license is no longer restricted.

History Note: *Authority G.S. 90-8.1; 90-14(a)(11a);*
Eff. March 1, 2011.
Amended Eff. January 1, 2016.

21 NCAC 32B .1402 is proposed to be amended as follows:

21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE

(a) In order to obtain a Resident's Training License, an applicant shall:

(1) submit a completed application which can be found on the Board's website in the application section at http://www.ncmedboard.org/licensing, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;

(2) submit documentation of a legal name change, if applicable;

(3) submit a photograph, two inches by two inches, affixed to the oath or affirmation which has been attested to by a notary public;

(4) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education.

(5) furnish an original ECFMG certification status report of a currently valid ECFMG certification ~~of the ECFMG~~ if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if:

(A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or

(B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;

(6) submit an appointment letter from the program director of the GME program or his or her appointed agent verifying the applicant's appointment and commencement date;

(7) submit two completed fingerprint record cards supplied by the Board;

(8) submit a signed consent form allowing a search of local, state, and national files for any criminal record;

(9) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;

(10) provide proof that the applicant has taken and passed within three attempts:

(A) ~~the~~ COMLEX Level 1, ~~and~~ each component of COMLEX Level 2 (cognitive evaluation and performance evaluation) ~~and~~ and, if taken, COMLEX Level 3; or

(B) ~~the~~ USMLE ~~Step 1~~ Step 1, ~~and~~ each component of ~~the~~ USMLE Step 2 (Clinical Knowledge and Clinical ~~Skills); and~~ Skills) and, if taken USMLE Step 3; ~~and~~ or

(C) MCCQE Part 1 and, if taken, MCCQE Pat 2;

(11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(b) An applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character, if the Board needs more information to complete the application.

(c) If the applicant previously held a North Carolina residency training license, the licensure requirements established by rule at the time the applicant first received his or her North Carolina residency training license shall apply. Information about these Rules is available from the Board.

History Note: *Authority G.S. 90-8.1; 90-12.01; 90-13.1;*
Eff. August 1, 2010;
Amended Eff. January 1, 2016; September 1, 2014; November 1, 2013; August 1, 2012; November 1, 2011.

21 NCAC 32S .0202 is proposed to be amended as follows:

21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before practicing as a physician assistant. An applicant for a physician assistant license shall:

(1) submit a completed application, available at www.ncmedboard.org, to the Board;

(2) meet the requirements set forth in G.S. 90-9.3 and has not committed any of the acts listed in G.S. 90-14;

(3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant shall provide information about the applicant's immigration and work status that the Board shall use to verify applicant's ability to work lawfully in the United States;

(4) submit to the Board proof that the applicant completed a Physician Assistant Educational Program. He or she shall also show successful completion of the Physician Assistant National Certifying Examination;

(5) pay to the Board a non-refundable fee of two hundred dollars ($200.00) plus the cost of a criminal background check. There is no fee to apply for a physician assistant limited volunteer license;

(6) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports. These reports shall be requested by the applicant and submitted to the Board within 60 days of the request;

(7) submit a Board Action Data Bank Inquiry from the Federation of State Medical Boards (FSMB). This report shall be requested by the applicant and submitted to the Board within 60 days of the request;

(8) submit to the Board two complete original fingerprint record cards, on fingerprint record cards supplied by the Board upon request;

(9) submit to the Board a signed consent form allowing a search of local, state, and national files to disclose any criminal record;

(10) disclose whether he or she has ever been suspended from, placed on academic probation, expelled, or required to resign from any school, including a PA educational program;

(11) attest that he or she has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension, or probation or any other adverse action resulting from a health care licensing board;

(12) certify that he or she is mentally and physically able to safely practice as a physician assistant and is of good moral character;

(13) provide the Board with ~~three~~ two original recommendation forms dated within six months of the application. These recommendations shall come from persons under whom the applicant has

worked or trained who are familiar with the applicant's academic competence, clinical skills, and character. At least one reference form shall be from a physician and two reference forms must be from peers under whom the applicant has worked or trained. References shall not be from any family member or in the case of applicants who have not been licensed anywhere, references shall not be from fellow students of the applicant's Educational Program;

(14) if two years or more have passed since graduation from a Physician Assistant Educational Program, document that he or she has completed at least 100 hours of continuing medical education (CME) during the preceding two years, at least 50 hours of which must be recognized by the National Commission on Certification of Physician Assistants as Category I ~~CME; and~~ CME. An applicant who is currently certified with the NCCPA will be deemed in compliance with this Rule; and

(15) supply any other information the Board deems necessary to evaluate the applicant's qualifications, including explanation or documentation of the information required in this Rule.

(b) An applicant may be required to appear in person for an interview with the Board, if the Board determines in its discretion that more information is needed to evaluate the application.

History Note: *Authority G.S. 90-9.3; 90-11; 90-18(c)(13); 90-18.1;*
Eff. September 1, 2009;
Amended Eff. January 1, 2016; May 1, 2015; March 1, 2011.

21 NCAC 32M .0117 is proposed for adoption as follows:

21 NCAC 32M .0117 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of Nursing ("Board of Nursing") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose prescribing:

(1) falls within the top one percent of those prescribing 100 milligrams of morphine equivalents ("MME") per patient per day; or

(2) falls within the top one percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding twelve months due to opioid poisoning.

(c) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

(d) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-16 and G.S. 90-113.74.

History Note: *Authority G.S. 90-113.74;*
Eff. May 1, 2015.