

North Carolina Medical Board Anticipated Rule Activity in 2019

At the current time, the NC Medical Board anticipates the following rule activity in 2019. The rules are attached.

Proposed Amendments:

- 21 NCAC 32Y .0101 REPORTING CRITERIA
- 21 NCAC 32S .0219 PHYSICIAN ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES
- 21 NCAC 32W .0116 ANESTHESIOLOGIST ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES
- 21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
- 21 NCAC 32S .0204 ANNUAL RENEWAL
- 21 NCAC 32S .0220 EXPEDITED APPLICATION FOR PHYSICIAN ASSISTANT LICENSURE
- 21 NCAC 32N .0110 INITIATION OF DISCIPLINARY HEARINGS
- 21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE
- 21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE
- 21 NCAC 32B .2001 EXPEDIATED APPLICATION FOR PHYSICIAN LICENSE
- 21 NCAC 32B .1502 APPLICATION FOR MEDICAL SCHOOL FACULTY LICENSE

Proposed Adoption:

- 21 NCAC 32B .1706 PHYSICIAN PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES
- 21 NCAC 32N .0114 SUMMARY SUSPENSION

21 NCAC 32Y .0101 is proposed to be amended as follows:

21 NCAC 32Y .0101 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Medical Board ("Board") information regarding the prescribing practices of those physicians and physician assistants ("prescribers") whose prescribing:

- (1) falls within the top two percent of those prescribing 100 morphine milligrams equivalents ("MME") per patient per day; or
- (2) falls within the top two 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 where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

- (1) At least 25 percent of the prescriber's patients receiving opioids reside at least 100 miles or greater from the prescriber's practice location;
- (2) The prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
- (3) The prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
- (4) The prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
- (5) More than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office based treatment medications; and
- (6) The prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.

~~(d)~~ 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)~~(e) 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. 90-5.1; 90-113.74;
Eff. May 1, 2015;
Amended Eff. December 1, 2018; July 1, 2017.*

21 NCAC 32S .0219 is proposed for amendment under temporary procedures as follows:

21 NCAC 32S .0219 PHYSICIAN ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

~~(a) The Board shall, pursuant to G.S. 90-12.5, issue a limited physician assistant license under the following conditions:~~

- ~~(1) the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a);~~
- ~~(2) the applicant provides government-issued photo identification;~~
- ~~(3) the applicant provides proof of licensure, certification or authorization to practice as a physician assistant in another state, the District of Columbia, US Territory or Canadian province;~~
- ~~(4) applicant affirms under oath that such license is in good standing; and~~
- ~~(5) no grounds exist pursuant to G.S. 90-14(a) for the Board to deny a license.~~

~~(b) In response to the specific circumstances presented by a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the physician assistant's scope of practice including, but not limited to, the following: geography; term; type of practice; prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs; supervision; and practice setting.~~

~~(c) The physician assistant must practice under the direct supervision of an on-site physician. The supervising physician must be licensed in this State or approved to practice in this State during a disaster or state of emergency pursuant to G.S. 90-12.5 and 21 NCAC 32B .1705. The physician assistant may perform only those medical acts, tasks, and functions delegated by the supervising physician and not limited by the physician assistant's scope of practice as set out in Paragraph (b) of this Rule.~~

~~(d) A team of physician(s) and physician assistant(s) practicing pursuant to this Rule is not required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0213.~~

~~(e) A physician assistant holding a Limited Physician Assistant License for Disasters and Emergencies shall not receive any other or additional compensation outside his or her usual compensation, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services during a disaster or emergency.~~

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set forth below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of

1 emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A
2 of the General Statutes. There are two ways for physician assistant assistants to practice under this rule:

3 (1) Hospital to Hospital Credentialing: A physician assistant who holds a full, unlimited and
4 unrestricted license to practice medicine in another U.S. state, territory or district and has
5 unrestricted hospital credentials and privileges in any U.S. state, territory or district may
6 come to North Carolina and practice medicine at a North Carolina hospital that is licensed
7 by the North Carolina Department of Health and Human Services upon the following terms
8 and conditions:

9 (A) the licensed North Carolina hospital shall verify all physician assistant credentials
10 and privileges;

11 (B) the licensed North Carolina hospital shall keep a list of all physician assistants
12 coming to practice and their respective supervising physicians and shall provide
13 this list to the Board within ten (10) days of each physician assistant practicing at
14 the licensed North Carolina hospital. The licensed North Carolina hospital shall
15 also provide the Board a list of when each physician assistant has stopped
16 practicing medicine in North Carolina under this section within ten (10) days after
17 each physician assistant has stopped practicing medicine under this section;

18 (C) all physician assistants practicing under this section shall be authorized to practice
19 medicine in North Carolina and deemed to be licensed to practice medicine in the
20 State of North Carolina and the Board shall have jurisdiction over all physician
21 assistants practicing under this section for all purposes set forth in or related to
22 Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction
23 shall continue in effect even after any and all physician assistants have stopped
24 practicing medicine under this section;

25 (D) the physician assistant must practice under the direct supervision of an on-site
26 physician and the supervising physician must be licensed in this State or approved
27 to practice in this State during a disaster or state of emergency pursuant to G.S.
28 90-12.5;

29 (E) a physician assistant may practice under this section for the shorter of (a) thirty
30 (30) days from the date the physician assistant has started practicing under this
31 section or (b) a statement by an appropriate authority is made that the emergency
32 or disaster declaration has been withdrawn or ended and, at such time, the license
33 deemed to be issued shall become inactive; and

34 (F) physician assistants practicing under this section shall not receive any
35 compensation outside of their usual compensation for the provision of medical
36 services during a disaster or emergency.

1 (2) Limited Emergency License: A physician assistant who holds a full, unlimited and
2 unrestricted license to practice medicine in another U.S. state, territory or district may apply
3 for a limited emergency license on the following conditions:

4 (A) the applicant must complete a limited emergency license application;

5 (B) the Board shall verify that the physician assistant holds a full, unlimited and
6 unrestricted license to practice medicine in another U.S. state, territory or district;

7 (C) in response to the specific circumstances presented by a declared disaster or state
8 of emergency and in order to best serve the public interest, the Board may limit the
9 physician assistant's scope of practice;

10 (D) the physician assistant must practice under the direct supervision of an on-site
11 physician and the supervising physician must be licensed in this State or approved
12 to practice in this State during a disaster or state of emergency pursuant to G.S.
13 90-12.5;

14 (E) physician assistants and physicians practicing pursuant to this Rule are not
15 required to maintain onsite documentation describing supervisory arrangements
16 and instructions for prescriptive authority as otherwise required by 21 NCAC 32S
17 .0213;

18 (F) the Board shall have jurisdiction over all physician assistants practicing under this
19 section for all purposes set forth in or related to Article 1 of Chapter 90 of the North
20 Carolina General Statutes, and such jurisdiction shall continue in effect even after
21 such physician assistant has stopped practicing medicine under this section or the
22 Limited Emergency License has expired;

23 (G) this license shall be in effect for the shorter of (a) thirty (30) days from the date it
24 is issued or (b) a statement by an appropriate authority is made that the emergency
25 or disaster declaration has been withdrawn or ended and, at such time, the license
26 issued shall become inactive; and

27 (H) physician assistants holding limited emergency licenses shall not receive any
28 compensation outside of their usual compensation for the provision of medical
29 services during a disaster or emergency.

30 (3) National Guard supervision waiver. The rules of this Subchapter are waived during
31 a declared state of emergency by the Governor of the State of North Carolina or
32 by a resolution of the North Carolina General Assembly for members of the North
33 Carolina National Guard who are actively licensed as physician assistants in the
34 State of North Carolina and are serving in a State Active Duty status.

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36 *History Note: Authority G.S. 90-12.5; G.S. 90-18(c)(13); G.S. 90-13.2(e); G.S. 90-14(a); G.S. 166A-45*
37 *Eff. September 1, 2009;*

1 *Amended Eff. November 1, 2010;*
2 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff.*
3 *March 1, 2016*

21 NCAC 32W .0116 is proposed for adoption under temporary procedures as follows:

21 NCAC 32W .0116 ANESTHESIOLOGIST ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set for below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes. There are two ways for anesthesiologist assistants to practice under this rule:

(1) Hospital to Hospital Credentialing: A anesthesiologist assistant who holds an unrestricted license in good standing to practice as an anesthesiologist assistant in another U.S. state, territory or district and has unrestricted hospital credentials and privileges in any U.S. state, territory or district may practice at a licensed North Carolina hospital upon the following terms and conditions:

(A) the licensed North Carolina hospital shall verify all anesthesiologist assistant credentials and privileges;

(B) the licensed North Carolina hospital shall keep a list of all anesthesiologist assistants coming to practice and shall provide this list to the Board within ten (10) days of each anesthesiologist assistant practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each anesthesiologist assistant has stopped practicing at the hospital under this section within ten (10) days after each anesthesiologist assistant has ceased practicing under this section;

(C) all anesthesiologist assistants practicing under this section shall be authorized to practice in North Carolina and deemed to be licensed in North Carolina and the Board shall have jurisdiction over all anesthesiologist assistants practicing under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and the Board shall retain jurisdiction over any and all anesthesiologist assistants after they have stopped practicing under this section;

1 (D) anesthesiologist assistants may practice under this section for the shorter
2 of (a) thirty (30) days from the date the anesthesiologist assistant has
3 started practicing under this section or (b) a statement is made by the
4 Governor or the Governor's designee that the emergency or disaster
5 declaration has been withdrawn or ended and, at such time, the license
6 deemed to be issued shall become inactive; and

7 (E) anesthesiologist assistants practicing under this section shall not receive
8 any compensation outside of their usual compensation for the provision of
9 medical services during a disaster or emergency.

10
11 (2) Limited Emergency License: An anesthesiologist assistant who holds an
12 unrestricted license in good standing to practice as an anesthesiologist assistant
13 in another U.S. state, territory or district may apply for a limited emergency
14 license on the following conditions:

15 (A) the applicant must complete an application;

16 (B) the Board shall verify that the anesthesiologist assistant holds an
17 unrestricted license in good standing to practice in another U.S. state,
18 territory or district;

19 (C) in response to the specific circumstances presented by a declared
20 disaster or state of emergency and in order to best serve the public
21 interest, the Board may limit the anesthesiologist assistant's scope of
22 practice;

23 (D) the Board shall have jurisdiction over all anesthesiologist assistants
24 practicing under this section for all purposes set forth in or related to
25 Article 1 of Chapter 90 of the North Carolina General Statutes, and the
26 Board shall retain jurisdiction over any and all anesthesiologist assistants
27 after they have stopped practicing under this section;

28 (E) this license shall be in effect for the shorter of (a) thirty (30) days from the
29 date the anesthesiologist assistant has started practicing under this
30 section or (b) a statement is made by the Governor or the Governor's
31 designee that the emergency or disaster declaration has been withdrawn
32 or ended and, at such time the license issued shall become inactive; and

1 (F) anesthesiologist assistants holding limited emergency licenses shall not
2 receive any compensation outside of their usual compensation for the
3 provision of medical services during a disaster or emergency.

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5 History Note: Authority G.S. 90-12.5; G.S. 90-13.2(e); G.S. 90-14(a); G.S. 166A-45

21 NCAC 32S .0202 is proposed for amendment 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)~~ two hundred thirty dollars (\$230.00) 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 report 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, at P. O. Box 20007, Raleigh, NC 27619, two complete original fingerprint record cards, on fingerprint record cards supplied by the Board upon request;
- (9) submit to the Board, at P. O. Box 20007, Raleigh, NC 27619 or license@ncmedboard.org, 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, 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 two original recommendation forms dated within six months of the application, at P. O. Box 20007, Raleigh, NC 27619, 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 the other reference form must be from a physician assistant peer 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 Physician Assistant 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. An applicant who is currently certified with the NCCPA will be deemed in compliance with this Subparagraph; and

(15) In the event any of the above required information should indicate a concern about the applicant's qualifications, the applicant shall 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) In the event any of the above required information should indicate a concern about the applicant's qualifications, 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; 90-14(a); 90-18(c)(13); 90-18.1;
Eff. September 1, 2009;

Amended Eff. January 1, 2016; May 1, 2015; March 1, 2011;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

21 NCAC 32S .0204 is proposed for amendment as follows:

21 NCAC 32S .0204 ANNUAL RENEWAL

(a) A physician assistant shall renew his/her license each year no later than 30 days after his/her birthday by:

(1) completing the Board's renewal form; and

(2) submitting a nonrefundable fee of ~~one hundred twenty dollars (\$120.00)~~, one hundred sixty-five dollars (\$165.00), except that a physician assistant who renews not later than 30 days after his/her birthday shall pay an annual renewal fee of ~~one hundred dollars (\$100.00)~~; one hundred forty dollars (\$140.00);

(b) If a physician assistant fails to renew his/her license, the Board shall send a certified notice, return receipt requested. If the physician assistant does not renew his/her license within 30 days of the date of the mailing of that notice, his/her license automatically becomes inactive.

History Note: Authority G.S. 90-9.3(c);

Eff. September 1, 2009;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

21 NCAC 32S .0220 is proposed for amendment as follows:

21 NCAC 32S .0220 EXPEDITED APPLICATION FOR PHYSICIAN ASSISTANT LICENSURE

(a) An physician assistant who has been licensed, certified, or authorized to practice in at least one other state, the District of Columbia, U.S. Territory or Canadian province for at least five years, has been in active clinical practice during the past two years and who has a clean license application, as defined in Paragraph (c) of this Rule, may apply for a license on an expedited basis.

(b) In order to apply for an expedited Physician Assistant License, an applicant shall:

- (1) submit a completed application, using the Board's form, attesting under oath 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) on the Board's form, submit a recent photograph, at least two inches by two inches, certified as a true likeness of the applicant by a notary public;
- (4) supply a certified copy of applicant's birth certificate if applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status, which the Board will use to verify applicant's ability to work lawfully in the United States;
- (5) provide proof that applicant had held an active license, certification or authorization as a physician assistant in at least one other state or jurisdiction for the last five years immediately preceding this application;
- (6) submit proof of successful completion of the Physician Assistant National Certifying Examination;
- (7) submit proof of current certification by the National Commission on Certification of Physician Assistants;
- (8) provide proof of an active clinical practice, providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (9) submit a NPDB/HIPDB report dated within 60 days of applicant's oath;
- (10) submit a FSMB Board Action Data Bank report;
- (11) submit two completed fingerprint cards supplied by the Board;
- (12) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (13) pay to the Board a non-refundable fee of ~~two hundred dollars (\$200.00)~~, two hundred thirty dollars (\$230.00), as required by 21 NCAC 32S .0202, plus the cost of a criminal background check;
- (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) A clean license application means that the physician assistant has none of the following:

- (1) professional liability insurance claim(s) or payment(s);

- 1 (2) criminal record;
- 2 (3) medical condition(s) which could affect the physician assistant's ability to practice safely;
- 3 (4) regulatory board complaint(s), investigation(s), or action(s) (including applicant's withdrawal of a
- 4 license application);
- 5 (5) adverse action taken by a health care institution;
- 6 (6) investigation(s) or action(s) taken by a federal agency, the US military, medical societies or
- 7 associations; or
- 8 (7) suspension or expulsion from any school, including an educational program for physician assistants.
- 9 (d) All reports must be submitted directly to the Board from the primary source, when possible.
- 10 (e) An application must be completed within one year of the date on which the application fee is paid. If not, the
- 11 applicant shall be charged a new application fee.
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13 *History Note: Authority G.S. 90-9.3; 90-13.1;*

14 *Eff. November 1, 2010;*

15 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*

16 *2016.*

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21 NCAC 32N .0110 is amended as follows:

Subchapter 32N – FORMAL AND INFORMAL PROCEEDINGS

21 NCAC 32N .0110 INITIATION OF DISCIPLINARY HEARINGS

(a) The Board shall issue a Notice of Charges and Allegations only upon completion of an investigation, a finding by the Board or a committee of the Board that there exists a factual and legal basis for an action pursuant to any subsection of G.S. 90-14(a), and a pre-charge conference, if one was requested by the licensee.

(b) Disciplinary proceedings shall be initiated and conducted pursuant to G.S. 90-14 through G.S. 90-14.7 and G.S. 150B-38 through G.S. 150B-42.

(c) A pre-hearing conference shall be held not less than seven days before the hearing date unless waived by the Board President or designated presiding officer upon written request by either party. The purpose of the conference will be to simplify the issues to be determined, obtain stipulations in regards to testimony or exhibits, obtain stipulations of agreement on undisputed facts or the application of particular laws, consider the proposed witnesses for each party, identify and exchange documentary evidence intended to be introduced at the hearing, and consider such other matters that may be necessary or advisable for the efficient and expeditious conduct of the hearing.

(d) The pre-hearing conference shall be conducted in the offices of the Medical Board, unless another site is designated by mutual agreement of all parties; however, when a face-to-face conference is impractical, the Board President or designated presiding officer may order the pre-hearing conference be conducted by telephone conference.

(e) The pre-hearing conference shall be an informal proceeding and shall be conducted by the Board President or designated presiding officer.

(f) All agreements, stipulations, amendments, or other matters resulting from the pre-hearing conference shall be in writing, signed by the presiding officer, respondent or respondent's counsel and Board counsel, and introduced into the record at the beginning of the disciplinary hearing.

(g) Motions for a continuance of a hearing shall be granted upon a showing of good cause. In determining whether to grant such motions, the Board shall consider the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina. Motions for a continuance must be in writing and received in the office of the Medical Board no less than 14 calendar days before the hearing date. A motion for a continuance filed less than 14 calendar days from the date of the hearing shall be denied unless the reason for the motion

1 could not have been ascertained earlier. Motions for continuance shall be ruled on by the
2 President of the Board or designated presiding officer.

3 (h) The Respondent may challenge on the basis of personal bias or other reason for
4 disqualification the fitness and competency of any Board member to hear and weigh evidence
5 concerning the Respondent. Challenges must be in writing accompanied by affidavit setting
6 forth with specificity the grounds for such challenge and must be filed with the President of the
7 Board or designated presiding officer at least 14 days before the hearing except for good cause
8 shown. Nothing contained in this Rule shall prevent a Respondent appearing before the Board
9 at a formal hearing from making inquiry of Board members as to their knowledge of and
10 personal bias concerning that person's case and making a motion based upon the responses to
11 those inquiries that a Board member recuse himself or herself or be removed by the Board
12 President or presiding officer.

13 (i) In any formal proceeding pursuant to G.S. 90-14.1 and G.S. 90-14.2, discovery may be
14 obtained as provided in G.S. 90-8 and 150B-39 by either the Board or the Respondent. Any
15 discovery request by a Respondent to the Board shall be filed with the Executive Director of the
16 Board. Nothing herein is intended to prohibit a Respondent or counsel for Respondent from
17 issuing subpoenas to the extent that such subpoenas are otherwise permitted by law or rule.
18 The Medical Board may issue subpoenas for the Board or a Respondent in preparation for or in
19 the conduct of a contested case as follows:

20 (1) Subpoenas may be issued for the appearance of witnesses or the production of
21 documents or information, either at the hearing or for the purposes of discovery;

22 (2) Requests by a Respondent for subpoenas shall be made in writing to the Executive
23 Director and shall include the following:

24 (A) the full name and home or business address of all persons to be subpoenaed; and

25 (B) the identification, with specificity, of any documents or information being sought;

26 (3) Where Respondent makes a request for subpoenas and complies with the requirements
27 in Subparagraph (2) of this Paragraph, the Board shall provide subpoenas promptly;

28 (4) Subpoenas shall include the date, time, and place of the hearing and the name and
29 address of the party requesting the subpoena. In the case of subpoenas for the purpose of
30 discovery, the subpoena shall include the date, time, and place for responding to the subpoena;
31 and

32 (5) Subpoenas shall be served as provided by the Rules of Civil Procedure, G.S. 1A-1. The
33 cost of service, fees, and expenses of any witnesses or documents subpoenaed shall be paid
34 by the party requesting the witnesses.

1 (j) All motions motions, other than motions pursuant to Rules 12(b) and 56 of the North Carolina
2 Rules of Civil Procedures, related to a contested case shall be in writing and submitted to the
3 Medical Board at least 14 calendar days before the hearing. Pre-hearing motions shall be heard
4 at the pre-hearing conference described in Paragraph (c) of this Rule. Motions filed fewer than
5 14 days before the hearing shall be considered untimely and shall not be considered unless the
6 reason for the motion could not have been ascertained earlier. In such case, the motion shall be
7 considered at the hearing prior to the commencement of testimony. The Board President or
8 designated presiding officer shall hear the motions and any response from the non-moving party
9 and rule on such motions. If the pre-hearing motions are heard by an Administrative Law Judge
10 from Office of Administrative Hearings the provisions of G.S. 150B-40(e) shall govern the
11 proceedings.

12 (k) Dispositive motions made pursuant to Rules 12(b) and 56 of the North Carolina Rules of
13 Civil Procedure shall be filed no later than 14 calendar days before the hearing. Dispositive
14 motions shall be heard, and decided upon, by a quorum of the Board. The Board shall receive
15 the assistance of independent counsel when deciding a dispositive motion.

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17 *History Note: Authority G.S. 90-5.1(a)(3); 90-8; 90-14.1; 90-14.2; 90-14.3; 150B-38; 150B-*
18 *39(c);*

19 *Eff. February 1, 2012;*

20 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
21 *2016.*

22 *Amendment Eff.*
23
24
25

1 **21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE**

2 (a) In order to obtain a ~~Physician License~~, physician license, an applicant shall:

- 3 (1) submit a completed application, attesting under oath or affirmation that the information on the
4 application is true and complete and authorizing the release to the Board of all information
5 pertaining to the application;
- 6 (2) submit a photograph, two inches by two inches, affixed to the oath or affirmation which has been
7 attested to by a notary public;
- 8 (3) submit documentation of a legal name change, if applicable;
- 9 (4) supply a certified copy of applicant's birth certificate if the applicant was born in the United States
10 or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of
11 U.S. citizenship, the applicant must provide information about applicant's immigration and work
12 status which the Board will use to verify applicant's ability to work lawfully in the United States;
- 13 (5) submit proof on the Board's Medical Education Certification form that the applicant has completed
14 at least 130 weeks of medical education and received a medical degree. However, the Board shall
15 waive the 130 week requirement if the applicant has been certified or recertified by an ABMS,
16 CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years;
- 17 (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME,
18 the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- 19 (7) for an applicant graduating from a medical school not approved by the LCME, meet the
20 requirements set forth in G.S. 90-9.2;
- 21 (8) provide proof of passage of an examination testing general medical knowledge. In addition to the
22 examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE;
23 FLEX, or their successors), the Board accepts the following examinations (or their successors) for
24 licensure:
 - 25 (A) COMLEX,
 - 26 (B) NBOME, and
 - 27 (C) MCCQE;
- 28 (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-
29 9.1 or 90-9.2, as follows:
 - 30 (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have
31 satisfactorily completed at least one year of graduate medical education approved by
32 ACGME, CFPC, RCPSC or AOA.
 - 33 (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed
34 three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
 - 35 (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B)
36 of this Subparagraph by showing proof of current certification by a specialty board
37 recognized by the ABMS, CCFP, FRCP, FRCS or AOA;

- 1 (10) submit a FCVS profile:
- 2 (A) If the applicant is a graduate of a medical school approved by LCME, CACMS or COCA,
- 3 and the applicant previously has completed a FCVS profile; or
- 4 (B) If the applicant is a graduate of a medical school other than those approved by LCME,
- 5 COCA or CACMS;
- 6 (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS,
- 7 furnish an original ECFMG certification status report of a currently valid certification of the
- 8 ECFMG. The ECFMG certification status report requirement shall be waived if:
- 9 (A) the applicant has passed the ECFMG examination and successfully completed an approved
- 10 Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
- 11 (B) the applicant has been licensed in another state on the basis of a written examination before
- 12 the establishment of the ECFMG in 1958;
- 13 (12) submit an AMA Physician Profile and, if applicant is an osteopathic physician, also submit an AOA
- 14 Physician Profile;
- 15 (13) if applying on the basis of the USMLE, submit:
- 16 (A) a transcript from the FSMB showing a score on USMLE Step 1, both portions of Step 2
- 17 (clinical knowledge and clinical skills) and Step 3; and
- 18 (B) proof that the applicant has passed each step within three attempts. However, the Board
- 19 shall waive the three attempt requirement if the applicant has been certified or recertified
- 20 by an ABMS, CCFP, FRCP, ~~FRCS-or~~ FRCS, AOA or ABOMS approved specialty board
- 21 within the past 10 years;
- 22 (14) if applying on the basis of COMLEX, submit:
- 23 (A) a transcript from the NBOME showing a score on COMLEX Level 1, both portions of
- 24 Level 2 (cognitive evaluation and performance evaluation) and Level 3; and
- 25 (B) proof that the applicant has passed COMLEX within three attempts. However, the Board
- 26 shall waive the three attempt requirement if the applicant has been certified or recertified
- 27 by an ABMS, CCFP, FRCP, ~~FRCS-or~~ FRCS, AOA or ABOMS approved specialty board
- 28 within the past 10 years;
- 29 (15) if applying on the basis of any other board-approved examination, submit a transcript showing a
- 30 passing score;
- 31 ~~(16) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;~~
- 32 ~~(17) submit a FSMB Board Action Data Report;~~
- 33 ~~(18)~~(16) submit two completed fingerprint record cards supplied by the Board;
- 34 ~~(19)~~(17) submit a signed consent form allowing a search of local, state, and national files for any criminal
- 35 record;
- 36 ~~(20)~~(18) provide two original references from persons with no family or marital relationship to the applicant.
- 37 These references must be:

- (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
- (B) on forms supplied by the Board;
- (C) dated within six months of the submission of the application; and
- (D) bearing the original signature of the writer;
- ~~(24)~~(19) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- ~~(22)~~(20) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
- (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors);
- (B) SPEX (with a score of 75 or higher); or
- (C) COMVEX (with a score of 75 or higher);
- (2) within the past 10 years:
- (A) obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, ~~FRCS or AOA~~; FRCS, AOA or ABOMS; or
- (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (c) All reports must be submitted directly to the Board from the primary source, when possible.
- (d) An applicant shall appear in person for an interview with the Board or its agent, if the Board needs more information to complete the application.
- (e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1;
Eff. August 1, 2010;
Amended Eff. December 1, 2013; January 1, 2012; November 1, 2011; October 1, 2011;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

1 **21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE**

2 (a) "Reinstatement" is for a physician who has held a North Carolina License, but whose license either has been
3 inactive for more than one year, or whose license became inactive as a result of disciplinary action (revocation or
4 suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being
5 filed by the Board.

6 (b) All applicants for reinstatement shall:

- 7 (1) submit a completed application which can be found on the Board's website in the application section
8 at <http://www.ncmedboard.org/licensing>, attesting under oath or affirmation that information on the
9 application is true and complete, and authorizing the release to the Board of all information
10 pertaining to the application;
- 11 (2) submit documentation of a legal name change, if applicable;
- 12 (3) supply a certified copy of the applicant's birth certificate if the applicant was born in the United
13 States or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess
14 proof of U.S. citizenship, the applicant shall provide information about the applicant's immigration
15 and work status which the Board shall use to verify the applicant's ability to work lawfully in the
16 United States. Applicants who are not present in the U.S. and who do not plan to practice physically
17 in the US shall submit a written statement to that effect.
- 18 (4) furnish an original ECFMG certification status report of a currently valid certification of the
19 ECFMG if the applicant is a graduate of a medical school other than those approved by LCME,
20 AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if:
21 (A) the applicant has passed the ECFMG examination and successfully completed an approved
22 Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
23 (B) the applicant has been licensed in another state on the basis of a written examination before
24 the establishment of the ECFMG in 1958;
- 25 (5) submit the AMA Physician Profile; and, if the applicant is an osteopathic physician, also submit the
26 AOA Physician Profile;
- 27 ~~(6) submit a NPDB/HIPDB report dated within 60 days of the application's submission;~~
- 28 ~~(7) submit a FSMB Board Action Data Bank report;~~
- 29 ~~(6)(8)~~ submit documentation of CME obtained in the last three years, upon request;
- 30 ~~(7)(9)~~ submit two completed fingerprint cards supplied by the Board;
- 31 ~~(8)(10)~~ submit a signed consent form allowing a search of local, state, and national files to disclose any
32 criminal record;
- 33 ~~(9)(11)~~ provide two original references from persons with no family or material relationship to the applicant.
34 These references shall be:
 - 35 (A) from physicians who have observed the applicant's work in a clinical environment within
36 the past three years;
 - 37 (B) on forms supplied by the Board;

- (C) dated within six months of submission of the application; and
- (D) bearing the original signature of the author;
- ~~(10)(12)~~ pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- ~~(11)(13)~~ upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher);
 - (2) within the past ten years:
 - (A) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, ~~FRCS or AOA~~; FRCS, AOA, or ABOMS; or
 - (B) met requirements for ABMS MOC (maintenance or certification) or AOA OCC (Osteopathic continuous Certification);
 - (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
 - (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (d) All reports shall be submitted directly to the Board from the primary source, when possible. If a primary source verification is not possible, then a third party verification shall be submitted.
- (e) 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.
- (f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee plus the cost of another criminal background check.
- (g) Notwithstanding the above provisions of this Rule, the licensure requirements established by rule at the time the applicant first received his or her equivalent North Carolina license shall apply. Information about these Rules is available from the Board.

History Note: Authority G.S. 90-8.1; 90-9.1; 90-10.1; 90-13.1;

Eff. August 1, 2010;

Amended Eff. September 1, 2014; November 1, 2013; November 1, 2011;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

21 NCAC 32B .2001 is proposed for amendment as follows:

21 NCAC 32B .2001 EXPEDITED APPLICATION FOR PHYSICIAN LICENSE

~~(a) A specialty board certified physician who has been licensed in at least one other state, the District of Columbia, U.S. territory or Canadian province for at least five years, has been in active clinical practice the past two years; and who has a clean license application, as defined in Paragraph (c) of this Rule may apply for a license on an expedited basis. A physician who meets the qualifications listed in this rule may apply for a license on an expedited basis.~~

(b) An applicant for an expedited Physician License shall:

- (1) complete the Board's application form, 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) on the Board's form, submit a photograph taken within the past year, two inches by two inches, attested to or affirmed by the applicant as a true likeness of the applicant before a notary public;
- (4) 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 US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States; States. Applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. shall submit a statement to that effect;

~~(Note: there may be some applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. Those applicants shall submit a statement to that effect);~~

- (5) provide proof that applicant has held an active unrestricted license to practice medicine in at least one other state, the District of Columbia, U.S. Territory or Canadian province continuously for ~~at least~~ a minimum of five years immediately preceding this application;
- (6) provide proof of clinical practice providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (7) provide proof of:
 - (A) current certification or current recertification by an ABMS, CCFP, FRCP, FRCS, ~~or AOA~~ AOA, or ABOMS approved specialty board obtained within the past 10 years; or
 - (B) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (C) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous ~~Certification~~); certification);
- (8) if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, the applicant shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be

- 1 waived if the applicant has passed the ECH+FMG examination and successfully completed an
2 approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required).
- 3 ~~(8)~~(9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician submit an AOA
4 Physician Profile;
- 5 ~~(9)~~ submit a NPDB/HIPDB report dated within 60 days of the applicant's oath;
- 6 ~~(10)~~ submit a FSMB Board Action Data Bank report;
- 7 ~~(11)~~(10) submit two completed fingerprint record cards supplied by the Board;
- 8 ~~(12)~~(11) submit a signed consent form allowing a search of local, state and national files to disclose any
9 criminal record;
- 10 ~~(13)~~(12) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a) ~~of three hundred fifty dollars~~
11 ~~(\$350.00)~~, plus the cost of a criminal background check; and
- 12 ~~(14)~~(13) upon request, supply any additional information the Board deems necessary to evaluate the
13 applicant's qualifications.
- 14 (c) A clean physician applying for an expedited license application means that the physician has none of the following:
15 must:
- 16 (1) not have any professional liability insurance claim(s) or ~~payment(s)~~; payments(s) within the past 10
17 years;
- 18 (2) not have any criminal ~~record~~; conviction;
- 19 (3) not have any medical condition(s) which could affect the physician's ability to practice safely;
- 20 (4) not have any regulatory board complaint(s), investigation(s), or action(s) (including applicant's
21 withdrawal of a license ~~application~~; application) within the past 10 years;
- 22 (5) not have any adverse ~~action~~ action(s) taken by a health care ~~institution~~; institution within the past
23 10 years;
- 24 (6) not have any adverse ~~investigation(s)~~ or action(s) taken by a federal agency, the U.S. military,
25 medical societies or ~~associations~~; within the past 10 years;
- 26 ~~(7) suspension or expulsion from any school, including medical school.~~
- 27 ~~(8) graduation from any United States or Canadian medical school that is not LCME or CACMS~~
28 approved; or
- 29 ~~(9) has passed no licensing examination other than Puerto Rico Written Examination/Revalida.~~
- 30 (7) have passed an examination testing general medical knowledge. In addition to the examinations set
31 forth in G.S. 90-10.1 (a state board licensing examination: NBME; USMLE; FLEX or their
32 successors). The Board accepts the following examinations (or their successors) for licensure:
33 (A) COMLEX;
34 (B) NBOME; and
35 (C) MCCQE.
- 36 (d) All reports must be submitted directly to the Board from the primary source, when possible.

~~(e) The application process must be completed within one year of the date on which the application fee is paid. If not, the applicant shall be charged a new applicant fee.~~

History Note: Authority G.S. 90-9.1; 90-5; 90-11; 90-13.1;

Eff. August 1, 2010;

Amended Eff. November 1, 2013;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

Amended Eff. -----

1 **21 NCAC 32B .1502 APPLICATION FOR MEDICAL SCHOOL FACULTY LICENSE**

2 (a) The Medical School Faculty License is limited to physicians who have expertise which can be used to help educate
3 North Carolina medical students, post-graduate residents and fellows but who do not meet the requirements for
4 Physician licensure.

5 (b) In order to obtain a Medical School Faculty License, an applicant shall:

- 6 (1) submit a completed application, attesting under oath or affirmation that the information on the
7 application is true and complete, and authorizing the release to the Board of all information
8 pertaining to the application;
- 9 (2) submit the Board's form, signed by the Dean or ~~his~~ the Dean's appointed representative, indicating
10 that the applicant has received a full-time paid appointment as either ~~a~~ an instructor, lecturer,
11 assistant professor, associate professor, or full professor at a medical school in the state of North
12 Carolina;
- 13 (3) submit documentation of a legal name change, if applicable;
- 14 (4) submit a photograph, two inches by two inches, affixed to the oath or affirmation which has been
15 attested to by a notary public;
- 16 (5) submit proof on the Board's Medical Education Certification form that the applicant has completed
17 at least 130 weeks of medical education. However, the Board shall waive the 130 week requirement
18 if the applicant has been certified or recertified by an ABMS, ~~DDFP~~, AOA, FRCP, FRCS or AOA
19 approved specialty board within the past 10 years;
- 20 (6) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired
21 US passport if the applicant was born in the United States. If the applicant does not possess proof
22 of US citizenship, the applicant must provide information about applicant's immigration and work
23 status which the Board will use to verify applicant's ~~ability to work lawfully~~ lawful presence in the
24 United States;
- 25 (7) submit proof of satisfactory completion of at least one year of GME approved by ACGME, CFPC,
26 RCPSC, or AOA; or evidence of other education, training or experience, determined by the Board
27 to be equivalent;
- 28 (8) submit reports from all medical or osteopathic boards from which the applicant has ever held a
29 medical or osteopathic license, indicating the status of the applicant's license and whether or not any
30 action has been taken against the license;
- 31 (9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA
32 Physician Profile;
- 33 (10) submit a NPDB ~~report, HIPDB report, report~~ dated within 60 days of applicant's oath;
- 34 (11) submit a FSMB Board Action Data Bank report;
- 35 (12) submit two completed fingerprint record cards supplied by the Board;
- 36 (13) submit a signed consent form allowing a search of local, state, and national files to disclose any
37 criminal record;

- 1 (14) provide two original ~~references~~ reference letters from persons with no family or marital relationship
2 to the applicant. These letters must be:
- 3 (A) from physicians who have observed the applicant's work in a clinical environment within
4 the past three years;
- 5 (B) on forms supplied by the Board;
- 6 (C) dated within six months of the applicant's oath; and
- 7 (D) bearing the original signature of the writer.
- 8 (15) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal
9 background check; and
- 10 (16) upon request, supply any additional information the Board deems necessary to evaluate the
11 applicant's competence and character.
- 12 (c) All reports must be submitted directly to the Board from the primary source, when possible.
- 13 (d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the
14 applicant's competence and character.
- 15 (e) An application must be completed within one year of the date of the applicant's oath.
- 16 (f) This Rule applies to licenses granted after the effective date of this Rule.

17

18 *History Note: Authority G.S. 90-12.3; 90-13.2;*
19 *Eff. June 28, 2011;*
20 *Amended Eff. November 1, 2013;*
21 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
22 *2016.*

23

21 NCAC 32B .1706 is proposed for adoption under temporary procedures as follows:

21 NCAC 32B .1706 PHYSICIAN PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set forth below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes. There are two ways for physicians to practice under this rule:

(1) Hospital to Hospital Credentialing: A physician who holds a full, unlimited and unrestricted license to practice medicine in another U.S. state, territory or district and has unrestricted hospital credentials and privileges in any U.S. state, territory or district may come to North Carolina and practice medicine at a hospital that is licensed by the North Carolina Department of Health and Human Services upon the following terms and conditions:

(A) the licensed North Carolina hospital shall verify all physician credentials and privileges;

(B) the licensed North Carolina hospital shall keep a list of all physicians coming to practice and shall provide this list to the Board within ten (10) days of each physician practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each physician has stopped practicing medicine in North Carolina under this section within ten (10) days after each physician has stopped practicing medicine under this section;

(C) all physicians practicing under this section shall be authorized to practice medicine in North Carolina and shall be deemed to be licensed to practice medicine in the State of North Carolina and the Board shall have jurisdiction over all physicians practicing under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction shall continue in effect even after any and all physicians have stopped practicing medicine under this section;

(D) a physician may practice under this section for the shorter of (a) thirty (30) days from the date the physician has started practicing under this section or (b) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive, and

1 (E) physicians practicing under this section shall not receive any compensation
2 outside of their usual compensation for the provision of medical services during a
3 disaster or emergency.

4 (2) Limited Emergency License: A physician who holds a full, unlimited and unrestricted
5 license to practice medicine in another U.S. state, territory or district may apply for a
6 limited emergency license on the following conditions:

7 (A) the applicant must complete a limited emergency license application;

8 (B) the Board shall verify that the physician holds a full, unlimited and unrestricted
9 license to practice medicine in another U.S. state, territory or district;

10 (C) in response to the specific circumstances presented by a declared disaster or
11 state of emergency and in order to best serve the public interest, the Board may
12 limit the physician's scope of practice;

13 (D) the Board shall have jurisdiction over all physicians practicing under this section
14 for all purposes set forth in or related to Article 1 of Chapter 90 of the North
15 Carolina General Statutes, and such jurisdiction shall continue in effect even
16 after such physician has stopped practicing medicine under this section or the
17 Limited Emergency License has expired;

18 (E) this license shall be in effect for the shorter of (a) thirty (30) days from the date it
19 is issued or (b) a statement by an appropriate authority is made that the
20 emergency or disaster declaration has been withdrawn or ended and, at such
21 time, the license issued shall become inactive; and

22 (F) physicians holding limited emergency licenses shall not receive any
23 compensation outside of their usual compensation for the provision of medical
24 services during a disaster or emergency.

25
26 *History Note:* Authority G.S. 90-12.5; G.S. 90-13.2(e); G.S. 90-14(a); GS 166A-45
27

21 NCAC 32N .0114 is proposed for adoption as follows:

Subchapter 32N – FORMAL AND INFORMAL PROCEEDINGS

21 NCAC 32N .0114 SUMMARY SUSPENSION

(a) If the Board finds that the public health, safety, or welfare requires emergency action, it may, pursuant to G.S. 150B-3(c), summarily suspend a license without a hearing or opportunity for the licensee to be heard.

(b) A motion to summarily suspend a license pursuant to this Rule shall be supported by competent evidence of the facts alleged requiring emergency action.

(c) The Board shall consult with independent counsel prior to issuing an order of summary suspension. The role of independent counsel shall be to advise the Board on the reliability and competency of the evidence presented in support of the motion for summary suspension.

(d) An order of summary suspension shall make preliminary findings of facts indicating why the public health, safety, or welfare requires emergency action. An order of summary suspension shall be accompanied by a notice of charges setting out the licensee's alleged violations of G.S. 90-14(a). Upon service of the order of summary suspension, the licensee to whom the order is directed shall immediately cease practicing in North Carolina.

(e) The Board shall, when it summarily suspends a license, schedule a hearing to occur at the earliest practicable date, but no later than 30 days from the date of service of the order of summary suspension. The purpose of the hearing will be to determine whether there is a preponderance of competent evidence supporting the order of summary suspension. A hearing on the order of summary suspension may be combined with a hearing on the merits of the notice of charges on a date mutually agreed upon by the parties.

(f) The order of summary suspension shall remain in effect until the Board vacates it.

(g) Neither an order of summary suspension nor a decision upholding an order of summary suspension is a final agency decision.

History Note: Authority G.S. 90-5.1(a)(3); 150B-3(c);

Eff.