

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 426

Short Title: State Auditor/Access to Medical Board Records. (Public)

Sponsors: Senators Krawiec, Hise, and Adcock (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 30, 2023

A BILL TO BE ENTITLED

AN ACT TO GIVE THE STATE AUDITOR ACCESS TO THE MEDICAL BOARD'S RECORDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-16 reads as rewritten:

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

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

(b) The Board may in a closed session receive evidence involving or concerning the treatment of a patient who has not expressly or impliedly consented to the public disclosure of ~~such the~~ treatment as may be necessary for the protection of the rights of ~~such the~~ patient or of the accused physician and the full presentation of relevant evidence.

(c) All records, papers, investigative files, investigative reports, other investigative ~~information-information~~, and other documents containing information in the possession of or received or gathered by the Board, or its ~~members or employees~~ members, employees, or consultants as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing, complaint, assessment, potential impairment matter, disciplinary matter, or report of professional liability insurance awards or settlements pursuant to ~~G.S. 90-14.13, shall not be considered~~ G.S. 90-14.13 are not public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board, its ~~employees-employees,~~ or consultants involved in the application for license, impairment assessment, or discipline of a ~~license holder, licensee,~~ except as provided in subsections (c1) and (e1) of this section. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a physician or other person performing an expert review for the Board and transcripts of any deposition taken by Board counsel in preparation for or anticipation of a hearing held pursuant to this Article but not admitted into evidence at the hearing.

(c1) To ensure compliance with audits authorized by G.S. 147-64.6, the Board shall make available for review by the State Auditor all documents described in subsection (c) of this section. These documents shall be available for review at the offices of the Board or at any other reasonable place designated by the Board.



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

2 (e) Information furnished to a licensee or applicant, or counsel for a licensee or applicant,
3 under G.S. 90-14.2(c) ~~shall be~~ is subject to discovery or subpoena ~~between and~~ among the parties
4 in a civil case in which the licensee is a party.

5 (e1) When the Board receives a complaint regarding the care of a patient, the Board shall
6 provide the licensee with a copy of the complaint as soon as practical and inform the complainant
7 of the disposition of the Board's inquiry into the complaint and the Board's basis for that
8 disposition. If providing a copy of the complaint identifies an anonymous complainant or
9 compromises the integrity of an investigation, the Board shall provide the licensee with a
10 summary of all substantial elements of the complaint. Upon written request of a patient, the Board
11 may provide the patient a licensee's written response to a complaint filed by the patient with the
12 Board regarding the patient's care. Upon written request of a ~~complainant, complainant~~ who is
13 not the patient but is authorized by State and federal law to receive protected health information
14 about the patient, the Board may provide the complainant a licensee's written response to a
15 complaint filed with the Board regarding the patient's care. Any information furnished to the
16 patient or complainant pursuant to this subsection ~~shall be~~ is inadmissible in evidence in any civil
17 proceeding. However, information, documents, or records otherwise available are not immune
18 from discovery or use in a civil action merely because they were included in the Board's review
19 or were the subject of information furnished to the patient or complainant pursuant to this
20 subsection.

21 (f) Any notice or statement of charges against any ~~licensee, licensee~~ or any notice to any
22 licensee of a hearing in any proceeding ~~shall be~~ is a public record within the meaning of Chapter
23 132 of the General Statutes, notwithstanding that it may contain information collected and
24 compiled as a result of ~~any such an~~ investigation, ~~inquiry inquiry,~~ or interview; and ~~provided,~~
25 ~~further, that~~ if any ~~such~~ record, ~~paper paper,~~ or other document containing information
26 ~~theretofore~~ collected and compiled by the Board, ~~as hereinbefore provided,~~ Board is received and
27 admitted in evidence in any hearing before the Board, it ~~shall thereupon be~~ is a public record
28 within the meaning of Chapter 132 of the General Statutes.

29 (g) In any proceeding before the Board, in any record of any hearing before the Board,
30 and in the notice of the charges against any licensee (notwithstanding any provision ~~herein in this~~
31 ~~section to the contrary) contrary),~~ the Board may withhold from public disclosure the identity of
32 a patient who has not expressly or impliedly consented to the public disclosure of treatment by
33 the accused physician.

34 ...

35 (i) The Board shall cooperate with and assist a law enforcement agency, the North
36 Carolina Department of Justice, the United States Department of Justice, the United States
37 Attorney, or the district attorney conducting a criminal investigation or prosecution of a licensee
38 by providing information that is relevant to the criminal investigation or prosecution to the
39 agency or attorney as required by this subsection. Information disclosed by the Board to an
40 investigative agency or attorney pursuant to this subsection or subsection (h) of this section
41 remains confidential and ~~may shall~~ not be disclosed by the investigating agency except as
42 necessary to further the investigation or prosecution.

43"

44 **SECTION 2.** This act is effective when it becomes law.