

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL DRS15192-MU-21

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

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

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO GIVE THE STATE AUDITOR ACCESS TO THE MEDICAL BOARD'S  
3 RECORDS.

4 The General Assembly of North Carolina enacts:

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

6 "§ 90-16. Self-reporting requirements; confidentiality of Board investigative information;  
7 cooperation with law enforcement; patient protection; Board to keep public  
8 records.

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

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

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

33 (c1) To ensure compliance with audits authorized by G.S. 147-64.6, the Board shall make  
34 available for review by the State Auditor all documents described in subsection (c) of this section.  
35 These documents shall be available for review at the offices of the Board or at any other  
36 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.