

## Chapter 90.

### Medicine and Allied Occupations.

#### Article 1.

##### Practice of Medicine.

#### § 90-1. North Carolina Medical Society incorporated.

The association of regularly graduated physicians, calling themselves the State Medical Society, is hereby declared to be a body politic and corporate, to be known and distinguished by the name of The Medical Society of the State of North Carolina. The name of the society is now the North Carolina Medical Society. (1858-9, c. 258, s. 1; Code, s. 3121; Rev., s. 4491; C.S., s. 6605; 1981, c. 573, s. 1.)

#### § 90-1.1. Definitions.

The following definitions apply in this Article:

- (1) Board. – The North Carolina Medical Board.
- (2) Hearing officer. – Any current or past member of the Board who is a physician, physician assistant, or nurse practitioner and has an active license or approval to practice medical acts, tasks, or functions issued by the Board, or any current or retired judge of the Office of Administrative Hearings, a State district court, a State superior court, the North Carolina Court of Appeals, the North Carolina Supreme Court, or of the federal judiciary who has an active license to practice law in North Carolina and who is a member in good standing of the North Carolina State Bar.
- (2a) Inactive license. – A license that no longer grants the authorization to perform medical acts, tasks, or functions. A license can become inactive upon a licensee's request, a licensee's failure to register annually, a licensee's voluntary surrender, or based on any disciplinary order issued by the Board.
- (3) Integrative medicine. – A diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments.
- (4) License. – An authorization issued by the Board to a physician, physician assistant, or anesthesiologist assistant to perform medical acts, tasks, or functions.
- (4a) Licensee. – Any person issued a license by the Board, whether the license is active or inactive, including an inactive license by means of surrender.
- (4b) Reserved.
- (4c) Modality. – A method of medical treatment.
- (5) The practice of medicine or surgery. – Except as otherwise provided by this subdivision, the practice of medicine or surgery, for purposes of this Article, includes any of the following acts:
  - a. Advertising, holding out to the public, or representing in any manner that the individual is authorized to practice medicine in this State.
  - b. Offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other individual.

- c. Offering or undertaking to prevent or diagnose, correct, prescribe for, administer to, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any individual, including the management of pregnancy or parturition.
- d. Offering or undertaking to perform any surgical procedure on any individual.
- e. Using the designation "Doctor," "Doctor of Medicine," "Doctor of Osteopathy," "Doctor of Osteopathic Medicine," "Physician," "Surgeon," "Physician and Surgeon," "Dr.," "M.D.," "D.O.," or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of or reference to another branch of the healing arts for which the individual holds a valid license in this State or the use of the designation "Doctor" or "Physician" is otherwise specifically permitted by law.
- f. The performance of any act, within or without this State, described in this subdivision by use of any electronic or other means, including the Internet or telephone.

The administration of required lethal substances or any assistance whatsoever rendered with an execution under Article 19 of Chapter 15 of the General Statutes does not constitute the practice of medicine or surgery. (2007-346, s. 1; 2009-558, s. 1.1; 2013-154, s. 1(b); 2019-191, s. 1.)

**§ 90-2. Medical Board.**

(a) There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 13 members:

- (1) Six of the members shall be duly licensed physicians recommended by the Review Panel and appointed by the Governor as set forth in G.S. 90-3.
- (2) Five members shall all be appointed by the Governor as follows:
  - a. One shall be a member of The Old North State Medical Society. This Board position shall be subject to recommendations of the Review Panel pursuant to G.S. 90-3.
  - b. One shall be a public member, and this Board position shall not be subject to recommendation of the Review Panel pursuant to G.S. 90-3.
  - c. One shall be a physician assistant as defined in G.S. 90-18.1 as recommended by the Review Panel pursuant to G.S. 90-3.
  - d. One shall be a nurse practitioner as defined in G.S. 90-18.2 as recommended by the Review Panel pursuant to G.S. 90-3.
  - e. One shall be a duly licensed physician who is a doctor of osteopathic medicine or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice, as recommended by the Review Panel pursuant to G.S. 90-3.

(3) Two public members appointed by the General Assembly in accordance with G.S. 120-121, one upon recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate.

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

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

(b1) A public member appointed pursuant to sub-subdivision (a)(2)b. and subdivision (a)(3) of this section shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent, or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

(c) Repealed by Session Laws 2003-366, s. 1, effective October 1, 2003.

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician, physician assistant, or nurse practitioner membership of the Board shall be filled for the period of the unexpired term by the Governor from a list submitted by the Review Panel pursuant to G.S. 90-3. Any vacancy in the public membership of the Board shall be filled by the appropriate appointing authority for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board. (1858-9, c. 258, ss. 3, 4; Code, s. 3123; Rev., s. 4492; C.S., s. 6606; Ex. Sess. 1921, c. 44, s. 1; 1981, c. 573, s. 2; 1991 (Reg. Sess., 1992), c. 787, s. 1; 1993, c. 241, s. 2; 1995, c. 94, s. 1; c. 405, s. 1; 1997-511, s. 1; 2003-366, s. 1; 2007-346, s. 2; 2015-213, s. 1; 2016-117, s. 2(a); 2017-206, s. 5(a); 2018-92, s. 2(a); 2019-191, ss. 2(a), 2(b).)

§ 90-2.1: Repealed by Session Laws 2007-346, s. 3, effective October 1, 2007.

**§ 90-3. Review Panel recommends certain Board members; criteria for recommendations.**

(a) There is created a Review Panel to review all applicants for the physician positions, the physician assistant position, and the nurse practitioner position on the Board. The Review Panel shall consist of nine members, including four from the Medical Society, one from the Old North State Medical Society, one from the North Carolina Osteopathic Medical Association, one from the North Carolina Academy of Physician Assistants, one from the North Carolina Nurses Association Council of Nurse Practitioners, and one public member currently serving on the Board. All physicians, physician assistants, and nurse practitioners serving on the Review Panel shall be actively practicing in North Carolina.

The Review Panel shall contract for the independent administrative services needed to complete its functions and duties. The Board shall provide funds to pay the reasonable cost for the administrative services of the Review Panel. The Board shall convene the initial meeting of the

Review Panel. The Review Panel shall elect a chair, and all subsequent meetings shall be convened by the Review Panel.

The Governor shall appoint Board members as provided in G.S. 90-2. The Review Panel shall attempt to make its recommendations to the Governor reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

The Review Panel and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

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

- (1) Hold an active, nonlimited license to practice medicine in North Carolina, or in the case of a physician assistant and nurse practitioner, hold an active license or approval to perform medical acts, tasks, and functions in North Carolina.
- (2) Have an active clinical or teaching practice. For purposes of this subdivision, the term "active" means patient care, or instruction of students in an accredited medical school or residency, or clinical research program, for 20 hours or more per week.
- (3) Have actively practiced in this State for at least five consecutive years immediately preceding the appointment.
- (4) Intend to remain in active practice in this State for the duration of the term on the Board.
- (5) Submit at least three letters of recommendation, either from individuals or from professional or other societies or organizations.
- (6) Have no public disciplinary history with the Board or any other licensing board in this State or another state over the past 10 years before applying for appointment to the Board.
- (7) Have no history of felony convictions of any kind.
- (8) Have no misdemeanor convictions related to the practice of medicine.
- (9) Indicate, in a manner prescribed by the Review Panel, that the applicant: (i) understands that the primary purpose of the Board is to protect the public; (ii) is willing to take appropriate disciplinary action against his or her peers for misconduct or violations of the standards of medical care; and (iii) is aware of the time commitment needed to be a constructive member of the Board.
- (10) Have not served more than 72 months as a member of the Board.

(c) The 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.

(d) Notice of open physician, physician assistant, or nurse practitioner positions on the Board shall be sent to all physicians currently licensed to practice medicine in North Carolina and all physician assistants and nurse practitioners currently licensed or approved to perform medical acts, tasks, and functions in this State.

(e) Applicants for positions on the Board shall not be required to be members of any professional association or society, except as provided in G.S. 90-2(a)(2)a.

(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 regarding applicants.

(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. (1858-9, c. 258, s. 9; Code, s. 3126; Rev., s. 4493; C.S., s. 6607; 1981, c. 573, s. 3; 2007-346, s. 4; 2015-213, s. 2; 2016-117, s. 2(b)-(d); 2019-191, s. 3.)

#### **§ 90-4. Board elects officers; quorum.**

The North Carolina Medical Board is authorized to elect all officers and adopt all bylaws as may be necessary. A majority of the membership of the Board shall constitute a quorum for the transaction of business. (1858-9, c. 258, s. 11; Code, s. 3128; Rev., s. 4494; C.S., s. 6608; 1981, c. 573, s. 4; 1995, c. 94, s. 7.)

#### **§ 90-5. Meetings of Board.**

The North Carolina Medical Board shall meet at least once quarterly within the State of North Carolina and may hold any other meetings necessary to conduct the business of the Board. (Rev., s. 4495; 1915, c. 220, s. 1; C.S., s. 6609; 1935, c. 363; 1981, c. 573, s. 5; 1995, c. 94, s. 8; 2019-191, s. 4.)

#### **§ 90-5.1. Powers and duties of the Board.**

- (a) The Board shall have the following powers and duties:
- (1) Administer this Article.
  - (2) Issue interpretations of this Article.
  - (3) Adopt, amend, or repeal rules as may be necessary to carry out and enforce the provisions of this Article.
  - (4) Require an applicant or licensee to submit to the Board evidence of the applicant's or licensee's continuing competence in the practice of medicine.
  - (5) Regulate the retention and disposition of medical records, whether in the possession of a licensee or nonlicensee. In the case of the death of a licensee, the rules may provide for the disposition of the medical records by the estate of the licensee. This subsection shall not apply to records created or maintained by persons licensed under other Articles of this Chapter or to medical records maintained in the normal course of business by licensed health care institutions.

- (6) Appoint a temporary or permanent custodian for medical records abandoned by a licensee.
- (7) Develop educational programs to facilitate licensee awareness of provisions contained in this Article and public awareness of the role and function of the Board.
- (8) Develop and implement methods to identify dyscompetent licensees and licensees who fail to meet acceptable standards of care.
- (9) Develop and implement methods to assess and improve licensee practice.
- (10) Develop and implement methods to ensure the ongoing competence of licensees.

(b) Nothing in subsection (a) of this section shall restrict or otherwise limit powers and duties conferred on the Board in other sections of this Article.

(c) Notwithstanding any other provision of law, the North Carolina Medical Board shall not set fees pursuant to rules. Any fees set pursuant to rules adopted by the Board and applicable on June 1, 2019, remain valid. (2007-346, s. 5; 2019-191, ss. 5, 45.)

**§ 90-5.2. Board to collect and publish certain data.**

(a) The Board shall require all licensees to report to the Board certain information, including, but not limited to, the following:

- (1) The names of any schools of medicine or osteopathy attended and the year of graduation.
- (2) Any graduate medical or osteopathic education.
- (3) Any specialty board of certification as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.
- (4) Specialty area of practice.
- (5) Hospital affiliations.
- (6) Address and telephone number of the primary practice setting.
- (7) A current, active e-mail address, which shall not be 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 disseminating or soliciting information affecting public health or the practice of medicine.
- (8) Any final disciplinary order or other action required to be reported to the Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of privileges.
- (9) Any final disciplinary order or action of any regulatory board or agency including other state medical boards, the United States Food and Drug Administration, the United States Drug Enforcement Administration, Medicare, or the North Carolina Medicaid program.
- (10) Conviction of a felony.
- (11) Conviction of certain misdemeanors, occurring within the last 10 years, in accordance with rules adopted by the Board.
- (12) Any medical license, active or inactive, granted by another state or country.

(13) Certain malpractice information received pursuant to G.S. 90-5.3, G.S. 90-14.13, or from other sources in accordance with rules adopted by the Board.

(a1) The Board shall make e-mail addresses 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.

(b) Except as provided, the Board shall make information collected under G.S. 90-5.2(a) available to the public.

(c) The Board may adopt rules to implement this section.

(d) Failure to provide information as required by this section and in accordance with Board rules or knowingly providing false information may be considered unprofessional conduct as defined in G.S. 90-14(a)(6). (2007-346, s. 6; 2009-217, s. 2; 2013-152, s. 5; 2016-117, s. 2(e), (f); 2019-191, s. 6.)

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

(a) All applicants and licensees shall report the following to the Board:

(1) All medical malpractice judgments or awards affecting or involving the applicant or licensee.

(2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or more related to an incident of alleged medical malpractice affecting or involving the applicant or licensee where the settlement occurred on or after May 1, 2008.

(3) All settlements in the aggregate amount of seventy-five thousand dollars (\$75,000) or more related to any one incident of alleged medical malpractice affecting or involving the applicant or licensee not already reported pursuant to subdivision (2) of this subsection where, instead of a single payment of seventy-five thousand dollars (\$75,000) or more occurring on or after May 1, 2008, there is a series of payments made to the same claimant which, in the aggregate, equal or exceed seventy-five thousand dollars (\$75,000).

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

(1) The date of the judgment, award, payment, or settlement.

(2) The specialty in which the applicant or licensee was practicing at the time the incident occurred that resulted in the judgment, award, payment, or settlement.

(3) The city, state, and country in which the incident occurred that resulted in the judgment, award, payment, or settlement.

(4) The date the incident occurred that resulted in the judgment, award, payment, or settlement.

(c) The Board shall publish on the Board's Web site or other publication information collected under this section. The Board shall publish this information for seven years from the date of the judgment, award, payment, or settlement. The Board shall not release or publish individually identifiable numeric values of the reported judgment, award, payment, or settlement. The Board shall not release or publish the identity of the patient associated with the judgment, award, payment, or settlement. The Board shall allow the applicant or licensee to publish a statement

explaining the circumstances that led to the judgment, award, payment, or settlement, and whether the case is under appeal. The Board shall ensure these statements:

- (1) Conform to the ethics of the medical profession.
  - (2) Not contain individually identifiable numeric values of the judgment, award, payment, or settlement.
  - (3) Not contain information that would disclose the patient's identity.
- (d) The term "settlement" for the purpose of this section includes a payment made from personal funds, a payment by a third party on behalf of the applicant or licensee, or a payment from any other source of funds.
- (e) Nothing in this section shall limit the Board from collecting information needed to administer this Article. (2009-217, s. 3; 2019-191, s. 7.)

#### **§ 90-5.4. Duty to report.**

(a) Every licensee has a duty to report in writing to the Board within 30 days any incidents that licensee reasonably believes to have occurred involving any of the following:

- (1) Sexual misconduct of any person licensed by the Board under this Article with a patient. Patient consent or initiation of acts or contact by a patient shall not constitute affirmative defenses to sexual misconduct. For purposes of this section, the term "sexual misconduct" means vaginal intercourse, or any sexual act or sexual contact or touching as described in G.S. 14-27.20. Sexual misconduct shall not include any act or contact that is for an accepted medical purpose.
- (2) Fraudulent prescribing, drug diversion, or theft of any controlled substances by another person licensed by the Board under this Article. For purposes of this section, "drug diversion" means transferring controlled substances or prescriptions for controlled substances to (i) the licensee for personal use; (ii) a licensee's immediate family member; (iii) any other person living in the same residence as the licensee; (iv) any person with whom the licensee is having a sexual relationship; or (v) any individual unless for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, sibling, and any step-family member or in-law coextensive with the preceding identified relatives.

(b) For persons issued a license to practice by the Board under this Article, failure to report under this section shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-14(a)(6). However, persons licensed by the Board who are employed by or serving as a director or agent of the North Carolina Physicians Health Program and who obtain information exclusively while functioning in their role as employee, director, or agent of the North Carolina Physicians Health Program that causes them reasonably to believe that incidents referred to in subdivisions (1) and (2) of subsection (a) of this section occurred shall not be required to report pursuant to this section but shall comply with the reporting provisions contained in G.S. 90-21.22.

(c) Any person who reports under this section in good faith and without fraud or malice shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-14(a)(6).

(d) The Board may adopt rules to implement this section. (2019-191, s. 8.)



§ 90-6: Recodified as G.S. 90-8.1 and G.S. 90-8.2, by Session Laws 2007-346, s. 7, effective October 1, 2007.

§ 90-7: Repealed by Session Laws 2019-191, s. 9, effective October 1, 2019.

**§ 90-8. Officers may administer oaths, and subpoena witnesses, records and other materials.**

The president and secretary of the Board may administer oaths to all persons appearing before it as the Board may deem necessary to perform its duties, and may summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Board. The Board may order that any patient records, documents or other material concerning any matter to be heard before or inquired into by the Board shall be produced before the Board or made available for inspection, notwithstanding any other provisions of law providing for the application of any physician-patient privilege with respect to such records, documents or other material. All records, documents, or other material compiled by the Board are subject to the provisions of G.S. 90-16. Notwithstanding the provisions of G.S. 90-16, in any proceeding before the Board, in any record of any hearing before the Board, and in the notice of charges against any licensee, the Board shall withhold from public disclosure the identity of a patient including information relating to dates and places of treatment, or any other information that would tend to identify the patient, unless the patient or the representative of the patient expressly consents to the disclosure. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence the production of which is required does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason in law the subpoena is invalid. (1913, c. 20, s. 7; C.S., s. 6612; Ex. Sess. 1921, c. 44, s. 3; 1953, c. 1248, s. 1; 1975, c. 690, s. 1; 1979, c. 107, s. 8; 1987, c. 859, s. 5; 1991, c. 348.)

**§ 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.

(c) By submitting an application for licensure, the applicant submits to the jurisdiction of the Board. (C.S., s. 6610; 1921, c. 47, s. 5; Ex. Sess. 1921, c. 44, s. 2; 1973, c. 92, s. 2; 1981, c. 665, s. 1; 1983, c. 53; 1995, c. 94, s. 9; c. 405, s. 2; 1999-290, s. 1; 2007-346, ss. 7, 8; 2016-117, s. 2(g); 2019-191, s. 10.)

**§ 90-8.2. Appointment of subcommittees.**

(a) The North Carolina Medical Board shall appoint and maintain a subcommittee to work jointly with a subcommittee of the Board of Nursing to develop rules to govern the performance of medical acts by registered nurses, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars (\$100.00) and for renewal of approval not to exceed fifty dollars (\$50.00). Rules developed by this subcommittee from time to time shall govern the performance of medical acts by registered nurses and shall become effective when adopted by both the North Carolina Medical Board and the Board of Nursing. The North Carolina Medical Board shall have responsibility for securing compliance with these rules.

(b) The North Carolina Medical Board shall appoint and maintain a subcommittee of four licensed physicians to work jointly with a subcommittee of the North Carolina Board of Pharmacy to develop rules to govern the performance of medical acts by clinical pharmacist practitioners, including the determination of reasonable fees to accompany an application for approval not to exceed one hundred dollars (\$100.00) and for renewal of approval not to exceed fifty dollars (\$50.00). Rules recommended by the subcommittee shall be adopted in accordance with Chapter 150B of the General Statutes by both the North Carolina Medical Board and the North Carolina Board of Pharmacy and shall not become effective until adopted by both Boards. The North Carolina Medical Board shall have responsibility for ensuring compliance with these rules. (C.S., s. 6610; 1921, c. 47, s. 5; Ex. Sess. 1921, c. 44, s. 2; 1973, c. 92, s. 2; 1981, c. 665, s. 1; 1983, c. 53; 1995, c. 94, s. 9; c. 405, s. 2; 1999-290, s. 1; 2007-346, s. 7; 2007-418, s. 3.)

§ 90-9: Repealed by Session Laws 2007-418, s. 2, effective October 1, 2007.

**§ 90-9.1. Requirements for licensure as a physician under this Article.**

(a) Except as provided in G.S. 90-9.2, to be eligible for licensure as a physician under this Article, an applicant shall submit proof satisfactory to the Board that the applicant meets all of the following criteria:

- (1) The applicant has passed each part of an examination described in G.S. 90-10.1.
- (2) The applicant has completed at least 130 weeks of medical education and satisfies any of the following:
  - a. The applicant is a graduate of a medical college approved by the Liaison Commission on Medical Education, the Committee for the Accreditation of Canadian Medical Schools, or an osteopathic college approved by the American Osteopathic Association and has successfully completed one year of training in a medical education program approved by the Board after graduation from medical school; or
  - b. The applicant is a graduate of a medical college approved or accredited by the Liaison Committee on Medical Education, the Committee on Accreditation of Canadian Medical Schools, or an osteopathic college approved by the American Osteopathic Association, is a dentist licensed to practice dentistry under Article 2 of Chapter 90 of the General Statutes, and has been certified by the American Board of Oral and Maxillofacial Surgery after having completed a residency in an Oral and Maxillofacial Surgery Residency program approved by the Board before completion of medical school.
  - c. The applicant may satisfy the education and graduation requirements of subdivision (2) of this subsection by providing proof of current certification by a specialty board recognized by the American Board of Medical Specialties, Certificate of the College of Family Physicians, Fellowship of the Royal College of Physicians of Canada, Fellowship of the Royal College of Surgeons of Canada, American Osteopathic Association, the American Board of Oral and Maxillofacial Surgery, or any other specialty board the Board recognizes pursuant to rules.
- (3) The applicant is of good moral character.

(b) No license may be granted to any applicant who graduated from a medical or osteopathic college that has been disapproved by the Board pursuant to rules adopted by the Board.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate. (2007-346, s. 9; 2019-191, s. 11.)

**§ 90-9.2. Requirements for graduates of international medical schools.**

(a) To be eligible for licensure under this section, an applicant who is a graduate of a medical school not approved by the Liaison Commission on Medical Education, the Committee for the Accreditation of Canadian Medical Schools, or the American Osteopathic Association shall submit proof satisfactory to the Board that the applicant has met all of the following:

- (1) The applicant has successfully completed two years of training in a medical education program approved by the Board after graduation from medical school, or provides proof of current certification by a specialty board recognized by the American Board of Medical Specialties, Certificate of the College of Family Physicians, Fellowship of the Royal College of Physicians of Canada, Fellowship of the Royal College of Surgeons of Canada, American Osteopathic Association, the American Board of Oral and Maxillofacial Surgery, or any specialty board the Board recognizes pursuant to rules.
- (2) The applicant has good moral character.
- (3) The applicant has a currently valid standard certificate of Educational Commission for Foreign Medical Graduates.
- (4) The applicant has the ability to communicate in English.
- (5) The applicant has successfully passed each part of an examination described in G.S. 90-10.1.

(b) The Board may waive ECFMG certification if the applicant:

- (1) Has passed the ECFMG examination and successfully completed an approved Fifth Pathway Program. The applicant is required to provide the original ECFMG Certification Status Report from the ECFMG; or
- (2) Has been licensed in another state on the basis of written examination before the establishment of ECFMG in 1958.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate. (2007-346, s. 9; 2019-191, s. 12.)

**§ 90-9.3. Requirements for licensure as a physician assistant.**

(a) To be eligible for licensure as a physician assistant, an applicant shall submit proof satisfactory to the Board that the applicant has met all of the following:

- (1) The applicant has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor entities.
- (2) The applicant has a current or previous certification issued by the National Commission on Certification of Physician Assistants or its successor.
- (3) The applicant is of good moral character.

(b) Before initiating practice of medical acts, tasks, or functions as a physician assistant, the physician assistant shall provide the Board the name, address, and telephone number of the physician who will supervise the physician assistant in the relevant medical setting.

(c) The Board may, by rule, require an applicant to comply with other requirements or submit additional information the Board deems appropriate. (2007-346, s. 9; 2019-191, s. 13.)

#### **§ 90-9.4. Requirements for licensure as an anesthesiologist assistant.**

Every applicant for licensure as an anesthesiologist assistant in the State shall meet the following criteria:

- (1) Satisfy the North Carolina Medical Board that the applicant is of good moral character.
- (2) Submit to the Board proof of completion of a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs or its successor organization.
- (3) Submit to the Board proof of current certification from the National Commission of Certification of Anesthesiologist Assistants (NCCAA) or its successor organization. The applicant shall take the certification exam within 12 months after completing training.
- (4) Meet any additional qualifications for licensure pursuant to rules adopted by the Board. (2007-346, s. 9; 2019-191, s. 14.)

#### **§ 90-9.5. Inactive licenses.**

The Board retains jurisdiction over an inactive license, regardless of how it became inactive, including a request for inactivation, surrender of a license, or by operation of an order entered by the Board. The Board's jurisdiction over the licensee extends for all matters, known and unknown to the Board, at the time of the inactivation or surrender of the license. (2019-191, s. 15.)

**§ 90-10:** Repealed by Session Laws 2007-418, s. 2, effective October 1, 2007.

#### **§ 90-10.1. Examinations accepted by the Board.**

The Board may administer or accept the following examinations for licensure:

- (1) Repealed by Session Laws 2019-191, s. 16, effective October 1, 2019.
- (2) The National Board of Medical Examiners (NBME) examination or its successor.
- (3) The United States Medical Licensing Examination (USMLE) of this section or its successor.
- (4) The Federation Licensing Examination (FLEX) or its successor.
- (5) Other examinations the Board deems equivalent to the examinations described in subdivisions (1) through (3) of this section pursuant to rules adopted by the Board. (2007-346, s. 10; 2019-191, s. 16.)

#### **§ 90-11. Criminal background checks.**

- (a) Repealed by Session Laws 2007-346, s. 11, effective October 1, 2007.
- (a1) Repealed by Session Laws 2007-346, s. 9.1, effective October 1, 2007.
- (b) The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other

identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection. The Board has the authority to collect this fee from each applicant and remit it to the Department of Public Safety. (C.S., s. 6615; 1921, c. 47, s. 3; Ex. Sess. 1921, c. 44, s. 5; 1971, c. 1150, s. 3; 1981, c. 573, s. 7; 1995, c. 94, s. 12; 1997-511, s. 2; 2002-147, s. 6; 2007-146, s. 1; 2007-346, ss. 9.1, 11; 2014-100, s. 17.1(o); 2019-191, s. 17.)

**§ 90-12:** Repealed by Session Laws 2007-346, s. 12, effective October 1, 2007.

**§ 90-12.01. Limited license to practice in a medical education and training program.**

(a) As provided in rules adopted by the Board, the Board may issue a limited license known as a "resident's training license" to a physician not otherwise licensed by the Board who is participating in a graduate medical education training program.

(b) A resident's training license shall become inactive at the time its holder ceases to be a resident in a training program or obtains any other license to practice medicine issued by the Board. The Board shall retain jurisdiction over the holder of the inactive license.

(c) The program director of every graduate medical education program shall report to the Board the following actions involving a physician participating in a graduate medical education training program within 30 days of the date that the action takes effect:

- (1) Any revocation or termination, including, but not limited to, any nonrenewal or dismissal of a physician from a graduate medical education training program.
- (2) A resignation from, or completion of, a graduate medical education program or a transfer to another graduate medical education training program. (2007-418, s. 4; 2019-191, s. 18.)

**§ 90-12.1:** Recodified as G.S. 90-12.4, by Session Laws 2007-346, s. 7, effective October 1, 2007.

**§ 90-12.1A. Limited volunteer license.**

(a) The Board may issue a "limited volunteer license" to an applicant who does all of the following:

- (1) Has a license to practice medicine and surgery in another state.
- (2) Produces a verification from the state of licensure indicating the applicant's license is active and in good standing.
- (3) Repealed by Session Laws 2011-355, s. 1, effective June 27, 2011.

(b), (c) Repealed by Session Laws 2011-355, s. 1, effective June 27, 2011.

(d) The Board shall issue a limited license under this section within 30 days after an applicant provides the Board with information satisfying the requirements of this section.

(e) The holder of a limited license under this section may practice medicine and surgery only in association with clinics that specialize in the treatment of indigent patients. The holder of

the limited license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

(e1) The holder of a limited volunteer license shall practice medicine and surgery within this State for no more than 30 days per calendar year.

(f) The holder of a limited license issued pursuant to this section who practices medicine or surgery outside of an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(g) The Board may, by rule, require an applicant for a limited license under this section to comply with other requirements or submit additional information the Board deems appropriate. (2007-418, s. 5; 2011-183, s. 54; 2011-355, ss. 1, 8; 2019-191, s. 19.)

#### **§ 90-12.1B. Retired limited volunteer license.**

(a) The Board may issue a "retired limited volunteer license" to an applicant who is a physician and who has allowed his or her license to practice medicine and surgery in this State or another state to become inactive.

(b) A physician holding a limited license under this section shall comply with the continuing medical education requirements pursuant to rules adopted by the Board.

(c) The holder of a limited license under this section may practice medicine and surgery only in association with clinics that specialize in the treatment of indigent patients. The holder of the limited license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

(d) The Board shall issue a limited license under this section within 30 days after an applicant provides the Board with information satisfying the requirements of this section.

(e) The holder of a limited license issued pursuant to this section who practices medicine or surgery outside of an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(f) The Board may, by rule, require an applicant for a limited license under this section to comply with other requirements or submit additional information the Board deems appropriate. (2011-355, s. 2; 2019-191, s. 20.)

**§ 90-12.2:** Recodified as G.S. 90-12.5, by Session Laws 2007-346, s. 7, effective October 1, 2007.

#### **§ 90-12.2A. Special purpose license.**

(a) The Board may issue a special purpose license to practice medicine to an applicant who does all of the following:

- (1) Holds a full and unrestricted license to practice in at least one other jurisdiction.
- (2) Does not have any current or pending disciplinary or other action against him or her by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the special purpose license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the special purpose license.

(c) The Board may adopt rules and set fees as appropriate to implement the provisions of this section. (2007-418, s. 6; 2019-191, s. 21.)

**§ 90-12.3. Medical school faculty license.**

(a) The Board may issue a medical school faculty license to practice medicine and surgery to a physician who has met all of the following:

- (1) The applicant holds a full-time faculty appointment as either an instructor, lecturer, assistant professor, associate professor, or full professor at a North Carolina medical school that is certified by the Liaison Committee on Medical Education or the Commission of Osteopathic College Accreditation of the American Osteopathic Association.
- (2) The applicant is not subject to disciplinary order or other action by any medical licensing agency in any state or other jurisdiction.

(b) The holder of the medical school faculty license issued under this section shall not practice medicine or surgery outside the confines of the medical school or its affiliates. The holder of the medical school faculty license practicing medicine or surgery beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the special license after due notice is given to the holder of the medical school faculty license.

(b1) A medical school faculty license shall become inactive at the time its holder does one or more of the following:

- (1) Ceases to hold a full-time appointment as an instructor, lecturer, assistant professor, or full professor at a certified North Carolina medical school.
- (2) Ceases to be employed in a full-time capacity by a certified North Carolina medical school.
- (3) Obtains any other license to practice medicine issued by the Board.

The Board shall retain jurisdiction over the holder of the inactive license.

(c) The Board may adopt rules and set fees related to issuing medical school faculty licenses. The Board may, by rule, set a time limit for the term of a medical school faculty license. (2007-418, s. 7; 2019-191, s. 22.)

**§ 90-12.4. Physician assistant limited volunteer license.**

(a) The Board shall issue a limited volunteer license to an applicant who:

- (1) Holds a current license or registration in another state; and
- (2) Produces a letter from the state of licensure indicating the applicant's license or registration is active and in good standing.

(b) The Board shall issue a limited license under this section within 30 days after the applicant provides the Board with information satisfying the requirements of this section.

(c) The holder of a limited license may perform medical acts, tasks, or functions as a physician assistant only in association with clinics that specialize in the treatment of indigent patients. The holder of a limited license may not receive payment or other compensation for services rendered at clinics specializing in the care of indigent patients. The holder of a limited volunteer license shall practice as a physician assistant within this State for no more than 30 days per calendar year.

(d) Before initiating the performance of medical acts, tasks, or functions as a physician assistant licensed under this section, the physician assistant shall provide the Board the name,

address, and telephone number of the physician licensed under this Article who will supervise the physician assistant in the clinic specializing in the care of indigent patients.

(e) The holder of a limited license issued pursuant to this section who practices as a physician assistant outside an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(f) The Board may, by rule, require an applicant for a limited license under this section to comply with other requirements or submit additional information the Board deems appropriate. (1997-511, s. 3; 2007-346, s. 7; 2011-355, s. 3; 2019-191, s. 23.)

#### **§ 90-12.4A. Reserved for future codification purposes.**

#### **§ 90-12.4B. Physician Assistant retired limited volunteer license.**

(a) The Board may issue a "retired limited volunteer license" to an applicant who is a physician assistant and who has allowed his or her license to become inactive.

(b) A physician assistant holding a retired limited volunteer license under this section shall comply with the continuing medical education requirements pursuant to rules adopted by the Board.

(c) The holder of a retired limited volunteer license under this section may perform medical acts, tasks, or functions as a physician assistant only in association with clinics that specialize in the treatment of indigent patients. The holder of a retired limited volunteer license may not receive compensation for services rendered at clinics specializing in the care of indigent patients.

(d) The Board shall issue a retired limited volunteer license under this section within 30 days after an applicant provides the Board with information satisfying the requirements of this section.

(e) The holder of a retired limited volunteer license issued pursuant to this section who practices as a physician assistant outside an association with clinics that specialize in the treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may revoke the limited license after due notice is given to the holder of the limited license.

(f) The Board may, by rule, require an applicant for a retired limited volunteer license under this section to comply with other requirements or submit additional information the Board deems appropriate. (2011-355, s. 4; 2019-191, s. 24.)

#### **§ 90-12.5. Disasters and emergencies.**

In the event of an occurrence which the Governor of the State of North Carolina has declared a 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. 166A-19.31, 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), as applicable, the Board may waive the requirements of this Article in order to permit the provision of emergency health services to the public. (2002-179, s. 20(a); 2007-346, s. 7; 2012-12, s. 2(ff).)

#### **§ 90-12.7. Treatment of overdose with opioid antagonist; immunity.**



(a) As used in this section, "opioid antagonist" means an opioid antagonist that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(b) The following individuals may prescribe an opioid antagonist in the manner prescribed by this subsection:

- (1) A practitioner acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antagonist to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose. As an indicator of good faith, the practitioner, prior to prescribing an opioid under this subsection, may require receipt of a written communication that provides a factual basis for a reasonable conclusion as to either of the following:
  - a. The person seeking the opioid antagonist is at risk of experiencing an opiate-related overdose.
  - b. The person other than the person who is at risk of experiencing an opiate-related overdose, and who is seeking the opioid antagonist, is in relation to the person at risk of experiencing an opiate-related overdose:
    1. A family member, friend, or other person.
    2. In the position to assist a person at risk of experiencing an opiate-related overdose.
- (2) The State Health Director or a designee may prescribe an opioid antagonist pursuant to subdivision (1) of this subsection by means of a statewide standing order.
- (3) A practitioner acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antagonist to any governmental or nongovernmental organization, including a local health department, a law enforcement agency, or an organization that promotes scientifically proven ways of mitigating health risks associated with substance use disorders and other high-risk behaviors, for the purpose of distributing, through its agents, the opioid antagonist to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose.

(c) A pharmacist may dispense an opioid antagonist to a person or organization pursuant to a prescription issued in accordance with subsection (b) of this section. For purposes of this section, the term "pharmacist" is as defined in G.S. 90-85.3.

(c1) A governmental or nongovernmental organization, including a local health department, a law enforcement agency, or an organization that promotes scientifically proven ways of mitigating health risks associated with substance use disorders and other high-risk behaviors may, through its agents, distribute an opioid antagonist obtained pursuant to a prescription issued in accordance with subdivision (3) of subsection (b) of this section or obtained over-the-counter to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose. An organization, through its agents, shall include with any distribution of an opioid antagonist pursuant to this subsection basic instruction and information on how to administer the opioid antagonist.

(d) A person who receives an opioid antagonist that was prescribed pursuant to subsection (b) of this section or distributed pursuant to subsection (c1) of this section or obtained over-the-counter may administer an opioid antagonist to another person if (i) the person has a good faith belief that the other person is experiencing a drug-related overdose and (ii) the person exercises reasonable care in administering the drug to the other person. Evidence of the use of reasonable care in administering the drug shall include the receipt of basic instruction and information on how to administer the opioid antagonist.

(e) All of the following individuals are immune from any civil or criminal liability for actions authorized by this section:

- (1) Any practitioner who prescribes an opioid antagonist pursuant to subsection (b) of this section.
- (2) Any pharmacist who dispenses an opioid antagonist pursuant to subsection (c) of this section.
- (3) Any person who administers an opioid antagonist pursuant to subsection (d) of this section.
- (4) The State Health Director acting pursuant to subsection (b) of this section.
- (5) Any organization, or agent of the organization, that distributes an opioid antagonist pursuant to subsection (c1) of this section. (2013-23, s. 2; 2015-94, s. 3; 2016-17, s. 2; 2017-74, s. 2; 2017-102, s. 37(a), (b); 2023-15, s. 2(a); 2023-65, s. 13.1.)

**§ 90-13:** Repealed by Session Laws 2007-418, s. 2, effective October 1, 2007.

**§ 90-13.1. License fees.**

(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 four hundred dollars (\$400.00).

(b) Each applicant for a limited license to practice in a medical education and training program under G.S. 90-12.01 shall pay to the Board a fee of one hundred dollars (\$100.00).

(c) An applicant for a limited volunteer license under G.S. 90-12.1A or G.S. 90-12.1B shall not pay a fee.

(d) A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a duplicate license.

(e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board.

(f) For the initial and annual licensure of an anesthesiologist assistant, the Board may require the payment of a fee not to exceed one hundred fifty dollars (\$150.00). (1858-9, c. 258, s. 13; Code, s. 3130; Rev., s. 4501; 1913, c. 20, ss. 4, 5; C.S., s. 6619; 1921, c. 47, s. 5; Ex. Sess. 1921, c. 44, s. 7; 1953, c. 187; 1969, c. 929, s. 4; 1971, c. 817, s. 2; c. 1150, s. 5; 1977, c. 838, s. 4; 1979, c. 196, s. 1; 1981, c. 573, s. 15; 1983 (Reg. Sess., 1984), c. 1063, s. 1; 1985, c. 362, ss. 1-3; 1987, c. 859, ss. 13, 14; 1993 (Reg. Sess., 1994), c. 566, s. 2; 1995, c. 94, s. 15; c. 509, s. 37; 2000-5, s. 2; 2005-402, s. 5; 2007-146, s. 2; 2007-346, ss. 7, 13(a); 2007-418, s. 8; 2011-355, s. 5; 2016-117, s. 2(h).)

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

(a) Every licensee shall register annually with the Board no later than 30 days after 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 two hundred fifty dollars (\$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), and those who have a retired limited volunteer license pursuant to G.S. 90-12.1B 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) Repealed by Session Laws 2016-117, s. 2(i), effective October 1, 2016.

(d) A licensee who is not actively engaged in the performance of medical acts, tasks, or functions 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 licensee may be reinstated, subject to the Board requiring the licensee to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the applicable 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. (1957, c. 597; 1969, c. 929, s. 5; 1979, c. 196, s. 2; 1983 (Reg. Sess., 1984), c. 1063, s. 2; 1987, c. 859, s. 12; 1993 (Reg. Sess., 1994), c. 566, s. 1; 1995, c. 94, s. 16; 1995 (Reg. Sess., 1996), c. 634, s. 1(a); 1997-481, s. 3; 2000-5, s. 3; 2001-493, s. 3; 2005-402, s. 6; 2007-346, s. 7; 2007-418, s. 9; 2011-355, s. 6; 2016-117, s. 2(i); 2019-191, s. 25.)

### **§ 90-13.3. Salaries, fees, expenses of the Board.**

(a) The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board.

(b) The per diem compensation of Board members shall not exceed two hundred dollars (\$200.00) per member for time spent in the performance and discharge of duties as a member. Any unexpended sum of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office. (2007-346, s. 13(b).)

### **§ 90-14. Disciplinary Authority.**

(a) The Board shall have the power to place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, mandate free medical services, require satisfactory completion of treatment programs or remedial or educational training, fine, deny, annul, suspend, or revoke a license, or

other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

- (1) Immoral or dishonorable conduct.
- (2) Producing or attempting to produce an abortion contrary to law.
- (3) Made false statements or representations to the Board, or willfully concealed from the Board material information in connection with an application for a license, an application, request or petition for reinstatement or reactivation of a license, an annual registration of a license, or an investigation or inquiry by the Board.
- (4) Repealed by Session Laws 1977, c. 838, s. 3.
- (5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require an applicant or licensee to submit to a mental or physical examination by physicians or physician assistants, or mental examinations by other licensed health care providers acting within the scope of their practice as allowed by law designated by the Board during the pendency of a license application and before or after charges may be presented against the applicant or licensee, and the results of the examination shall be admissible in evidence in a hearing before the Board. Failure to comply with an order pursuant to this subsection may be considered unprofessional conduct as defined in G.S. 90-14(a)(6).
- (6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within or without North Carolina. The Board shall not revoke the license of or deny a license to a person, or discipline a licensee in any manner, solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.
- (7) Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.
- (8) By false representations has obtained or attempted to obtain practice, money or anything of value.
- (9) Has advertised or publicly professed to treat human ailments under a system or school of treatment or practice other than that for which the physician has been educated.
- (10) Adjudication of mental incompetency, which shall automatically suspend a license unless the Board orders otherwise.

- (11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients or failing to maintain acceptable standards of care. In this connection the Board may consider repeated acts of an applicant or licensee's failure to treat a patient properly. The Board may, upon reasonable grounds, require an applicant or licensee to submit to inquiries or examinations, written or oral, as the Board deems necessary to determine the professional qualifications of that applicant or licensee. Failure to comply with an order pursuant to this subsection may be considered unprofessional conduct as defined in G.S. 90-14(a)(6). In order to annul, suspend, deny, or revoke a license of an accused person, the Board shall find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered.
  - (11a) Not actively practiced as a licensee, or having not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for an initial license from the Board or the filing of a request, petition, motion, or application to reactivate or reinstate an inactive, suspended, or revoked license previously issued by the Board. The Board is authorized to adopt any rules or regulations it deems necessary to carry out the provisions of this subdivision.
  - (12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order the licensee pay restitution to the payer of the bill, whether the patient or the insurer, provided that a determination of the amount of restitution shall be based on credible testimony in the record.
  - (13) Having a license revoked, suspended, restricted, or acted against or having a license to practice denied by the licensing authority of any jurisdiction, including Canada, the United Kingdom, and Australia. For purposes of this subdivision, the licensing authority's acceptance of a license to practice voluntarily relinquished by a licensee or relinquished by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the licensee's license, or an inactivation or voluntary surrender of a license while under investigation is an action against a license to practice.
  - (14) The failure to comply with an order issued under this Article or the failure to respond, within a reasonable period of time and in a reasonable manner as determined by the Board, to inquiries from the Board concerning any matter affecting the license to practice medicine.
  - (15) The failure to complete an amount not to exceed 150 hours of continuing medical education during any three consecutive calendar years pursuant to rules adopted by the Board.
  - (16) A violation of any provision of this Article.
  - (17) Failure to make reports as required by this Article.
- (b) The Board shall refer to the North Carolina Physicians Health Program all licensees whose health and effectiveness have been significantly impaired by alcohol, drug addiction or

mental illness. Sexual misconduct shall not constitute mental illness for purposes of this subsection.

(c) Except as provided in subsection (c1) of this section, a felony conviction shall result in the automatic revocation of a license issued by the Board, unless the Board orders otherwise or receives a request for a hearing from the person within 60 days of receiving notice from the Board, after the conviction, of the provisions of this subsection. If the Board receives a timely request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

(c1) A felony conviction under Article 7B of Chapter 14 of the General Statutes shall result in the automatic denial or revocation of a license issued by the Board, and that denial or revocation shall be permanent, and the applicant or licensee shall be ineligible for reapplication, relicensure, reinstatement, or restoration under subsection (c2) of this section.

(c2) Except as provided in subsection (c1) of this section, where the Board has exercised its authority pursuant to this section to revoke a license, the holder of the revoked license will not be eligible to make an application for reinstatement before two years from the effective date of the revocation.

(d) Repealed by Session Laws 2006-144, s. 4, effective October 1, 2006, and applicable to acts or omissions that occur on or after that date.

(e) The Board and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(f) A person, partnership, firm, corporation, association, authority, or other entity acting in good faith without fraud or malice shall be immune from civil liability for (i) reporting, investigating, assessing, monitoring, or providing an expert medical opinion to the Board regarding the acts or omissions of a licensee or applicant that violate the provisions of subsection (a) of this section or any other provision of law relating to the fitness of a licensee or applicant to practice medicine and (ii) initiating or conducting proceedings against a licensee or applicant if a complaint is made or action is taken in good faith without fraud or malice. A person shall not be held liable in any civil proceeding for testifying before the Board in good faith and without fraud or malice in any proceeding involving a violation of subsection (a) of this section or any other law relating to the fitness of an applicant or licensee to practice medicine, or for making a recommendation to the Board in the nature of peer review, in good faith and without fraud and malice.

(g) Prior to taking action against any licensee for providing care not in accordance with the standards of care for the procedures or treatments administered, the Board shall whenever practical consult with a licensee who routinely utilizes or is familiar with the same modalities and who has an understanding of the standards of practice for the modality administered. Information obtained as result of the consultation shall be available to the licensee at the informal nonpublic precharge conference.

(h) No investigation of a licensee shall be initiated upon the direction of a single member of the Board without another Board member concurring. A Board member shall not serve as an expert in determining the basis for the initiation of an investigation.

(i) At the time of first communication from the Board or agent of the Board to a licensee regarding a complaint or investigation, the Board shall provide notice in writing to the licensee that informs the licensee: (i) of the existence of any complaint or other information forming the basis for the initiation of an investigation; (ii) that the licensee may retain counsel; (iii) how the Board will communicate with the licensee regarding the investigation or disciplinary proceeding in accordance with subsections (m) and (n) of this section; (iv) that the licensee has a duty to respond

to inquiries from the Board concerning any matter affecting the license, and all information supplied to the Board and its staff will be considered by the Board in making a determination with regard to the matter under investigation; (v) that the Board will complete its investigation within six months or provide an explanation as to why it must be extended; and (vi) that if the Board makes a decision to initiate public disciplinary proceedings, the licensee may request in writing an informal nonpublic precharge conference.

(j) After the Board has made a nonpublic determination to initiate disciplinary proceedings, but before public charges have been issued, the licensee requesting so in writing, shall be entitled to an informal nonpublic precharge conference. At least five days prior to the informal nonpublic precharge conference, the Board will provide to the licensee the following: (i) all relevant information obtained during an investigation, including exculpatory evidence except for information that would identify an anonymous complainant; (ii) the substance of any written expert opinion that the Board relied upon, not including information that would identify an anonymous complainant or expert reviewer; (iii) notice that the licensee may retain counsel, and if the licensee retains counsel all communications from the Board or agent of the Board regarding the disciplinary proceeding will be made through the licensee's counsel; (iv) notice that if a Board member initiated the investigation then that Board member will not participate in the adjudication of the matter before the Board or hearing committee; (v) notice that the Board may use an administrative law judge or designate hearing officers to conduct hearings as a hearing committee to take evidence; (vi) notice that the hearing shall proceed in the manner prescribed in Article 3A of Chapter 150B of the General Statutes and as otherwise provided in this Article; and (vii) any Board member who serves as a hearing officer in this capacity shall not serve as part of the quorum that determines the final agency decision. The provisions of this section do not apply where the Board has exercised its authority under G.S. 150B-3(c) and issued an order of summary suspension.

(k) When the Board has made a determination that the public health, safety, or welfare requires emergency action, the Board may seek to require of a licensee the taking of any action adversely impacting the licensee's medical practice or license without first giving notice of the proposed action, the basis for the proposed action, and information required under subsection (i) of this section.

(l) The Board shall complete any investigation initiated pursuant to this section no later than six months from the date of first communication required under subsection (i) of this section, unless the Board provides to the licensee a written explanation of the circumstances and reasons for extending the investigation.

(m) If a licensee retains counsel to represent the licensee in any matter related to a complaint, investigation, or proceeding, the Board shall communicate to the licensee through the licensee's counsel.

(n) Notwithstanding subsection (m) of this section, if the licensee has retained counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, appear, 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. (C.S., s. 6618; 1921, c. 47, s. 4; Ex. Sess. 1921, c. 44, s. 6; 1933, c. 32; 1953, c. 1248, s. 2; 1969, c. 612, s. 4; c. 929, s. 6; 1975, c. 690, s. 4; 1977, c. 838, s. 3; 1981, c. 573, ss. 9, 10; 1987, c. 859, ss. 6-10; 1993, c. 241, s. 1; 1995, c. 405, s. 4; 1997-443, s. 11A.118(a); 1997-481, s. 1; 2000-184, s. 5; 2003-366, ss. 3, 4; 2006-144, s. 4; 2007-346, s. 14; 2009-363, ss. 2, 3; 2009-558, ss. 1.2, 1.3, 1.4; 2016-117, s. 2(j); 2019-191, s. 26.)

#### **§ 90-14.1. Judicial review of Board's decision denying issuance of a license.**

Whenever an applicant fails to satisfy the Board of the applicant's qualifications to be issued a license, the Board shall immediately notify such person of its decision, and indicate in what respect the applicant has so failed to satisfy the Board. Such applicant shall be given a formal hearing before the Board upon request of such applicant filed with or mailed by registered mail to the secretary of the Board within 10 days after receipt of the Board's decision, stating the reasons for such request. The Board shall within 20 days of receipt of such request notify such applicant of the time and place of a public hearing, which shall be held within a reasonable time. The burden of satisfying the Board of the applicant's qualifications for licensure shall be upon the applicant. Following such hearing, the Board shall determine whether the applicant is entitled to be licensed. Any decision of the Board shall be subject to judicial review upon appeal to the superior court of the county where the Board is located upon the filing with the Board of a written notice of appeal with exceptions taken to the decision of the Board within 20 days after service of notice of the Board's final decision. Within 30 days after receipt of notice of appeal, the secretary of the Board shall certify to the clerk of the superior court of the county where the Board is located the record of the case which shall include a copy of the notice of hearing, a transcript of the testimony and evidence received at the hearing, a copy of the decision of the Board, and a copy of the notice of appeal and exceptions. Upon appeal the case shall be heard by the judge without a jury, upon the record, except that in cases of alleged omissions or errors in the record, testimony may be taken by the court. The decision of the Board shall be upheld unless the substantial rights of the applicant have been prejudiced because the decision of the Board is in violation of law or is not supported by any evidence admissible under this Article, or is arbitrary or capricious. (1953, c. 1248, s. 3; 1995, c. 94, s. 14; 2019-191, s. 27.)

#### **§ 90-14.2. Hearing before disciplinary action.**

(a) Before the Board shall take disciplinary action against any license granted by it, the licensee shall be given a written notice indicating the charges made against the licensee and stating that the licensee will be given an opportunity to be heard concerning the charges at a time and place stated in the notice, or at a time and place to be thereafter designated by the Board, and the Board shall hold a public hearing not less than 30 days from the date of the service of notice upon the licensee, at which the licensee may appear personally and through counsel, may cross examine witnesses and present evidence in the licensee's own behalf. A licensee who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the licensee resides. The licensee may file written answers to the charges within 30 days after the service of the notice, which answer shall become a part of the record but shall not constitute evidence in the case.

(b) Once charges have been issued, neither counsel for the Board nor counsel for the respondent shall communicate ex parte, directly or indirectly, pertaining to a matter that is an issue of fact or a question of law with a hearing officer or Board member who is permitted to participate in a final decision in a disciplinary proceeding. In conducting hearings, the Board shall retain independent counsel to provide advice to the Board or any hearing committee constituted under G.S. 90-14.5(a) concerning contested matters of procedure and evidence.

(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. (1953, c. 1248, s. 3; 1975, c. 690, s. 5; 2007-346, s. 15; 2009-558, s. 2; 2016-117, s. 2(k); 2019-191, s. 28.)

**§ 90-14.3. Service of notices.**

Any notice required by this Chapter may be served either personally by an employee of the Board or by an officer authorized by law to serve process, or by registered or certified mail, return receipt requested, directed to the licensee or applicant at his last known address as shown by the records of the Board. If notice is served personally, it shall be deemed to have been served at the time when the officer or employee of the Board delivers the notice to the person addressed or delivers the notice at the licensee's or applicant's last known address as shown by records of the Board with a person of suitable age and discretion then residing therein. Where notice is served by registered or certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the licensee's or applicant's last known address as shown by the records of the Board, regardless of whether the notice was actually received or whether the notice was unclaimed or undeliverable for any reason. (1953, c. 1248, s. 3; 1995, c. 405, s. 5; 2007-346, s. 16.)

**§ 90-14.4:** Repealed by Session Laws 2007-346, s. 17, effective October 1, 2007.

**§ 90-14.5. Use of recommended decisions; appointment of hearing officers.**

(a) Except as provided in subsection (a1) of this section, the Board, in its discretion, may designate in writing three or more hearing officers to conduct hearings as a hearing committee to take evidence. A majority of hearing officers participating in a hearing committee shall be licensees of the Board. The Board shall make a reasonable effort to include on the panel at least one physician licensed in the same or similar specialty as the licensee against whom the complaint has been filed. If a current or retired judge as described in G.S. 90-1.1(2) who is not a current or past Board member participates as a hearing officer, the Board may elect not to retain independent counsel for the hearing committee.

(a1) The Board may use an administrative law judge consistent with Article 3A of Chapter 150B of the General Statutes in lieu of a hearing committee so long as the Board has not solely alleged that the licensee failed to meet an applicable standard of care. Notwithstanding this subsection, the Board may use an administrative law judge consistent with Article 3A of Chapter 150B of the General Statutes if the licensee is a current or former Board member.

(b) Repealed by Session Laws 2019-191, s. 29, effective October 1, 2019.

(c) The hearing committee shall submit a recommended decision that contains findings of fact and conclusions of law to the Board. Before the Board makes a final decision, it shall give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A quorum of the Board will issue a final decision. No member of the Board who served as a member of the hearing committee described in

subsection (a) of this section may participate as a member of the quorum of the Board that issues a final agency decision.

(d) Hearing officers are entitled to receive per diem compensation and reimbursement for expenses as authorized by the Board. The per diem compensation shall not exceed the amount allowed by G.S. 90-13.3. (1953, c. 1248, s. 3; 2006-144, s. 5; 2007-346, s. 18; 2009-558, s. 3; 2019-191, s. 29.)

#### **§ 90-14.6. Evidence admissible.**

(a) Except as otherwise provided in proceedings held pursuant to this Article the Board shall admit and hear evidence in the same manner and form as prescribed by law for civil actions. A complete record of such evidence shall be made, together with the other proceedings incident to the hearing.

(b) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, in proceedings held pursuant to this Article, the individual under investigation may call witnesses, including medical practitioners licensed in the United States with training and experience in the same field of practice as the individual under investigation and familiar with the standard of care among members of the same health care profession in North Carolina. Witnesses shall not be restricted to experts certified by the American Board of Medical Specialties. A Board member shall not testify as an expert witness.

(c) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, statements contained in medical or scientific literature shall be competent evidence in proceedings held pursuant to this Article. Documentary evidence may be received in the form of a copy or excerpt or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original if available.

(c1) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.

(d) When evidence is not reasonably available under the Rules of Civil Procedure and Rules of Evidence to show relevant facts, then the most reliable and substantial evidence available shall be admitted. At the discretion of the presiding officer of the hearing, the Board may receive witness testimony at a hearing by means of telephone or videoconferencing.

(e) Any final agency decision of the Board shall be based upon a preponderance of the evidence admitted in the hearing. (1953, c. 1248, s. 3; 2003-366, s. 5; 2007-346, s. 19; 2009-558, s. 4; 2019-191, s. 30.)

#### **§ 90-14.7. Procedure where person fails to request or appear for hearing.**

If a person who has requested a hearing does not appear, and no continuance has been granted, the Board or its trial examiner or committee may hear the evidence of such witnesses as may have appeared, and the Board may proceed to consider the matter and dispose of it on the basis of the evidence before it. For good cause, the Board may reopen any case for further hearing. (1953, c. 1248, s. 3.)

#### **§ 90-14.8. Appeal from Board's decision taking disciplinary action on a license.**

(a) A licensee against whom the Board imposes any public disciplinary sanction, as authorized under G.S. 90-14(a), may appeal such action.

(b) A licensee against whom any public disciplinary sanction is imposed by the Board may obtain a review of the decision of the Board in the superior court of the county where the Board is located or the county in which the licensee resides, upon filing with the secretary of the Board a written notice of appeal within 30 days after the date of the service of the decision of the Board, stating all exceptions taken to the decision of the Board and indicating the court in which the appeal is to be heard. The court shall schedule and hear the case within six months of the filing of the appeal.

(c) Within 30 days after the receipt of a notice of appeal as herein provided, the Board shall prepare, certify and file with the clerk of the Superior Court in the county where the notice of appeal has been filed the record of the case comprising a copy of the charges, notice of hearing, transcript of testimony, and copies of documents or other written evidence produced at the hearing, decision of the Board, and notice of appeal containing exceptions to the decision of the Board. (1953, c. 1248, s. 3; 1981, c. 573, s. 12; 2007-346, s. 20; 2009-558, s. 5; 2019-191, s. 31.)

#### **§ 90-14.9. Appeal bond; stay of Board order.**

(a) The person seeking the review shall file with the clerk of the reviewing court a copy of the notice of appeal and an appeal bond of two hundred dollars (\$200.00) at the same time the notice of appeal is filed with the Board. Subject to subsection (b) of this section, at any time before or during the review proceeding the aggrieved person may apply to the reviewing court for an order staying the operation of the Board decision pending the outcome of the review, which the court may grant or deny in its discretion.

(b) No stay shall be granted under this section unless the Board is given prior notice and an opportunity to be heard in response to the application for an order staying the operation of the Board decision. (1953, c. 1248, s. 3; 1995, c. 405, s. 6.)

#### **§ 90-14.10. Scope of review.**

Upon the review of the Board's decision taking disciplinary action on a license, the case shall be heard by the judge without a jury, upon the record, except that in cases of alleged omissions or errors in the record, testimony thereon may be taken by the court. The court may affirm the decision of the Board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the accused physician have been prejudiced because the findings or decisions of the Board are in violation of substantive or procedural law, or are not supported by competent, material, and substantial evidence admissible under this Article, or are arbitrary or capricious. At any time after the notice of appeal has been filed, the court may remand the case to the Board for the hearing of any additional evidence which is material and is not cumulative and which could not reasonably have been presented at the hearing before the Board. (1953, c. 1248, s. 3; 2007-346, s. 21.)

#### **§ 90-14.11. Appeal; appeal bond.**

(a) Any party to the review proceeding, including the Board, may appeal from the decision of the superior court under rules of procedure applicable in other civil cases. No appeal bond shall be required of the Board. Subject to subsection (b) of this section, the appealing party may apply to the superior court for a stay of that court's decision or a stay of the Board's decision, whichever shall be appropriate, pending the outcome of the appeal.

(b) No stay shall be granted unless all parties are given prior notice and an opportunity to be heard in response to the application for an order staying the operation of the Board decision. (1953, c. 1248, s. 3; 1989, c. 770, s. 75.1; 1995, c. 405, s. 7.)

**§ 90-14.12. Injunctions.**

The Board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations. Actions under this section shall be commenced in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the respondent resides or has his principal place of business or in which the alleged acts occurred, or in the case of an action against a nonresident, in the district where the Board resides. (1953, c. 1248, s. 3; 1981, c. 573, s. 13; 1987 (Reg. Sess., 1988), c. 1037, s. 100; 2001-27, s. 1.)

**§ 90-14.13. Reports of disciplinary action by health care institutions; reports of professional liability insurance awards or settlements; immunity from liability.**

(a) The chief administrative officer of every licensed hospital or other health care institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred providers, as defined in G.S. 58-50-56, and all other provider organizations that issue credentials to persons licensed under this Article shall, after consultation with the chief of staff of that institution, report to the Board the following actions involving a physician's privileges to practice in that institution within 30 days of the date that the action takes effect:

- (1) A summary revocation, summary suspension, or summary limitation of privileges, regardless of whether the action has been finally determined.
  - (2) A revocation, suspension, or limitation of privileges that has been finally determined by the governing body of the institution.
  - (3) A resignation from practice or voluntary reduction of privileges while under investigation or threat of investigation.
  - (4) Any action reportable pursuant to Title IV of P.L. 99-660, the Health Care Quality Improvement Act of 1986, as amended, not otherwise reportable under subdivisions (1), (2), or (3) of this subsection.
- (a1) A hospital is not required to report any of the following:
- (1) The suspension or limitation of a licensee's privileges for failure to complete medical records in a timely manner.
  - (2) A resignation from practice due solely to the licensee's completion of a medical residency, internship, or fellowship.

The Board is authorized to adopt rules limiting the reporting requirements of subsection (a) of this section.

(a2) The Board shall report all violations of subsection (a) of this section known to it to the licensing agency for the institution involved. The licensing agency for the institution involved is authorized to order the payment of a civil penalty of two hundred fifty dollars (\$250.00) for a first violation and five hundred dollars (\$500.00) for each subsequent violation if the institution fails to report as required under subsection (a) of this section.

(b) Any licensee who does not possess professional liability insurance, or possess professional liability insurance from entities not owned and operated within this State, shall report to the Board any award of damages or any settlement of any malpractice complaint affecting his or her practice within 30 days of the award or settlement.

(c) The chief administrative officer of each insurance company providing professional liability insurance for persons licensed under this Article, the administrative officer of the Liability

Insurance Trust Fund Council created by G.S. 116-220, and the administrative officer of any trust fund or other fund operated or administered by a hospital authority, group, or provider shall report to the Board within 30 days any of the following:

- (1) Any award of damages or settlement of any claim or lawsuit affecting or involving a licensee that it insures.
- (2) Any cancellation or nonrenewal of its professional liability coverage of a licensee, if the cancellation or nonrenewal was for cause.
- (3) A malpractice payment that is reportable pursuant to Title IV of P.L. 99-660, the Health Care Quality Improvement Act of 1986, as amended, not otherwise reportable under subdivision (1) or (2) of this subsection.

For the purposes of this subsection, a "claim" means an oral or written request for compensation made by a patient or a patient's representative, or an offer of compensation to a patient or a patient's representative, based on a belief that the patient was injured due to care affecting or involving a licensee. The Board shall determine whether the patient's care affected or involved a licensee under this Article.

(d) The Board shall report all violations of this section to the Commissioner of Insurance. The Commissioner of Insurance is authorized to order the payment of a civil penalty of two hundred fifty dollars (\$250.00) for a first violation and five hundred dollars (\$500.00) for each subsequent violation against an insurer for failure to report as required under this section.

(e) The Board may request details about any action covered by this section, and the licensees or officers shall promptly furnish the requested information. The reports required by this section are privileged, not open to the public, confidential and are not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the Board or its employees or agents involved in application for license or discipline, except as provided in G.S. 90-16. Any officer making a report required by this section, providing additional information required by the Board, or testifying in any proceeding as a result of the report or required information shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false. (1981, c. 573, s. 14; 1987, c. 859, s. 11; 1995, c. 405, s. 8; 1997-481, s. 2; 1997-519, s. 3.14; 2006-144, s. 6; 2016-117, s. 2(1); 2019-191, s. 32.)

§ 90-15: Recodified as G.S. 90-13.1, by Session Laws 2007-346, s. 7, effective October 1, 2007.

§ 90-15.1: Recodified as G.S. 90-13.2, by Session Laws 2007-346, s. 7, effective October 1, 2007.

**§ 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 treatment as may be necessary for the protection of the rights of such patient or of the accused physician and the full presentation of relevant evidence.

(c) All records, papers, investigative files, investigative reports, other investigative information and other documents containing information in the possession of or received or gathered by the Board, or its members or 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 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 or consultants involved in the application for license, impairment assessment, or discipline of a license holder, except as provided in subsection (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.

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

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

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

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

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

(h) If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board may report the information to the

appropriate law enforcement agency, the North Carolina Department of Justice, the United States Department of Justice, the United States Attorney, or the district attorney of the district in which the offense was committed.

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

(j) All persons licensed under this Article shall self-report to the Board within 30 days of arrest or indictment any of the following:

- (1) Any felony arrest or indictment.
- (2) Any arrest for driving while impaired or driving under the influence.
- (3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(k) The Board, its members and staff, may release confidential or nonpublic information to any health care licensure board in this State or another state or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities about the issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of a license by a licensee of the Board, including the reasons for the action, or an investigative report made by the Board. The Board shall notify the licensee within 60 days after the information is transmitted. A summary of the information that is being transmitted shall be furnished to the licensee. If the licensee requests in writing within 30 days after being notified that the information has been transmitted, the licensee shall be furnished a copy of all information so transmitted. The notice or copies of the information shall not be provided if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities. (1858-9, c. 258, s. 12; Code, s. 3129; Rev., s. 4500; C.S., s. 6620; 1921, c. 47, s. 6; 1977, c. 838, s. 5; 1993 (Reg. Sess., 1994), c. 570, s. 6; 1995, c. 94, s. 17; 1997-481, s. 4; 2006-144, s. 7; 2007-346, s. 22; 2009-363, s. 4; 2009-558, s. 6; 2016-117, s. 2(o); 2019-191, s. 33.)

**§ 90-17. Repealed by Session Laws 1967, c. 691, s. 59.**

**§ 90-18. Practicing without license; penalties.**

(a) No person shall perform any act constituting the practice of medicine or surgery, as defined in this Article, or any of the branches thereof, unless the person shall have been first licensed and registered so to do in the manner provided in this Article. Any person who practices medicine or surgery without being duly licensed and registered, as provided in this Article, shall not be allowed to maintain any action to collect any fee for such services. Any person so practicing without being duly licensed and registered in this State shall be guilty of a Class 1 misdemeanor. Any person so practicing without being duly licensed and registered in this State and who is falsely representing himself or herself in a manner as being licensed or registered under this Article or any Article of this Chapter shall be guilty of a Class I felony. Any person so practicing without being duly licensed and registered in this State and who is an out-of-state practitioner shall be guilty of a Class I felony. Any person who has a license or approval under this Article that is inactive due

solely to the failure to complete annual registration in a timely fashion as required by this Article or any person who is licensed, registered, and practicing under any other Article of this Chapter shall be guilty of a Class 1 misdemeanor.

(b) Repealed by Session Laws 2007-346, s. 23, effective October 1, 2007.

(c) The following shall not constitute practicing medicine or surgery as defined in this Article:

- (1) The administration of domestic or family remedies.
- (2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.
- (3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.
- (3a) The provision of drug therapy management by a licensed pharmacist engaged in the practice of pharmacy pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with rules and rules developed by a joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and approved by both Boards. Drug therapy management shall be defined as: (i) the implementation of predetermined drug therapy which includes diagnosis and product selection by the patient's physician; (ii) modification of prescribed drug dosages, dosage forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be pursuant to an agreement that is physician, pharmacist, patient, and disease specific.
- (4) The practice of medicine and surgery by any surgeon or physician of the United States Army, Navy, or Public Health Service in the discharge of his official duties.
- (5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.
- (6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.
- (7) The practice of midwifery as defined in G.S. 90-178.2.
- (8) The practice of podiatric medicine and surgery by any legally licensed podiatric physician when engaged in the practice of podiatry as defined in Article 12A of this Chapter.
- (9) Repealed by Session Laws 2019-191, s. 34, effective October 1, 2019.
- (10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.
- (11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.
- (11a) The practice of medicine or surgery by any physician who comes into this State to practice medicine or surgery so long as:



- a. The physician or surgeon has an oral or written agreement with a sports team to provide general or emergency medical care to the team members, coaching staff, or families traveling with the team for a specific sporting event taking place in this State; and
- b. The physician or surgeon does not provide care or consultation to any person residing in this State other than an individual described in sub-subdivision a. of this subdivision.

The exemption shall remain in force while the physician or surgeon is traveling with the team. The exemption shall not exceed 10 days per individual sporting event. However, the executive director of the Board may grant a physician or surgeon additional time for exemption of up to 20 additional days per individual sporting event.

- (12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. "Radiology" is a specialty branch of the practice of medicine in which illness or disease is diagnosed or treated using various techniques or modalities, including radiant energy or ionizing radiation, and ultrasound and magnetic resonance. The education and training for the practice of radiology includes extensive study in the physics of radiant energy and medical imaging, radiation protection, and the application of ionizing radiation in the diagnosis and treatment of disease.
- (13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.
- (14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.
- (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.
- (16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter.
- (17) The use of an automated external defibrillator as provided in G.S. 90-21.15.
- (18) The practice of medicine by any nonregistered physician residing in another state or foreign country who is contacted by one of the physician's regular patients for treatment by use of any method of communication while the physician's patient is temporarily in this State.
- (19) The practice of medicine or surgery by any physician who comes into this State to practice medicine or surgery at a camp that specializes in providing therapeutic recreation for individuals with chronic illnesses, as long as all the following conditions are satisfied:

- a. The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state.
  - b. The physician provides services only at the camp or in connection with camp events or camp activities that occur off the grounds of the camp.
  - c. The physician receives no compensation for the services.
  - d. The physician provides those services within this State for no more than 30 days per calendar year.
  - e. The camp has a medical director who holds an unrestricted license to practice medicine and surgery issued under this Article.
- (20) The provision of anesthesia services by a licensed anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter in accordance with rules adopted by the Board. (1858-9, c. 258, s. 2; Code, s. 3122; 1885, c. 117, s. 2; c. 261; 1889, c. 181, ss. 1, 2; Rev., ss. 3645, 4502; C.S., s. 6622; 1921, c. 47, s. 7; Ex. Sess. 1921, c. 44, s. 8; 1941, c. 163; 1967, c. 263, s. 1; 1969, c. 612, s. 5; c. 929, s. 3; 1971, c. 817, s. 1; c. 1150, s. 6; 1973, c. 92, s. 1; 1983, c. 897, s. 2; 1993, c. 303, s. 2; c. 539, s. 615; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 94, ss. 18, 19; 1997-511, s. 4; 1997-514, s. 1; 1999-290, s. 2; 2000-113, s. 2; 2001-27, s. 2; 2003-109, s. 1; 2005-415, s. 2; 2007-146, s. 3; 2007-346, s. 23; 2011-183, s. 127(b); 2011-194, s. 1; 2019-191, s. 34.)

**§ 90-18.1. Limitations on physician assistants.**

(a) Any person who is licensed under the provisions of G.S. 90-9.3 to perform medical acts, tasks, and functions as a physician assistant may use the title "physician assistant" or "PA." Any other person who uses the title in any form or holds out to be a physician assistant or to be so licensed, shall be deemed to be in violation of this Article.

(b) Physician assistants are authorized to write prescriptions for drugs under the following conditions:

- (1) The North Carolina Medical Board has adopted regulations governing the approval of individual physician assistants to write prescriptions with such limitations as the Board may determine to be in the best interest of patient health and safety.
- (2) The physician assistant holds a current license issued by the Board.
- (3) Repealed by Session Laws 2019-191, s. 35, effective October 1, 2019.
- (4) The supervising physician has provided to the physician assistant written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.
- (5) A physician assistant shall personally consult with the supervising physician prior to prescribing a targeted controlled substance as defined in Article 5 of this Chapter when all of the following conditions apply:
  - a. The patient is being treated by a facility that primarily engages in the treatment of pain by prescribing narcotic medications.
  - b. The therapeutic use of the targeted controlled substance will or is expected to exceed a period of 30 days.

When a targeted controlled substance prescribed in accordance with this subdivision is continuously prescribed to the same patient, the physician assistant shall consult with the

supervising physician at least once every 90 days to verify that the prescription remains medically appropriate for the patient.

(c) Physician assistants are authorized to compound and dispense drugs under the following conditions:

- (1) The function is performed under the supervision of a licensed pharmacist.
- (2) Rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.
- (3) The physician assistant holds a current license issued by the Board.

(d) Physician assistants are authorized to order medications, tests and treatments in hospitals, clinics, nursing homes, and other health facilities under the following conditions:

- (1) The North Carolina Medical Board has adopted regulations governing the approval of individual physician assistants to order medications, tests, and treatments with such limitations as the Board may determine to be in the best interest of patient health and safety.
- (2) The physician assistant holds a current license issued by the Board.
- (3) The supervising physician has provided to the physician assistant written instructions about ordering medications, tests, and treatments, and when appropriate, specific oral or written instructions for an individual patient, with provision for review by the physician of the order within a reasonable time, as determined by the Board, after the medication, test, or treatment is ordered.
- (4) The hospital or other health facility has adopted a written policy about ordering medications, tests, and treatments, including procedures for verification of the physician assistants' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a physician assistant or order given by a physician assistant for medications, tests, or treatments shall be deemed to have been authorized by the physician approved by the Board as the supervisor of the physician assistant and the supervising physician shall be responsible for authorizing the prescription or order.

(e1) Any medical certification completed by a physician assistant for a death certificate shall be deemed to have been authorized by the physician approved by the Board as the supervisor of the physician assistant, and the supervising physician shall be responsible for authorizing the completion of the medical certification.

(f) Any registered nurse or licensed practical nurse who receives an order from a physician assistant for medications, tests, or treatments is authorized to perform that order in the same manner as if it were received from a licensed physician.

(g) Any person who is licensed under G.S. 90-9.3 to perform medical acts, tasks, and functions as a physician assistant shall comply with each of the following:

- (1) Maintain a current and active license to practice in this State.
- (2) Maintain an active registration with the Board.
- (3) Have a current Intent to Practice form filed with the Board.

(h) A physician assistant serving active duty in the Armed Forces of the United States is exempt from the requirements of subdivision (g)(3) of this section.

(i) A physician assistant's license shall become inactive any time the holder fails to comply with the requirements of subsection (g) of this section. A physician assistant with an inactive license shall not practice medical acts, tasks, or functions. The Board shall retain jurisdiction over the holder of the inactive license. (1975, c. 627; 1977, c. 904, s. 1; 1977, 2nd Sess., c. 1194,

s. 1; 1995, c. 94, s. 20; 1997-511, s. 5; 2007-346, ss. 24, 25; 2011-183, s. 56; 2011-197, s. 1; 2017-74, s. 4; 2019-191, s. 35; 2021-70, s. 1(a).)

**§ 90-18.2. Limitations on nurse practitioners.**

(a) Any nurse approved under the provisions of G.S. 90-18(c)(14) to perform medical acts, tasks or functions may use the title "nurse practitioner." Any other person who uses the title in any form or holds out to be a nurse practitioner or to be so approved, shall be deemed to be in violation of this Article.

(b) Nurse practitioners are authorized to write prescriptions for drugs under all of the following conditions:

- (1) The North Carolina Medical Board and Board of Nursing have adopted regulations developed by a joint subcommittee governing the approval of individual nurse practitioners to write prescriptions with such limitations as the boards may determine to be in the best interest of patient health and safety.
- (2) The nurse practitioner has current approval from the boards.
- (3) Repealed by Session Laws 2019-191, s. 36, effective October 1, 2019.
- (4) The supervising physician has provided to the nurse practitioner written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.
- (5) A nurse practitioner shall personally consult with the supervising physician prior to prescribing a targeted controlled substance as defined in Article 5 of this Chapter when all of the following conditions apply:
  - a. The patient is being treated by a facility that primarily engages in the treatment of pain by prescribing narcotic medications.
  - b. The therapeutic use of the targeted controlled substance will or is expected to exceed a period of 30 days.

When a targeted controlled substance prescribed in accordance with this subdivision is continuously prescribed to the same patient, the nurse practitioner shall consult with the supervising physician at least once every 90 days to verify that the prescription remains medically appropriate for the patient.

(c) Nurse practitioners are authorized to compound and dispense drugs under the following conditions:

- (1) The function is performed under the supervision of a licensed pharmacist; and
- (2) Rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.

(d) Nurse practitioners are authorized to order medications, tests and treatments in hospitals, clinics, nursing homes and other health facilities under all of the following conditions:

- (1) The North Carolina Medical Board and Board of Nursing have adopted regulations developed by a joint subcommittee governing the approval of individual nurse practitioners to order medications, tests and treatments with such limitations as the boards may determine to be in the best interest of patient health and safety.
- (2) The nurse practitioner has current approval from the boards.
- (3) The supervising physician has provided to the nurse practitioner written instructions about ordering medications, tests and treatments, and when

appropriate, specific oral or written instructions for an individual patient, with provision for review by the physician of the order within a reasonable time, as determined by the Board, after the medication, test or treatment is ordered.

- (4) The hospital or other health facility has adopted a written policy, approved by the medical staff after consultation with the nursing administration, about ordering medications, tests and treatments, including procedures for verification of the nurse practitioners' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a nurse practitioner or order given by a nurse practitioner for medications, tests or treatments shall be deemed to have been authorized by the physician approved by the boards as the supervisor of the nurse practitioner and such supervising physician shall be responsible for authorizing such prescription or order.

(e1) Any medical certification completed by a nurse practitioner for a death certificate shall be deemed to have been authorized by the physician approved by the boards as the supervisor of the nurse practitioner, and the supervising physician shall be responsible for authorizing the completion of the medical certification.

(f) Any registered nurse or licensed practical nurse who receives an order from a nurse practitioner for medications, tests or treatments is authorized to perform that order in the same manner as if it were received from a licensed physician. (1977, 2nd Sess., c. 1194, s. 2; 1995, c. 94, s. 21; 2011-197, s. 2; 2017-74, s. 5; 2019-191, s. 36; 2021-70, s. 1(b).)

#### **§ 90-18.2A. Physician assistants receiving, prescribing, or dispensing prescription drugs without charge or fee.**

The North Carolina Medical Board shall have sole jurisdiction to regulate and license physician assistants receiving, prescribing, or dispensing prescription drugs under the supervision of a licensed physician without charge or fee to the patient. The provisions of G.S. 90-18.1(c)(1), (c)(2), and G.S. 90-85.21(b), shall not apply to the receiving, prescribing, or dispensing of prescription drugs without charge or fee to the patient. (2004-124, s. 10.2E(a).)

#### **§ 90-18.3. Medical or physical examination by nurse practitioners and physician assistants.**

(a) Whenever a statute or State agency rule requires that a medical or physical examination shall be conducted by a physician, the examination may be conducted and the form signed by a nurse practitioner or a physician assistant, and a physician need not be present. Nothing in this section shall otherwise change the scope of practice of a nurse practitioner or a physician assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2, respectively.

(b) This section shall not apply to physical examinations conducted pursuant to G.S. 1A-1, Rule 35; G.S. 15B-12; G.S. 90-14 unless those statutes or rules are amended to make the provisions of this section applicable. (1999-226, s. 1; 2004-124, s. 18.2(f); 2019-191, s. 37.)

#### **§ 90-18.4. Limitations on clinical pharmacist practitioners.**

(a) Any pharmacist who is approved under the provisions of G.S. 90-18(c)(3a) to perform medical acts, tasks, and functions may use the title "clinical pharmacist practitioner". Any other person who uses the title in any form or holds himself or herself out to be a clinical pharmacist practitioner or to be so licensed shall be deemed to be in violation of this Article.

(b) Clinical pharmacist practitioners are authorized to implement predetermined drug therapy, which includes diagnosis and product selection by the patient's physician, modify prescribed drug dosages, dosage forms, and dosage schedules, and to order laboratory tests pursuant to a drug therapy management agreement that is physician, pharmacist, patient, and disease specific under the following conditions:

- (1) The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules developed by a joint subcommittee governing the approval of individual clinical pharmacist practitioners to practice drug therapy management with such limitations that the Boards determine to be in the best interest of patient health and safety.
- (2) The clinical pharmacist practitioner has current approval from both Boards.
- (3) The North Carolina Medical Board has assigned an identification number to the clinical pharmacist practitioner which is shown on written prescriptions written by the clinical pharmacist practitioner.
- (4) The drug therapy management agreement prohibits the substitution of a chemically dissimilar drug product by the pharmacist for the product prescribed by the physician without the explicit consent of the physician and includes a policy for periodic review by the physician of the drugs modified pursuant to the agreement or changed with the consent of the physician.

(c) Clinical pharmacist practitioners in hospitals and other health facilities that have an established pharmacy and therapeutics committee or similar group that determines the prescription drug formulary or other list of drugs to be utilized in the facility and determines procedures to be followed when considering a drug for inclusion on the formulary and procedures to acquire a nonformulary drug for a patient may order medications and tests under the following conditions:

- (1) The North Carolina Medical Board and the North Carolina Board of Pharmacy have adopted rules governing the approval of individual clinical pharmacist practitioners to order medications and tests with such limitations as the Boards determine to be in the best interest of patient health and safety.
- (2) The clinical pharmacist practitioner has current approval from both Boards.
- (3) The supervising physician has provided to the clinical pharmacist practitioner written instructions for ordering, changing, or substituting drugs, or ordering tests with provision for review of the order by the physician within a reasonable time, as determined by the Boards, after the medication or tests are ordered.
- (4) The hospital or health facility has adopted a written policy, approved by the medical staff after consultation with nursing administrators, concerning the ordering of medications and tests, including procedures for verification of the clinical pharmacist practitioner's orders by nurses and other facility employees and such other procedures that are in the best interest of patient health and safety.
- (5) Any drug therapy order written by a clinical pharmacist practitioner or order for medications or tests shall be deemed to have been authorized by the physician approved by the Boards as the supervisor of the clinical pharmacist practitioner and the supervising physician shall be responsible for authorizing the prescription order.

(d) Any registered nurse or licensed practical nurse who receives a drug therapy order from a clinical pharmacist practitioner for medications or tests is authorized to perform that order in the same manner as if the order was received from a licensed physician. (1999-290, s. 3.)

**§ 90-18.5. Limitations on anesthesiologist assistants.**

(a) Any person who is licensed to provide anesthesia services as an assistant to an anesthesiologist licensed under Article 1 of this Chapter may use the title "anesthesiologist assistant." Any other person who uses the title in any form or holds himself or herself out to be an anesthesiologist assistant or to be so licensed without first obtaining a license shall be deemed in violation of this Article. A student in any anesthesiologist assistant training program shall be identified as a "student anesthesiologist assistant" or an "anesthesiologist assistant student," but under no circumstances shall the student use or permit to be used on the student's behalf the terms "intern," "resident," or "fellow."

(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter under the following conditions:

- (1) The North Carolina Medical Board has adopted rules governing the provision of anesthesia services by an anesthesiologist assistant consistent with the requirements of subsection (c) of this section.
- (2) The anesthesiologist assistant holds a current license issued by the Board or is a student anesthesiologist assistant participating in a training program leading to certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an anesthesiologist assistant under G.S. 90-9.4.

(c) The North Carolina Medical Board shall adopt rules to implement this section that include requirements and limitations on the provision of anesthesia services by an anesthesiologist assistant as determined by the Board to be in the best interests of patient health and safety. Rules adopted by the Board pursuant to this section shall include the following requirements:

- (1) That an anesthesiologist assistant be supervised by an anesthesiologist licensed under this Article who is actively engaged in clinical practice and immediately available on-site to provide assistance to the anesthesiologist assistant.
- (2) That an anesthesiologist may supervise no more than two anesthesiologist assistants or student anesthesiologist assistants at one time. The limitation on the number of anesthesiologist assistants and student anesthesiologist assistants that an anesthesiologist may supervise in no way restricts the number of other qualified anesthesia providers an anesthesiologist may concurrently supervise. After January 1, 2010, the Board may allow an anesthesiologist to supervise up to four licensed anesthesiologist assistants concurrently and may revise the supervision limitations of student anesthesiologist assistants such that the supervision requirements for student anesthesiologist assistants are similar to the supervision requirements for student nurse anesthetists.
- (3) That anesthesiologist assistants comply with all continuing education requirements and recertification requirements of the National Commission for Certification of Anesthesiologist Assistants or its successor organization.

(d) Nothing in this section shall limit or expand the scope of practice of physician assistants under existing law. (2007-146, s. 4; 2008-187, s. 14.)

**§ 90-18.6. Requirements for certain nicotine replacement therapy programs.**

The Health and Wellness Trust Fund ("Trust Fund") or the Department of Health and Human Services ("Department") may contract for the operation of a tobacco-use cessation program through which the Trust Fund or the Department, as applicable, may engage agents or contractors for the purpose of (i) recommending to individuals over-the-counter nicotine replacement therapy products and supplying the products free of charge to the individual and (ii) discussing with the individual contraindications and all other aspects of over-the-counter nicotine replacement therapy. All medical aspects of the nicotine replacement therapy programs shall be supervised by a physician who is licensed under this Article to practice medicine and who is under contract to or employed by the Trust Fund or the Department, as applicable, for the purpose of supervising nicotine replacement therapy programs. The physician under contract with or employed by the Trust Fund or the Department, as applicable, shall be responsible for supervision of all agents or contractors of nicotine replacement therapy programs that provide nicotine replacement therapy services to members of the public. The Trust Fund or the Department, as contracting entity, shall report the name of the supervising physician to the North Carolina Medical Board. (2008-107, s. 10.4B.)

**§ 90-18.7:** Repealed by Session Laws 2019-191, s. 38, effective October 1, 2019.

**§ 90-18.8. Limitations on nurse-midwives.**

(a) Any Certified Nurse Midwife approved under the provisions of Article 10A of this Chapter to provide midwifery care may use the title "Certified Nurse Midwife." Any other person who uses the title in any form or holds himself or herself out to be a Certified Nurse Midwife or to be so approved shall be deemed to be in violation of this Article.

(b) A Certified Nurse Midwife is authorized to write prescriptions for drugs if all of the following conditions are met:

- (1) The Certified Nurse Midwife has current approval from the joint subcommittee established under G.S. 90-178.4.
- (2) The joint subcommittee as established under G.S. 90-178.4 has assigned an identification number to the Certified Nurse Midwife that appears on the written prescription.
- (3) The joint subcommittee as established under G.S. 90-178.4 has provided to the Certified Nurse Midwife written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review of the drugs prescribed.

(c) The joint subcommittee of the North Carolina Medical Board and the Board of Nursing, established under G.S. 90-178.4, shall adopt rules governing the approval of individual Certified Nurse Midwives to write prescriptions with any limitations the joint subcommittee deems are in the best interest of patient health and safety, consistent with the rules established for nurse practitioners under G.S. 90-18.2(b)(1). (2023-14, s. 4.3(a).)

**§§ 90-19 through 90-20. Repealed by Session Laws 1967, c. 691, s. 59.**

**§ 90-21:** Repealed by Session Laws 2007-346, s. 26, effective October 1, 2007.