

NORTH CAROLINA MEDICAL BOARD
Board Orders/Consent Orders/Other Board Actions
July - August 2010

DEFINITIONS

Annulment:

Retrospective and prospective cancellation of the practitioner's authorization to practice.

Conditions:

A term used to indicate restrictions, requirements, or limitations placed on the practitioner.

Consent Order:

An order of the Board stating an agreement between the Board and the practitioner regarding the annulment, revocation, suspension, or surrender of authorization to practice, or the conditions placed on authorization to practice, or other action taken by the Board relative to the practitioner. (A method for resolving a dispute without a formal hearing.)

Denial:

Decision denying an application for practice authorization or reconsideration of a Board action.

Dismissal:

Board action dismissing a contested case.

Inactive Medical License:

To be "active," a medical license must be registered on or near the physician's birthday each year. By not registering his or her license, the physician allows the license to become "inactive." The holder of an inactive license may *not* practice medicine in North Carolina. Licensees will often elect this status when they retire or do not intend to practice in the state. (Not related to the "voluntary surrender" noted below.)

NA:

Information not available or not applicable.

NCPHP:

North Carolina Physicians Health Program.

Public Letter of Concern:

A letter in the public record expressing the Board's concern about a practitioner's behavior or performance. Concern has not risen to the point of requiring a formal proceeding but should be known by the public. If the practitioner requests a formal disciplinary hearing

regarding the conduct leading to the letter of concern, the letter will be vacated and a formal complaint and hearing initiated.

Reentry Agreement

Arrangement between the Board and a practitioner in good standing who is "inactive" and has been out of clinical practice for two years or more. Permits the practitioner to resume active practice through a reentry program approved by the Board to assure the practitioner's competence.

RTL:

Resident Training License. (Issued to those in post-graduate medical training who have not yet qualified for a full medical license.)

Revocation:

Cancellation of authorization to practice. Authorization may not be reissued for at least two years.

Stay:

Full or partial stopping or halting of a legal action, such as suspension, on certain stipulated grounds.

Summary Suspension:

Immediate withdrawal of authorization to practice prior to the initiation of further proceedings, which are to begin within a reasonable time. (Ordered when the Board finds the public health, safety, or welfare requires emergency action.)

Suspension:

Withdrawal of authorization to practice for a stipulated period of time or indefinitely.

Temporary/Dated License:

License to practice for a specific period of time. Often accompanied by conditions contained in a Consent Order. May be issued as an element of a Board or Consent Order or subsequent to the expiration of a previously issued temporary license.

Voluntary Surrender:

The practitioner's relinquishing of authorization to practice pending or during an investigation. Surrender does not preclude the Board bringing charges against the practitioner. (Not related to the "inactive" medical license noted above.)

ANNULMENTS

NONE

SUMMARY SUSPENSIONS

NONE

REVOCATIONS

NONE

SUSPENSIONS**CATLIN, Roger William, MD**

Location: Hixson, TN

License #: 0000-21633

Cause: Dr. Caitlin entered into a Consent Order with the Tennessee Board of Medical Examiners on September 15, 2009, in which Dr. Caitlin surrendered his Tennessee medical license. The Tennessee order related to Dr. Caitlin's misuse of prescription medications and his health and substance abuse problems. Dr. Caitlin entered into a Consent Agreement and Order with the Pennsylvania State Board of Medicine on December 22, 2009, in which Dr. Caitlin permanently surrendered his Pennsylvania medical license. The Pennsylvania order was based on the Tennessee action.

Action: 07/07/2010. Consent Order executed: Dr. Caitlin's North Carolina medical license is indefinitely suspended.

FANN, Benjamin Bradley, MD

Location: Boone, NC (Watauga Co)

License #: 0000-33034

Cause: In early 2005, Dr. Fann began practicing with Juan Carlos DeVirgiliis, MD, at a practice called Total Health Integrated Services in Boone, NC. The practice was solely owned by the latter and Dr. Fann was employed as an independent contractor. In 2005, Dr. DeVirgiliis lost his U.S. Drug Enforcement Administration authorization to prescribe Schedule II and III controlled substances; and in 2008, Dr. DeVirgiliis lost his authorization to prescribe Schedule IV controlled substances. At all times relevant herein, Dr. Fann had full and unrestricted DEA authorization to prescribe all controlled substances. Total Health treated patients for complaints of pain and chronic pain and treated these patients with controlled substances. Dr. Fann pre-signed prescription blanks for use by Dr. DeVirgiliis. Beginning on or about January 2009, Dr. DeVirgiliis would examine and treat patients for complaints of pain by prescribing them Schedules II, III and IV controlled substances by using the pre-signed prescription blanks prepared by Dr. Fann. Thus, Dr. Fann assisted Dr. DeVirgiliis in circumventing DEA laws and prior restriction of his prescribing. When patients presented prescriptions to local pharmacies for controlled substances it appeared that Dr. Fann had examined the patient and authorized the prescription when it was actually Dr. DeVirgiliis who had done so.

Action: 07/19/2010. Consent Order executed: Dr. Fann's medical license is suspended for a period of six months encompassing the period of October 1, 2010, through March 31, 2011. Upon reinstatement, Dr. Fann's license is restricted in that he cannot prescribe controlled substances nor supervise any health care provider prescribing controlled substances unless his privileges to prescribe these drugs is reinstated upon petition to the Board.

GARRITY, Alyce Loretta, MD

Location: Cordova, AK

License #: 0099-00047

Cause: On October 1, 2008, Dr. Garrity agreed to a voluntary suspension of her license to practice medicine in Alaska. This action followed the summary suspension of her duties at Cordova Community Medical Center on the basis that on September 16, 2008, she became intoxicated while on-call at the Cordova Community Medical Center Emergency Department and a blood test indicated she had a blood alcohol level of .162.

Action: 07/08/2010. Findings of Fact, Conclusions of Law and Order of Discipline issued: Dr. Garrity's North Carolina medical license is suspended indefinitely.

GRAY, Michael Allen, MD

Location: Morehead City, NC (Carteret Co)

License #: 0000-28198

Cause: On June 29, 2007, Dr. Gray was arrested and charged with two counts of misdemeanor assault on a female. The arrest followed a 911 call from the Carteret Urgent and Family Care Center. The caller said Dr. Gray had gone berserk and was beating his wife. Dr. Gray was placed in the Carteret County Jail for 48 hours. He posted a \$10,000 bond and was released July 1, 2007. Via email correspondence with the Board, Dr. Gray admitted he was suffering from depression and indicated that it was his intention to surrender his license. However, Dr. Gray did not surrender his license and declined to make himself available to the Board. In a separate email communication, Dr. Gray admitted to having self-prescribed medication for his depression and having suffered manic episodes that left him unable to remember what had happened over the last few weeks of his life. On July 25, 2008, the Board issued an Order of Summary Suspension of Dr. Gray's license that was served on Dr. Gray on July 28, 2008. In July 2008, the Board received numerous complaints from Dr. Gray's patients that they were unable to contact Dr. Gray and/or that they were unable to retrieve their medical records from him. Dr. Gray abandoned his practice and numerous patients without making adequate provision for the availability or transfer of medical records and without ensuring continuity of care. After Dr. Gray closed his practice, information came to the Board that he had left behind records containing confidential patient information and that such documents were not organized in a manner such that the documents could not be preserved or organized. Such documents are scheduled to be confidentially handled and shredded.

Action: 08/26/2010. Findings of Fact, Conclusions of Law and Order of Discipline issued: Dr. Gray's North Carolina medical license is indefinitely suspended. Dr. Gray is further ordered to pay monetary redress for reimbursement of the cost of the proper destruction of records and files from his former practice.

GRAY, Robert Bourdeaux, MD

Location: Greensboro, NC (Guilford Co)

License #: 2002-00536

Cause: While practicing in Kentucky, Dr. Gray admitted to the Kentucky Board of Medical Licensure that he abused alcohol, including multiple alcohol-related arrests that that he had a "problem that needs to be addressed." Dr. Gray entered into a Consent Order with the Kentucky Board on June 12, 2009, that indefinitely restricted his license to practice in Kentucky.

Action: 07/02/2010. Consent Order executed: Dr. Gray's North Carolina medical license is indefinitely suspended.

HALL, Charles Daniel, MD

Location: Supply, NC (Brunswick Co)

License #: 0094-01205

Cause: Dr. Hall has a history of substance abuse described in Consent Orders dates November 22, 1995, and August 18, 2005. On April 25, 2009, Dr. Hall was arrested for driving while impaired. On May 8, 2009, Dr. Hall voluntarily surrendered his medical license.

Action: 07/20/2010. Consent Order executed: Dr. Hall's medical license is suspended indefinitely, effective the date of this order.

JOHNSON, Earlie Thomas, Jr., MD

Location: Holly Ridge, NC (Onslow Co)

License #: 0000-31729 | Area of practice: Urgent care, FM (as reported by physician)

Cause: In March 2008, the Board issued a Public Letter of Concern to Dr. Johnson based on concerns that he and his physician assistant over-tested patients who had common community-acquired respiratory infections and treated these same patients with high doses of the intravenous steroid Decadron and the intravenous antibiotic Rocephin in a manner that was not evidence-based. Subsequent to the issuance of the letter of concern, the Board conducted a review of 10 patient charts from the practice Dr. Johnson owned. Several of the patients were seen either by mid-level providers that Dr. Johnson supervised or by another physician employed by Dr. Johnson. The charts were all found to be inconsistent with the admonishments of the previously issued letter of concern. Specifically, it was noted that Dr. Johnson and his staff employed a practice model that over-utilized laboratory testing for patients who presented with common infections, that each patient received treatment consisting of the intravenous administration of fluids, high dose Decadron and Rocephin, despite scant or no medical indication for this treatment. For all patients, the record keeping was deficient. The charts did not document adequate physician oversight of Dr. Johnson's mid-level providers. Dr. Johnson informed a Board investigator that he and his staff did modify their approach in a manner consistent with the Board's admonishments in 2008 for a period of about three months, but that since then he and his staff had returned to their former approach, with respect to the administration of IV therapy. Following the Board's chart review in 2009, Dr. Johnson said the practice had again curtailed its use of IV therapy in a manner more consistent with the March 2008 letter of concern.

Action: 08/19/2010. Consent order executed: Dr. Johnson's medical license is suspended for a period of six months from the date of this order. The suspension is stayed, except for a period of 30 days beginning on November 1, 2010, during which Dr. Johnson shall serve an active suspension. Within one year of the date of this order, Dr. Johnson shall complete all CME courses required and approved by the Board's Office of the Medical Director. Dr. Johnson must also comply with other conditions.

REECE, Donald Brooks, MD

Location: Morehead City, NC (Carteret Co)

License #: 0001-8559

Cause: Dr. Reece treated Patients A through G for a variety of conditions that resulted in complaints of chronic pain. Dr. Reece's care of these patients was below the standards of care in several respects, according to an expert reviewer. Dr. Reece over prescribed controlled substances and failed to adequately monitor and manage patients under treatment with these drugs. For example, Dr. Reece failed to take appropriate steps to recognize or respond to signs that patients might be abusing or diverting controlled substances, even in situations where patients were at high risk for substance abuse based on history. Dr. Reece failed to attempt any non-pharmacological treatments for pain. Refills for controlled substances were regularly provided earlier than indicated and without apparent medical justification to patients. Documentation was poor overall. Some patients developed dependence to controlled substances prescribed to them by Dr. Reece. An evaluation at the Center for Personalized Education for Physicians (CPEP) confirmed concerns that Dr. Reece has significant gaps in his medical knowledge and clinical reasoning, and that he does not prescribe controlled substances responsibly. In addition, the Board received a complaint from a local hospital Emergency Department that Dr. Reece had sent a letter to the ED announcing his absence from practice for a month. The ED complained that no physician or group was identified to assume care of Dr. Reece's patients. Dr. Reece's letter made reference to having his patients seen by Doctor A, a hospitalist. However, at the time he left town, Dr. Reece had not met or talked with Doctor A. Dr. Reece has a prior history of discipline with the Board based on his prescribing issues.

Action: 08/19/2010. Findings of Fact, Conclusions of Law and Order of Discipline issued: Dr. Reece's medical license is suspended indefinitely beginning at 5 p.m. on the 30th day following the entry of this order.

PROBATION

NONE

REPRIMAND

CLAY, Henry Tucker, MD

Location: Lansing, NC (Ashe Co)

License #: 0000-38748 | Area of practice: FM (as reported by physician)

Cause: While practicing in Tennessee, Dr. Clay admitted to the Tennessee Board of Medical Examiners that he allowed a Registered Nurse in his office to perform x-rays for 13 months without being licensed to do so. He entered into a Consent Order with the Tennessee Board on September 15, 2009, wherein he was reprimanded and assessed a penalty of \$1,300.

Action: 07/28/2010. Consent Order executed: Dr. Clay is reprimanded.

COOK, David Martin, MD

Location: Cornelius, NC (Mecklenburg Co)

License #: 0000-36092

Cause: In 2009, Dr. Cook engaged in an intimate and inappropriate relationship with Patient A while a physician-patient relationship existed between them.

Action: 07/23/2010. Consent order executed: Dr. Cook is reprimanded. Within six months of the date of this order, Dr. Cook shall attend the Maintaining Proper Boundaries course at Vanderbilt University Medical Center's Center for Professional Health. He shall also strictly comply with the Board's Position Statement entitled, "Self-Treatment and Treatment of Family Members and Others with Whom Significant Emotional Relationships Exist."

GIRAULT, Gisele Jacqueline, MD

Location: Rock Hill, SC

License #: 2005-00193 | Area of practice: Pain medicine (as reported by physician)

Cause: Dr. Girault owned and operated a medical spa in Charlotte, Pure Wellness Medical Spa, that provided cosmetic medical and surgical procedures. The practice offers patients weight loss management that includes the prescribing of the controlled substance Phentermine, injections of beta human chorionic gonadotropin for weight loss, Botox injections, dermal fillers, laser hair removal, laser cosmetic procedures, chemical peels, acupuncture and other services. The Board reviewed eight charts of Dr. Girault's patients. The records produced by Dr. Girault's office failed to contain any evidence of any medical evaluation by Dr. Girault. For patients receiving prescriptions for Phentermine, weight loss injections and invasive procedures such as dermal filler injections, the patient records produced consist mainly of a self-completed patient questionnaire, scattered lab results and the periodic assessment of limited vital signs (blood pressure only) and weight. There is little evidence that Dr. Girault actually examined any of the patients, though there does exist a typed, unsigned notation that Dr. Girault reviewed various aspects of the program at the beginning of treatment. In May 2009, Dr. Girault ordered self-treatment by having one of her staff inject CosmoDerm into her face; on this occasion, she signed her own assessment and her own "consent to treatment" form. The "consent to treatment" is dated May 22, 2009, the day of the injections, while the pre-treatment assessment is dated September 19, 2008, suggesting that undocumented treatment may have occurred in September 2008. Self-treatment is prohibited by Board policy except in emergencies and for minor, acute illnesses.

Action: 08/17/2010. Consent order executed: Dr. Girault is reprimanded. Within six months of the date of this order, she shall take a medical record documentation course approved by the Board.

GUFFREY, Gregg J., MD

Location: Ft. Myers, FL

License #: 0000-36355

Cause: Dr. Guffrey has applied for reinstatement of his North Carolina medical license. He was asked on his application for reinstatement whether he had previously been investigated by a professional licensing board and whether he had ever been named in a legal action. Dr. Guffrey answered "no" to both questions. In fact, Dr. Guffrey had previously failed to disclose that he had "repeated medical school education" on his application for licensure in Florida in 2005, which resulted

in an investigation by the Florida Medical Board. Dr. Guffrey also did not disclose that two payments had been made on his behalf in connection with allegations of medical negligence associated with his care and treatment of two patients.

Action: 07/20/2010. Consent Order executed: The Board shall issue Dr. Guffrey a license to practice medicine and surgery, with a reprimand.

KELLER, Irvin Basil, MD

Location: Vero Beach, FL

License #: 0094-01430

Cause: While practicing in Florida, Dr. Keller performed disc surgery at the wrong level. The Florida Board of Medicine issued an Administrative Complaint against Dr. Keller on May 22, 2009, and Dr. Keller entered into a Settlement Agreement and Final Order with the Florida Board on December 18, 2009. The Florida Order reprimanded Dr. Keller, imposed a fine of \$10,000 and required the reimbursement of costs amounting to \$2,685.41. In addition, he was required to complete 50 hours of community service, three hours of CME in spinal surgery, five hours of CME in risk management and to present a one hour lecture or seminar on wrong site surgery within six months.

Action: 07/20/2010. Consent order executed: Dr. Keller is reprimanded.

MAIER, Rudolph Joseph, MD

Location: Fort Bragg, NC

License #: 0000-28775 | Area of practice: Pain Medicine, Neurology (as reported by physician)

Cause: As a result of information that came to the Board, regarding Dr. Maier's prescribing practices, the Board initiated an investigation and obtained three patient charts for review. Between 2001 and 2009, Dr. Maier prescribed controlled substances to Patients A, B and C for the treatment of pain. The Board reviewed the patient charts for each patient and found instances of patient care and record-keeping that are below the standards of acceptable and prevailing medical practice. Dr. Maier voluntarily surrendered his Schedule II, IIIn, III, and IIIIn prescribing privileges in June 2009.

Action: 07/19/2010. Consent Order executed: Dr. Maier is reprimanded.

REDDY, Keshavpal Gunna, MD

Location: Greensboro, NC (Guilford Co)

License #: 0000-38415 | Area of practice: P (as reported by physician)

Cause: On April 15, 2009, the Board received a complaint from the mother of Patient A with regard to the cancellation of several appointments for Patient A by clinical pharmacist practitioner Stephanie Riddle and for the CPP changing medication on several occasions without seeing and adequately evaluating Patient A. The A licensed therapist treating Patient A diagnosed Patient A with ADHD and other psychiatric diagnoses and CPP Riddle concurred with those diagnoses after examining Patient A. The CPP believed she had authority to concur to these diagnoses pursuant to a written protocol that was jointly approved by this Board and the Board of Pharmacy. The Boards' approval of the protocol was in error because a CPP by statute cannot make a medical diagnosis nor can a licensed therapist. The discipline in this matter is not the result of the CPP making a diagnosis. The CPP prescribed medication for treatment of Patient A, which prescription was reviewed and approved by her supervising physician, Dr. Reddy, in a timely fashion after the prescription was written. Dr. Reddy never examined the patient within the relevant time frame to the examination by the CPP. Dr. Reddy is responsible for the care rendered by CPP Riddle. Dr. Riddle did not fully evaluate Patient A to confirm a diagnosis of ADHD and instead relied on a diagnosis made by a non-physician therapist. There is no clear documentation in Patient A's chart that Dr. Reddy was providing ongoing supervision of CPP Riddle with respect to certain medication changes.

Action: 08/23/2010. Consent Order executed: Dr. Reddy is reprimanded. He shall not supervise any clinical pharmacist practitioner.

SCOTT, Daniel Joyner, III, MD

Location: Millington, TN

License #: 0000-30722

Cause: Dr. Scott entered into an Agreed Order with the Tennessee Board of Medical Examiners on January 26, 2010, wherein the Tennessee Board made several findings of fact, including that, from January 2001 until March 2008, Dr. Scott practiced medicine at a medical clinic where the owner and manager of said facility, who did not have a license to practice medicine, performed various Level I surgical procedures on patients and Dr. Scott failed to report his employer to the Tennessee Board; that Dr. Scott prescribed opiates to 15 to 20 percent of his patients but failed to maintain proper medical records related to the opiate prescriptions; that Dr. Scott failed to adequately monitor patients who were prescribed opiates; that Dr. Scott failed to stop his employer from calling in prescriptions without first obtaining Dr. Scott's authorization; and that Dr. Scott prescribed opiates for long term treatment of fibromyalgia, diabetic peripheral neuropathy, degenerative joint disease and migraine as opposed to referring such patients to pain management specialists. Diagnostic reasons for increased doses of narcotics were not consistently documented. Pursuant to the Tennessee order, Dr. Scott's license was suspended for six months and he was required to pay a fine in the amount of \$90,000, in addition to the costs of prosecuting the case. Dr. Scott's suspension was stayed contingent on certain conditions.
Action: 07/21/2010. Consent Order executed: Dr. Scott is reprimanded.

WESTRA, Donald Freeman, MD

Location: Lincolnton, NC (Lincoln Co)

License #: 0000-23891 | Area of practice: OB/GYN (as reported by physician)

Cause: In July 2009, one of Dr. Westra's patients complained that Dr. Westra contacted her after hours on several occasions and invited her for drinks and out on social outings, and that such contact made her uncomfortable. Dr. Westra admits that he contacted the patient or returned her calls on several occasions outside of practice hours but contends that his calls were made out of concern for the patient's depression and the prescription medications that she was taking. Dr. Westra specifically denies that he invited her for drinks and out on social outings. Dr. Westra admits that the Board has evidence from which it could conclude that he failed to maintain proper boundaries with this patient.

Action: 08/26/2010. Consent Order executed: Dr. Westra is reprimanded.

DENIALS OF LICENSE/APPROVAL

ROSNER, Michael John, MD

Location: Hendersonville, NC (Henderson Co)

License #: 0000-26865 | Area of practice: NS (as reported by physician)

Cause: Dr. Rosner committed unprofessional conduct by performing surgeries that were not medically indicated, as reflected in Board orders dated February 5, 2003, and February 6, 2009. Dr. Rosner has not indicated in any of his appearances before or interviews with Board members that he would change his practice in any manner if his license were reinstated.

Action: 08/18/2010. Denial of application for reinstatement of NC medical license.

SURRENDERS

PARIKH, Himanshu P., MD

Location: Cary, NC (Wake Co)

License #: 0096-00671 | Area of practice: IM (as reported by physician)

Action: 07/23/2010. Voluntary surrender of NC medical license.

PUBLIC LETTERS OF CONCERN

CLINTON, Robert Allen, MD

Location: Fayetteville, NC (Cumberland Co)

License #: 2005-00848

Cause: The Board has concluded its inquiry into Dr. Clinton's failure to make restitution to patients who paid for services or medical procedures not rendered. The Board is concerned that, as a result of matters addressed in the October 2009 Consent Order Dr. Clinton entered into with the Board, Dr. Clinton closed his office but failed to make restitution for those procedures for which he was paid in advance but that he was no longer permitted to perform as a result of the order. The Board notes that, since the October 2009 order, Dr. Clinton has filed for bankruptcy.
Action: 07/29/2010. Public letter of concern issued.

DURKIN, James Brendan, MD

Location: Etowah, TN

License #: 0097-01741

Cause: The Board has reviewed the action taken against Dr. Durkin's Tennessee medical license by the Tennessee Board of Medical Examiners. Dr. Durkin entered into an Agreed Order dated January 27, 2009, with the Tennessee board that placed his Tennessee license on probation for not less than five years, required him to complete two CME courses, surrender his DEA certificate and pay a fine and fees. The Tennessee order also requires Dr. Durkin to comply with all recommendations for mental and physical treatment as deemed necessary by the Vanderbilt Comprehensive Assessment Program. The Tennessee action related to Dr. Durkin's unjustified prescribing of controlled substances to a patient with whom Dr. Durkin has an inappropriate, non-sexual relationship. Dr. Durkin's North Carolina medical license is currently inactive.
Action: 08/04/2010. Public letter of concern issued.

GRAVES, Benjamin Harrison III, MD

Location: Livingston, TX

License #: 0000-24768

Cause: The Board is concerned that Dr. Graves, while practicing in California, prescribed medical marijuana to an undercover detective without conducting an appropriate examination and completing appropriate medical records surrounding the prescription. The Medical Board of California also charged Dr. Graves with aiding and abetting the unlicensed practice of medicine by accepting medical referrals from a non-physician. He was also charged with inappropriately using his medical practice name. This conduct led the California board to place Dr. Graves on probation for five years and require him to meet several conditions, including refraining from prescribing medical marijuana.
Action: 07/16/2010. Public letter of concern issued.

KAZDA, John Joseph, PA

Location: Dunn, NC (Harnett Co)

License #: 0001-03575

Cause: The Board is concerned that Mr. Kazda issued prescriptions to himself and to family members without appropriate documentation or an appropriate medical examination and in conflict with Board policy, which prohibits such prescribing except in case of emergencies and for minor, acute illnesses.
Action: 07/19/2010. Public letter of concern issued.

MCINTOSH, Margaret Gloria, MD

Location: Charlotte, NC (Mecklenburg Co)

License #: 0000-36117

Cause: The Board has reviewed information regarding Dr. McIntosh's involvement with Tattoo Bill's in Charlotte. Dr. McIntosh was employed as a consultant at Tattoo Bill's in its laser tattoo removal area. The Board considers tattoo removal the practice of medicine. Because Tattoo Bill's is not owned by a licensee of the Board and is not certified by the Board in any way, Dr. McIntosh's participation with this entity constitutes aiding and abetting the corporate practice of medicine.
Action: 07/30/2010. Public letter of concern issued.

MELONE, George Anthony, Jr., MD

Location: Roanoke Rapids, NC (Halifax Co)

License #: 0000-32793

Cause: The Board has concluded its inquiry into Dr. Melone's conduct related to multiple serious traffic violations and his failure to provide information requested on his initial application for a medical license. Dr. Melone's 2009 renewal form asked him to list all misdemeanor charges in the preceding ten years. In response, he reported five citations for traffic violations beginning in September 2004. Citations included reckless driving and failure to report an accident in September 2004; driving with a revoked license in October 2006; and reckless driving in April 2009. The Board also learned of a DWI arrest in September 1989, though the charge was eventually dismissed; and a 1991 charge for speeding and speeding to elude arrest, wherein Dr. Melone was ultimately convicted of just the speeding charge. The Board also notes Dr. Melone's prior disciplinary history with the Board regarding his failure to pay taxes. The Board continues to have concerns about Dr. Melone's conduct.

Action: 08/31/2010. Public letter of concern issued.

MILLER, Lawrence Whitfield, MD

Location: Savannah, GA

License #: 0000-34685

Cause: The Board has reviewed the action taken against Dr. Miller's Georgia medical license by the Georgia Composite Medical Board. On March 11, 2008, Dr. Miller attempted to perform an abortion on a 15 year old female. He was unable to complete the procedure and sent the patient home with instructions to go to the emergency room if she experienced abdominal bleeding. That evening, the patient went to Memorial Hospital in Savannah, GA, for completion of the abortion and cystoscopy. The patient was noted to have three uterine perforations. Dr. Miller entered into a Public Consent Order with the Georgia Board on January 7, 2010, that issued a reprimand and required Dr. Miller to obtain 20 hours of CME in pregnancy termination. He was also required to pay a fine and administrative fees. Dr. Miller's NC license is currently inactive.

Action: 08/04/2010. Public letter of concern issued.

PRESTI-BONOMO, Julia Ann, DO

Location: Waynesville, NC (Haywood Co)

License #: 2008-01420 | Area of practice: FM (as reported by physician)

Cause: The Board has reviewed information regarding the professional liability payment made on Dr. Presti-Bonomo's behalf on November 6, 2009. On October 6, 2006, Patient A presented with complaints of an increasing sense of unwellness over a few days, body aches, fever of 102 degrees and sinus pressure. Patient A's complete medical record was not reviewed and Dr. Presti-Bonomo failed to obtain a thorough medical history. She diagnosed Patient A with a sinus infection and prescribed an antibiotic. Had Dr. Presti-Bonomo obtained a thorough medical history, she would have known that Patient A underwent heart valve replacement surgery three months prior. Her failure to review the medical record or obtain a thorough history resulted in inadequate treatment and the worsening of Patient A's condition. Patient A developed prosthetic mitral valve endocarditis and septic emboli, leading ultimately to embolic stroke, leaving Patient A with profound neurologic deficits.

Action: 07/07/2010. Public letter of concern issued.

PRESTON, Robert James, MD

Location: Salt lake City, UT

License #: 2008-01530

Cause: The Board has reviewed Dr. Preston's treatment of Patient A, who presented to the emergency room on January 22, 2009, with complaints of fever and productive cough. Patient A also had a history of psychiatric illness and a recent suicide attempt by drug overdose. At this visit, Patient A was seen by another physician who ordered a chest x-ray and diagnosed Patient A with pneumonia. The patient was discharged with a prescription for an antibiotic. On January 24, 2009, Patient A returned to the ER with complaints of chest pain, shortness of breath, increased cough and a fever. Dr. Preston attended to

Patient A and appropriately ordered a repeat chest x-ray, blood work, IV fluids and antibiotics. Patient A did not wish to be hospitalized and was discharged with a prescription for a different antibiotic and two 100 mcg/hr fentanyl patches. Patient A died two days later from the effects of acute hemorrhagic pneumonia and polypharmacy. The Board is concerned that Dr. Preston prescribed fentanyl to this patient and that he chose the maximum strength patch without consideration of significant risk factors.

Action: 08/03/2010. Public letter of concern issued.

TRAYLOR, Henry William, MD

Location: Whiteville, NC (Columbus Co)

License #: 0000-24304 | Area of practice: Hospitalist (as reported by physician)

Cause: It is the position of the Board that Dr. Traylor assisted the unlicensed corporate practice of medicine and engaged in fee-splitting by serving as the sole physician shareholder in First Choice Family Healthcare, P.C. Dr. Traylor indicated to the Board that he did not know he was the sole shareholder or owner of First Choice. He said he believed he was the minority shareholder and that Med Plus Management Company and/or D.C. Timothy Weir, was in fact the owner of First Choice.

Non-physicians may not own medical corporations in North Carolina. Dr. Traylor was paid \$1,500 per month to review certain policy matters and patient records and to consult on personnel matters. Upon learning he was the sole shareholder in First Choice, Dr. Traylor relinquished all shares. Dr. Traylor had been warned previously about aiding the unlicensed corporate practice of medicine based on his supervision of a physician assistant who owned a medical practice of which the PA's spouse, a non-physician, was part owner.

Action: 07/09/2010. Consent order executed: Public letter of concern issued.

WHINNA, James David, MD

Location: Monroe, NC (Union Co)

License #: 0000-26481 | Area of practice: Gen. Vascular Surgery (as reported by physician)

Cause: The Board has concluded its inquiry regarding Patient A, wherein a retained foreign object was left in Patient A after the removal of a gastrostomy tube. The Board is concerned that, once Dr. Whinna realized that a portion of the tube sheared off and remained in the patient, he failed to determine the actual length of the tube that was retained; he failed to consider an immediate endoscopic removal of the object; or in the alternative, believing the object would be passed by the patient, he failed to follow up with the patient more closely to confirm that the object was actually passed. Patient A was immediately informed that a portion of the tube had broken off and a follow up appointment was scheduled for two weeks later. While the Board recognizes that the patient elected not to keep the return appointment, the Board is concerned that Dr. Whinna did not follow up to confirm that the tube had actually passed.

Action: 07/12/2010. Public letter of concern issued.

WHITE, Ava Balko, NP

Location: Wadesboro, NC (Anson Co)

License #: 0002-00319

Cause: The Board has reviewed information regarding the handling of a patient's medical record after Ms. Balko closed her practice in February 2009. At that time, due to financial problems, Ms. Balko decided to close her practice. She notified patients that they needed to pick up their medical records. After several attempts to contact Patient A, the estranged partner of Patient A came to her office for his and his daughter's medical records. During that visit, Ms. Balko released Patient A's medical records without any direct communication with Patient A. Patient A and her estranged partner were in a custody dispute, of which Ms. Balko was aware. The estranged partner gave Patient A's medical records to his attorney instead of Patient A. Ms. Balko's actions violated medical ethics regarding confidentiality of patient information and the Health Insurance Portability and Accountability Act (HIPAA).

Action: 07/12/2010. Public letter of concern issued.

MISCELLANEOUS ACTIONS

LEAK, Byron Christopher, MD

Location: Huntersville, NC (Mecklenburg Co)

License #: 2010-01423 | Area of practice: IM (as reported by physician)

Cause: This matter is before the Board due to Dr. Leak's application for a North Carolina medical license. In April 2006, Dr. Leak entered into a Consent Order with the State Medical Board of Ohio that suspended Dr. Leak's Ohio license for at least one year based on 1) Dr. Leak's history of chemical dependency and his 2005 and 2006 relapses related to alcohol, Fentanyl and marijuana, and 2) Dr. Leak's failure to disclose to the Ohio Board his past use of marijuana on his 2003 medical training license application and his failure to disclose to the Ohio Board his past use of marijuana and Fentanyl on his 2004 medical license application. Dr. Leak has not consumed any alcohol, mind-altering or mood-altering substances or any prescription medications not legally prescribed for him since March 2006. Dr. Leak's Ohio license was reinstated in August 2007

Action: 08/03/2010. Non-disciplinary consent order executed: The Board shall issue Dr. Leak a license to practice medicine and surgery. Dr. Leak shall maintain a contract with NCPHP, pay all associated fees and follow all recommendations made by NCPHP. Unless lawfully prescribed for Dr. Leak by someone other than himself, Dr. Leak shall refrain from the use of all mind- and mood-altering substances, including alcohol.

CONSENT ORDERS AMENDED

LAND, Phillip Barton, PA-C

Location: Clinton, NC (Sampson Co)

License #: 0001-02750

Action: 08/10/2010. The Amended Consent Order Mr. Land entered into with the Board on December 9, 2009, is further amended to permit Mr. Land to work up to 45 hours per week. Mr. Land shall only work in a practice setting where a supervising physician, either primary or back-up, is present and on-site at least five hours per week. Additionally, Mr. Land must discuss cases with a supervising physician at least once per week.

O'DELL, Kevin Bruce, MD

Location: Kings Mountain, NC (Cleveland Co)

License #: 0000-39312 | Area of practice: FM, EM (as reported by physician)

Action: 08/13/2010. Dr. O'Dell's Consent Order dated July 6, 2009, is amended to permit him to practice medicine up to, but not more than, 50 hours per week.

SLOAND, Timothy Peter, MD

Location: Gastonia, NC (Gaston Co)

License #: 2003-01292 | Area of practice: OS (as reported by physician)

Action: 07/07/2010. The Consent Order Dr. Sloand entered into with the Board on November 25, 2009, is amended to permit Dr. Sloand to work up to, but not more than, 50 hours, including any and all "on-call" time in such computation of hours.

CONSENT ORDERS LIFTED

SHAH-KHAN, Sardar Mahmood, MD

Location: Morganton, NC (Alamance Co)

License #: 0000-16726 | Area of practice: Cardiology, IM (as reported by physician)

Action: 08/10/2010. Dr. Shah-Khan is relieved of all obligations contained in the Consent Order he entered into with the Board on December, 4, 2008.

TEMPORARY/DATED LICENSES:**ISSUED, EXTENDED, EXPIRED, OR REPLACED BY FULL LICENSES****ADKINS, Paula Clark, MD**

Location: Pinehurst, NC (Moore Co)

License #: 0099-00745

Action: 08/31/2010. Dr. Adkins is issued a dated license to expire on February 28, 2011.

JAMES, Franklin James, MD

Location: Greenville, NC (Pitt Co)

License #: 0000-15359 | Area of practice: P (as reported by physician)

Action: 07/22/2010. Dr. James is issued a dated license to expire on January 31, 2011.

COURT APPEALS/STAYS

NONE

DISMISSALS

NONE

REENTRY AGREEMENTS (History of impairment/discipline)**ADKINS, Paula Clark, MD**

Location: Pinehurst, NC (Moore Co)

License #: 0099-00745

Cause: Dr. Adkins has a history of addiction to hydrocodone. She entered into a Consent Order with the Board on June 3, 2005, wherein her medical license was indefinitely suspended. On August 29, 2005, Dr. Adkins had her medical license reinstated by means of a Consent Order wherein Dr. Adkins agreed to maintain a contract with NCPHP and to refrain from the use of all mind or mood-altering drugs. On December 21, 2006, the Board summarily suspended Dr. Adkins's license because she had relapsed. On April 18, 2007, Dr. Adkins entered into another Consent Order with the Board wherein Dr. Adkins agreed to an indefinite suspension of her medical license as a result of her relapse. The Board has received information that Dr. Adkins is in recovery and is in full compliance with her contract with NCPHP. Dr. Adkins has not practiced clinical medicine since December 21, 2006. She met with a panel of the Board in July 2010 to discuss her application, including her past conduct, her recovery and the need for a program of reentry.

Action: 08/25/2010. Reentry program executed: Dr. Adkins shall complete a program of reentry consisting of a period of mentoring under Dr. Harvey H. Wolf.

SMITH, Tracey, PA

Location: Wilmington, NC (New Hanover Co)

License #: 0001-02582

Cause: Mr. Smith surrendered his PA license on August 30, 2005, following his admission to his supervising physician that he had engaged in a sexual relationship with a patient of the practice. On December 20, 2005, Mr. Smith was charged by the Board with unprofessional conduct. The charges alleged that Mr. Smith engaged in a sexual relationship with a patient while a PA-patient relationship existed between them. A panel hearing took place on October 18, 2006. On March 12, 2007, the Board issued an order revoking Mr. Smith's license. The order prohibited Mr. Smith from making application for reinstatement prior to August 31, 2007. In or about July 2008, Mr. Smith submitted an application for reinstatement of his PA license. That application was denied based on Mr. Smith's earlier conduct. Mr. Smith submitted another application in April 2009. On April 7, 2010, the Board again denied Mr. Smith's application based on its findings in the March 2007 order. Mr. Smith requested a hearing, which was conducted June 17, 2010. At that hearing, the Board heard testimony of two of

Mr. Smith's coworkers, the director of human resources at Mr. Smith's place of employment and a doctoral level professional, who described his interaction with coworkers, his professional demeanor and character. The Board heard testimony about Mr. Smith's efforts to teach staff at his current place of employment the importance of maintaining appropriate boundaries and avoiding sexual harassment. The Board found the testimony to be credible. The Board also received into evidence a statement from a therapist who has treated Mr. Smith. The therapist's letter indicated that Mr. Smith has excellent insight and has learned from his past mistakes. The therapist opined that Mr. Smith does not pose a danger to patients. Mr. Smith has been a participant with NCPHP since August 2005 and NCPHP advocated for his return to practice as a PA. Mr. Smith has not practiced as a PA since August 2005 and acknowledges the need for a program of reentry.

Action: 08/16/2010. Findings of Fact, Conclusions of Law and Order of Licensure executed: Mr. Smith shall submit a proposed program of reentry to the Board. Upon approval, the Board shall issue Mr. Smith a PA license. He shall not practice as a PA in the areas of behavioral or psychiatric medicine and he shall ensure that a chaperone who has read this order is present at any time he examines a female patient.

REENTRY AGREEMENTS (No history of impairment/discipline)

ARROWOOD, Kyle Elaine Binning, MD

Location: New Bern, NC (Cabarrus Co)

License #: 0098-01150

Cause: Dr. Arrowood has not practiced clinical medicine since January 2002.

Action: 08/10/2010. Reentry program executed: Dr. Arrowood shall complete a program of reentry consisting of a six-month rotation at Vanderbilt University Medical Center, under the mentoring of Dr. Richard M. Heller.

CAKMAKCI-MIDIA, Esin, MD

Location: Chapel Hill, NC (Orange Co)

License #: 2010-01388

Cause: Dr. Cakmakci-Midia has applied for a medical school faculty limited license to practice medicine and surgery in North Carolina. She has not practiced clinical medicine since September 2006.

Action: 07/29/2010. Reentry program executed: Dr. Arrowood shall complete a program of reentry consisting of a two-phase period of approximately six months under the mentoring of Dr. Julia Fielding.

CRISS, Denise Groh, PA

Location: Winston-Salem, NC (Forsyth Co)

License #: 0001-01133

Cause: Ms. Criss has not actively practiced as a physician assistant since May 2005.

Action: 07/14/2010. Reentry program executed: Ms. Criss shall complete a program of reentry consisting of a period of mentoring under Dr. Robert L. Bloomfield.

KEOGH, Michael James, MD

Location: Fairfield, CA

License #: 0095-00969

Cause: Dr. Keogh has not practiced clinical medicine since December 2006.

Action: 08/25/2010. Reentry program executed: Dr. Keogh shall complete a program of reentry consisting of a period of mentoring under Dr. Saul Schaefer.

RIEDER, Susan, PA

Location: Hickory, NC (Catawba Co)

License #: 0010-02429

Cause: Ms. Rieder has not actively practiced as a physician assistant since December 1990.

Action: 07/15/2010. Reentry program executed: Ms. Rieder shall complete a program of reentry consisting of a period of mentoring under Dr. Michael N. Tate.

URBAN, Edward John, DO

Location: Hendersonville, NC (Henderson Co)

License #: 0000-27410

Cause: Dr. Urban has not practiced clinical medicine since September 2004.

Action: 07/25/2010. Reentry program executed: Dr. Urban shall complete a program of reentry consisting of a period of mentoring under the supervision of Dr. Larry Russell.