

MINUTES

North Carolina Medical Board

June 17, 2010

**1203 Front Street
Raleigh, North Carolina**

The June 17, 2010, meeting of the North Carolina Medical Board was held at the Board's Office, 1203 Front Street, Raleigh, NC 27609. The meeting was called to order at 8:00 a.m., Thursday, by Donald E. Jablonski, DO, President. Board members in attendance were: John B. Lewis, Jr., LLB; Ralph C. Loomis, MD; Thomas R. Hill, MD; Janice E. Huff, MD, President-Elect; William A. Walker, MD, Secretary/Treasurer; Ms. Thelma Lennon; and Karen R. Gerancher, MD. Also attending were Fred Morelock, Independent Counsel; R. David Henderson, Executive Director and Thom Mansfield, Board Attorney.

Presidential Remarks

Dr. Jablonski commenced the meeting by reading from the State Government Ethics Act, "ethics awareness and conflict of interest reminder." No conflicts were reported.

DISCIPLINARY (INVESTIGATIVE) COMMITTEE REPORT

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

The Disciplinary (Investigative) Committee reported on 1 investigative case. A written report was presented for the Board's review. The Board adopted the Committee's recommendation to approve the written report. The specifics of this report are not included because these actions are not public information.

A motion passed to return to open session.

PANEL HEARINGS:

SMITH, Tracey, PA Denial of Licensure

Mr. Smith's application for a license to practice as a physician assistant was denied based on the Board's Findings of Fact, Conclusions of Law, and Order of Discipline dated March 12, 2007, finding that Mr. Smith engaged in unprofessional conduct with a patient.

A Hearing was held on June 17, 2010.

Mr. Smith appeared pro se.
The Board was represented by Brian Blankenship.

The Quorum of the Board voted to reject the Panel's recommendation and to accept a Reentry Agreement approved by the Board's Office of Medical Director.

GARRITY, Alyce, MD – Disciplinary

Board Attorney: Brian Blankenship
Dr. Garrity was not present and was not represented by counsel.

Dr. Garrity was charged with having a license to practice medicine acted against by the licensing authority of another jurisdiction based on action taken by the Alaska Board that Dr. Garrity agreed to a voluntary suspension of her Alaska medical license.

The Quorum of the Board voted to Indefinitely Suspend Dr. Garrity's North Carolina Medical license.

PROPOSED SETTLEMENTS:

The following proposed settlements were presented to a quorum of the Board consisting of Dr. Jablonski, John B. Lewis, Jr., LLB; Ralph C. Loomis, MD; Thomas R. Hill, MD; Janice E. Huff, MD, President-Elect; William A. Walker, MD, Secretary/Treasurer; Ms. Thelma Lennon; and Karen R. Gerancher, MD.

FANN, Benjamin Bradley, MD – Boone, NC

The Board was represented by Marcus Jimison. Dr. Fann was not present.

The Board voted to reject the proposed Consent Order.

MBADINUJU, Adanma I., MD – Monroe, NC

The Board was represented by Todd Brosius. Dr. Mbadinuju was not present.

The Board voted to accept the proposed Consent Order to resolve a pending matter.

SWARNER, David Reynolds, MD - Washington, NC

The Board was represented by Todd Brosius. Dr. Swarner was not present.

The Board voted to accept the proposed Consent Order, dissolving the Interim Consent Order dated October 10, 2009 and issuing Dr. Swarner a reprimand.

UWENSUYI-EDOSOMWAN, Fidelis Iguodala MD – Waxhaw, NC

The Board was represented by Todd Brosius. Dr. Uwensuyi-Edosomwan was represented by James Wilson, however, neither was present.

The Board voted to accept the proposed Consent Order in resolution of the September 23, 2009 Notice of Charges and Allegations.

ATTORNEY'S REPORT

A motion passed to close the session pursuant to Section 143-318.11(a) of the North Carolina General Statutes to prevent the disclosure of information that is confidential pursuant to Sections 90-8, 90-14, 90-16, 90-21.22 of the North Carolina General Statutes and not considered a public record within the meaning of Chapter 132 of the General Statutes and/or to preserve attorney/client privilege.

A written report on 151 pending cases and 61 executed cases was presented for the Board's review. The specifics of these matters are not included as they are non-public. The Board accepted the report as presented.

A motion was passed to return to open session.

The following actions were executed since the Board last regularly scheduled meeting. The Board voted to accept these as information.

Berkowitz, Howard Martin MD

Entry of Revocation executed 05/14/2010

Blackmon, Edward Barton MD

Public Letter of Concern and Consent and Waiver executed 5/4/10

Bowman, Karolen Ruth Church MD

Consent Order executed 4/16/10

Bumbalo, Thomas Samuel MD

Consent Order executed 5/14/2010

Byrd, Lelan Clinton MD

Interim Letter of Concern executed 06/15/2010

Carlson, James Lennart MD

Consent Order executed 05/17/2010

Castillo, Alissandro Roque MD

Consent Order executed 5/28/10

Chao, Ronald Philip MD

Consent and Waiver and Public Letter of Concern executed 4/21/10

Coletta, Harry Mario MD

Consent Order executed 05/11/2010

Dauito, Ralph MD

Public Letter of Concern

Dunn, Lawrence Anthony MD

Findings of Fact, Conclusions of Law and Order of Discipline executed 05/20/2010

Gray, Robert Bourdeaux MD

Notice of Charges & Allegations; Notice of Hearing executed 5/21/10

Harihan, Thomas Francis PA

Consent Order executed 4/20/10

Hatch, David Matthews MD

Consent and Waiver and Public Letter of Concern executed 4/20/10

Heard, William Upton MD

Public Letter of Concern executed 05/07/2010

Hope, Shelley-Ann Violet

Amendment to Consent Order executed 5/13/10

Hussey, Felicia Duff MD
Non-Disciplinary Consent Order executed 6/14/10

James, James Franklin MD
Consent Order executed 06/11/2010

Keyes, Booker T. MD
Consent Order executed 04/16/2010

Kramer, James Scott MD
Consent Order executed 04/16/2010

Kritzer, Randy Owen MD
Public Letter of Concern executed 05/17/2010

Larsen, David Malcolm MD
Public Letter of Concern executed 05/10/2010

McNeil, John Paul PA
Consent Order executed 6/4/10

Nguyen, Mai Trang Le MD
Relief of Consent Order obligations executed 06/09/2010

Nisbett, Donald A. MD
Consent Order executed 04/16/2010

Ogilvie, James William PA
Consent Order executed 05/24/2010

Overton, Dolphin Henry MD
Consent Order executed 4/26/10

Rivera-Ortiz, Epifanio MD
Consent Order executed 4/16/10

Rudicil, Harold Scott PA
Re-Entry Agreement executed 01/26/2010

Sanchez, Clare Jeanne MD
Consent Order executed 6/14/10

Seal, James Hargett PA
Consent Order and Re-Entry Agreement executed 06/02/2010

Sessoms, Rodney Kevin
Amended Consent Order executed 06/11/2010

Sheffield, Kelli Rae PA
Re-Entry Agreement executed 4/30/10

Smith, Bryan Dorsey MD
Public Letter of Concern executed 5/19/10

Consent Order executed 05/21/2010

Smith, Tracey PA
Denial of Licensure letter executed 04/28/2010

Spataro, Joseph David MD
Consent Order executed 4/16/2010

Steadman, Brent Thomas MD
Order Relieving MD of Consent Order Obligations executed 04/21/2010

Strother, Eric Furman MD
Amended Consent Order executed 06/07/2010

Sturm, Susan Elizabeth MD
Public Letter of Concern executed 6/2/10

Ward, Amy Elizabeth MD
Consent Order executed 05/07/2010

Weber, Jeffrey Alan PA
Consent Order executed 05/10/2010

Weiss, Juli Stone
Order for Relief of Obligations executed 5/25/10

Wise, Daniel Edwin MD
Consent Order executed 4/27/10

PROPOSED RULE CHANGES:

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to adopt the rules cited as 21 NCAC 32B .1301-.1303, .1350, .1360, 1401-.1402, .1601-.1602, .1701-.1705, .2001; 32F .0106 and 32R .0105 and repeal the rules cited as 21 NCAC 32B .0101-.0102, .0104-.0106, .0301-.0302, .0304-.0309, .0311-.0315, .0401-.0402, .0501-.0508, .0603-.0608, .0701-.0707, .0901-.0902, .1101-.1105, .1201-.1207; 32J .0101-.0103.

Proposed Effective Date: *August 1, 2010*

Public Hearing:

Date: *June 1, 2010*

Time: *10:00 a.m.*

Location: *NC Medical Board, 1203 Front Street, Raleigh, 27609*

Reason for Proposed Action: *The purpose of the proposed amendments and repeals is to reorganize the current licensing rules.*

Comment period ended: *June 1, 2010*

The following rules are proposed to be repealed:

21 NCAC 32B .0101 DEFINITIONS
21 NCAC 32B .0102 DISCARDING APPLICATION MATERIAL
21 NCAC 32B .0104 CRIMINAL BACKGROUND CHECK

21 NCAC 32B .0105 FEDERATION CREDENTIAL VERIFICATION SERVICE PROFILE
21 NCAC 32B .0106 DATA BANK REPORTS
21 NCAC 32B .0301 MEDICAL EDUCATION
21 NCAC 32B .0302 ECFMG CERTIFICATION
21 NCAC 32B .0303 CITIZENSHIP
21 NCAC 32B .0304 APPLICATION FORMS
21 NCAC 32B .0305 EXAMINATION BASIS FOR ENDORSEMENT
21 NCAC 32B .0306 LETTERS OF RECOMMENDATION
21 NCAC 32B .0307 CERTIFIED PHOTOGRAPH AND CERTIFICATION OF GRADUATION
21 NCAC 32B .0308 FEE
21 NCAC 32B .0309 PERSONAL INTERVIEW
21 NCAC 32B .0311 ENDORSEMENT RELATIONS
21 NCAC 32B .0312 ROUTINE INQUIRIES
21 NCAC 32B .0313 GRADUATE MEDICAL EDUCATION AND TRAINING
21 NCAC 32B .0314 PASSING EXAM SCORE
21 NCAC 32B .0315 TEN-YEAR QUALIFICATION
21 NCAC 32B .0401 CREDENTIALS
21 NCAC 32B .0402 TEMPORARY LICENSE FEE
21 NCAC 32B .0501 APPLICATION FORM
21 NCAC 32B .0502 CERTIFICATION OF GRADUATION
21 NCAC 32B .0503 CERTIFIED PHOTOGRAPH
21 NCAC 32B .0504 LETTERS OF RECOMMENDATION
21 NCAC 32B .0505 APPOINTMENT LETTER
21 NCAC 32B .0506 FEE
21 NCAC 32B .0507 ECFMG CERTIFICATION
21 NCAC 32B .0508 MEDICAL EDUCATION
21 NCAC 32B .0603 CERTIFIED PHOTOGRAPH
21 NCAC 32B .0604 LETTERS OF RECOMMENDATION
21 NCAC 32B .0605 DIPLOMA OF PSYCHOLOGICAL MEDICINE
21 NCAC 32B .0606 FEE
21 NCAC 32B .0607 ECFMG CERTIFICATION
21 NCAC 32B .0608 PERSONAL INTERVIEW
21 NCAC 32B .0701 REQUEST FOR THE CERTIFICATE OF REGISTRATION
21 NCAC 32B .0702 MEDICAL LICENSURE
21 NCAC 32B .0703 LIMITATION
21 NCAC 32B .0704 DURATION
21 NCAC 32B .0705 PERSONAL INTERVIEW
21 NCAC 32B .0706 FEE FOR VISITING PROFESSORS CERTIFICATE OF REGISTRATION
21 NCAC 32B .0707 CERTIFIED PHOTOGRAPH
21 NCAC 32B .0901 DEFINITION OF PRACTICE
21 NCAC 32B .0902 QUALIFICATION FOR LICENSURE
21 NCAC 32B .1101 APPLICATION FORMS
21 NCAC 32B .1102 FEE
21 NCAC 32B .1103 PERSONAL INTERVIEW
21 NCAC 32B .1104 ROUTINE INQUIRIES
21 NCAC 32B .1105 CME
21 NCAC 32B .1201 APPLICATION FORMS
21 NCAC 32B .1202 LETTERS OF RECOMMENDATION
21 NCAC 32B .1203 FEE
21 NCAC 32B .1204 PERSONAL INTERVIEW
21 NCAC 32B .1205 ROUTINE INQUIRIES
21 NCAC 32B .1206 ECFMG CERTIFICATION
21 NCAC 32B .1207 TEN-YEAR QUALIFICATION
21 NCAC 32J .0101 APPLICATION FOR REINSTATEMENT
21 NCAC 32J .0102 CONSIDERATION BY BOARD

21 NCAC 32J .0103 HEARING UPON DENIAL

The following rules are proposed for adoption. The highlighted text represents changes from the text posted in the NC Register.

SUBCHAPTER 32B – LICENSE TO PRACTICE MEDICINE

SECTION .1300 - GENERAL

21 NCAC 32B .1301 DEFINITIONS

The following definitions apply to rules within this Subchapter:

- (1) ABMS - American Board of Medical Specialties
- (2) ACGME – Accreditation Council for Graduate Medical Education
- (3) AMA – American Medical Association
- (4) AMA Physician's Recognition Award – American Medical Association recognition of achievement by physicians who have voluntarily completed programs of continuing medical education.
- (5) AOA – American Osteopathic Association
- (6) AOIA – American Osteopathic Information Association
- (7) Board –The North Carolina Medical Board
- (8) CACMS – Committee for the Accreditation of Canadian Medical Schools
- (8) CAQ – Certificate of Added Qualification conferred by a specialty board recognized by the ABMS, the AOA, CCFP, FRCP or FRCS
- (9) CCPF – Certificat of the College of Family Physicians
- (10) CFPC – College of Family Physicians of Canada
- (11) COCA – Commission on Osteopathic Colleges Accreditation
- (12) CME – Continuing Medical Education
- (13) COMLEX – Comprehensive Osteopathic Medical Licensure Examination
- (14) COMVEX – Comprehensive Osteopathic Medical Variable-Purpose Examination
- (15) ECFMG – Educational Commission for Foreign Medical Graduates
- (16) FCVS – Federation Credential Verification Service
- (17) Fifth Pathway – an avenue for licensure as defined in the AMA's Council on Medical Education Report 1-I-07
- (18) FLEX – Federation Licensing Examination
- (19) FRCP – Fellowship of the Royal College of Physicians of Canada
- (20) FRCS – Fellowship of the Royal College of Surgeons of Canada
- (21) FSMB – Federation of State Medical Boards
- (22) GME – Graduate Medical Education
- (23) HIPDB – Healthcare Integrity and Protection Data Bank
- (24) IMG – International Medical Graduate – a physician who has graduated from a medical or osteopathic school not approved by the LCME, the CACMS or COCA
- (25) LCME – Liaison Commission on Medical Education
- (26) LMCC – Licentiate of the Medical Council of Canada
- (27) MCCQE – Medical Council of Canada Qualifying Examination
- (28) NBME – National Board of Medical Examiners
- (29) NBOME – National Board of Osteopathic Medical Examiners
- (30) NPDB – National Practitioner Data Bank
- (31) RCPSC – Royal College of Physicians and Surgeons of Canada
- (32) SPEX – Special Purpose Examination
- (33) USMLE – United States Medical Licensing Examination

Authority G.S. 90-6.

21 NCAC 32B .1302 SCOPE OF PRACTICE UNDER PHYSICIAN LICENSE

A physician holding a Physician License may practice medicine and perform surgery in North Carolina.

Authority G.S. 90-1.1.

21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE

(a) In order to obtain a Physician License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) submit proof on a recent photograph, at least two inches by two inches, affixed to the Board's Medical Education Certification form form. The dean or other official of the applicant's medical school shall certify this as a true likeness of the applicant, and that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped over the photograph; on the form; the dean or other official of the applicant's medical school shall sign this form, verifying the information;
- (5) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- (6) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (7) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE; FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX,
 - (B) NBOME, and
 - (C) MCCQE;
- (8) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
 - (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have satisfactorily completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
 - (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
 - (C) An applicant may satisfy the graduate medical education requirements of Part (A) or (B) of this Subparapgraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (9) submit a FCVS profile, if an applicant has a completed FCVS profile;
- (10) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:

- (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
 - (11) submit reports from all relevant state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;
 - (12) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
 - (13) if applying on the basis of the USMLE, submit:
 - (A) a transcript from the FSMB showing a score of at least 75 on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3;
 - (B) proof that the applicant has passed each step within three attempts. However, the Board will waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years.
 - (14) if applying on the basis of COMLEX, submit:
 - (A) a transcript from the NBOME showing a score of at least 75 on COMLEX;
 - (B) proof that the applicant has passed COMLEX within three attempts. However, the Board will waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past ten years.
 - (15) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
 - (16) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;
 - (17) submit a FSMB Board Action Data Report;
 - (18) submit two completed fingerprint record cards supplied by the Board;
 - (19) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
 - (20) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the submission of the application; and
 - (D) bearing the original signature of the writer.
 - (21) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
 - (22) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past ten years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors;
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher); or
 - (2) within the past 10 years obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (3) within the past ten years completed GME approved by ACGME, CFPC, RCPC or AOA; or

(4) within the past three years, received a practice-relevant, three-year AMA Physician's Recognition Award or AOA equivalent CME, years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant may be required to appear in person for an interview with the Board or its agent.

(e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1.

21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE

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

(b) All applicants for reinstatement shall:

(1) submit a completed application, attesting under oath that information on the application is true and complete, and authorizing the release of the Board of all information pertaining to the application;

(2) submit documentation of a legal name change, if applicable;

(3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport, if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;

(4) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:

(A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or

(B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;

(5) submit reports from all state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;

(6) submit the AMA Physician Profile; and, if applicant is an osteopathic physician, also submit the AOA Physician Profile;

(7) submit a NPDB/HIPDB report dated within 60 days of the application's submission;

(8) submit a FSMB Board Action Data Bank report;

(9) submit documentation of CME obtained in the last three years;

(10) submit two completed fingerprint cards supplied by the Board;

(11) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;

(12) provide two original references from persons with no family or material relationship to the applicant. These references must be:

(A) from physicians who have observed the applicant's work in a clinical environment within the past three years;

(B) on forms supplied by the Board;

(C) dated within six months of submission of the application; and

(D) bearing the original signature of the author.

- (13) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;
- (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past ten years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher); or
 - (2) within the past ten years obtained certification or recertification of CAQ by a speciality board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (3) within the past ten years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
 - (4) within the past three years, received a practice-relevant, three-year AMA Physician's Recognition Award or AOA equivalent CME, years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (d) All reports must be submitted directly to the Board from the primary source, when possible.
- (e) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.
- (f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S.90-8.1; 90-9.1; 90-10.1; 90-13.1.

21 NCAC 32B .1360 REACTIVATION OF PHYSICIAN LICENSE

- (a) Reactivation applies to a physician who has held a physician license in North Carolina, and whose license has been inactive for up to one year. Reactivation is not available to a physician whose license became inactive either while under investigation by the Board or because of disciplinary action by the Board.
- (b) In order to reactivate a Physician License, an applicant shall:
- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
 - (2) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the US and who do not plan to practice physically in the US. Those applicants shall submit a statement of that effect);
 - (3) submit a FSMB Board Action Data Bank report;
 - (4) submit documentation of CME obtained in the last three years;
 - (5) submit two completed fingerprint record cards supplied by the Board;
 - (6) submit a signed consent form allowing search of local, state, and national files for any criminal record;
 - (7) pay to the Board the relevant, non-refundable fee, plus the cost of a criminal background check; and
 - (8) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (c) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

SECTION .1400 – RESIDENT'S TRAINING LICENSE

21 NCAC 32B .1401 SCOPE OF PRACTICE UNDER RESIDENT'S TRAINING LICENSE

A physician holding a limited license to practice in a medical education and training program may only practice within the confines of that program and under the supervision of its director.

Authority G.S. 90-12.01.

21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE

(a) In order to obtain a Resident's Training License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the US and who do not plan to practice physically in the US. Those applicants shall submit a statement to the effect);
- (4) submit a recent photograph, at least two inches by two inches, affixed to the Board's Medical Education Certification form. The dean or other official of the applicant's medical school shall certify this as a true likeness of the applicant, and that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped over the photograph;
- (5) If the graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (6) submit an appointment letter from the program director of the GME program or his appointed agent verifying the applicant's appointment and commencement date;
- (7) provide two original references from persons with no family or martial relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical setting;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the application; and
 - (D) bearing the original signature of the writer;
- (8) submit two completed fingerprint record cards supplied by the Board;
- (9) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (10) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;

(11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(b) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

Authority G.S. 90-8.1; 90-12.01; 90-13.1.

SECTION .1600 – SPECIAL PURPOSE LICENSE

21 NCAC 32B .1601 SCOPE OF PRACTICE UNDER SPECIAL PURPOSE LICENSE

The Board may limit the physician's scope of practice under a Special Purpose License by geography, term, practice setting, and type of practice.

Authority G.S. 90-12.2A.

21 NCAC 32B .1602 SPECIAL PURPOSE LICENSE – VISITING INSTRUCTOR

(a) The Special Purpose License is for physicians who wish to come to North Carolina for a limited time, scope and purpose, such as to demonstrate a new technique, procedure or piece of equipment, or to educate physicians or medical students in an emerging disease or public health issue.

(b) In order to obtain a Special Purpose License, an applicant shall:

(1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;

(2) submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;

(2) submit documentation of a legal name change, if applicable;

(3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;

(4) comply with all requirements of G.S. 90-12.2A;

(5) submit the Board's form, completed by the mentor, showing that the applicant has received an invitation from a medical school, medical practice, hospital, clinic or physician licensed in the state of North Carolina, outlining the need for the applicant to receive a special purpose license and describing the circumstances and timeline under which the applicant will practice medicine in North Carolina;

(6) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, also submit AOA Physician Profile;

(7) submit an FSMB Board Action Data Bank report;

(8) submit two completed fingerprint record cards supplied by the Board;

(9) submit a signed consent form allowing a search of local, state, and national files for any criminal record;

(10) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;

(11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S. 90-8.1; 90-9.1; 90-12.2A; 90-13.1.

SECTION .1700 – OTHER LICENSES

21 NCAC 32B .1701 SCOPE OF PRACTICE UNDER MILITARY LIMITED VOLUNTEER LICENSE

The holder of a Military Limited Volunteer License may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients, and may not receive any compensation for services rendered, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1702 APPLICATION FOR MILITARY LIMITED VOLUNTEER LICENSE

(a) The Military Limited Volunteer License is available to physicians working in the armed services or Veterans Administration who are not licensed in North Carolina, but who wish to volunteer at civilian indigent clinics.

(b) In order to obtain a Military Limited Volunteer License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit proof of an active license from a state medical or osteopathic board indicating the status of the license and whether or not any action has been taken against the license;
- (4) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States ;
- (5) provide proof that the application is authorized to treat personnel enlisted in the United States armed services or veterans by submitting a letter signed by the applicant's commanding officer;
- (6) submit a FSMB Board Action Data Bank report;
- (7) submit two completed fingerprint record cards supplied by the Board;
- (8) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (9) pay a non-refundable fee to cover the cost of a criminal background check;
- (10) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(e) An application must be completed within one year of the date of submission.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1703 SCOPE OF PRACTICE UNDER RETIRED LIMITED VOLUNTEER LICENSE

The holder of a Retired Limited Volunteer License may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients, and may not receive any compensation for services rendered, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

21 NCAC 32B .1704 APPLICATION FOR RETIRED LIMITED VOLUNTEER LICENSE

(a) The Retired Limited Volunteer License is available to physicians who have been licensed in North Carolina or another state or jurisdiction, but who wish to volunteer at civilian indigent clinics.

(b) In order to obtain a Retired Limited Volunteer License, an applicant who holds an active license in another state or jurisdiction shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (2) submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
- (3) submit a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) submit proof of an active license from another state medical or osteopathic board indicating the status of the license and whether or not any action has been taken against it;
- (5) submit two completed fingerprint record cards supplied by the Board;
- (6) submit a signed consent form allowing a search of local, state and national files for any criminal record;
- (7) pay a non-refundable fee to cover the cost of a criminal background check;
- (8) submit a FSMB Board Action Data Bank report;
- (9) submit documentation of CME obtained in the last three years;
- (10) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (11) All materials must be submitted to the Board from the primary source, when possible.

(c) An applicant who holds an active North Carolina physician license may convert that to a Retired Limited Volunteer License by completing the Board's form.

(d) An applicant who has been licensed in North Carolina but has been inactive less than six months may convert that to a Retired Limited Volunteer License by completing the Board's license renewal questions.

(e) An applicant who has been licensed in North Carolina but who has been inactive for more than six months but less than two years must use the reactivation process set forth in 21 NCAC 32B .1360. An applicant who does not have a North Carolina license, but has an inactive license to practice medicine and surgery in another state or jurisdiction, and who has been inactive for more than six months but less than two years must comply with the requirements for reactivation of physician license under 21 NCAC 32B .1360.

(f) A physician who has been inactive for more than two years will be required to complete a reentry program.

(g) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(h) An application must be completed within one year of the date of submission.

21 NCAC 32B .1705 LIMITED PHYSICIAN LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board may, pursuant to G.S. 90-12.5, issue a Limited Physician License for Disasters and Emergencies whenever the Governor of the State of North Carolina has declared a disaster

or states of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with state of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-12(a);

(b) In order to obtain a Limited Physician License for Disasters and Emergencies, an applicant shall:

- (1) provide government-issued photo identification;
- (2) provide proof of current licensure to practice medicine in another state or jurisdiction; and
- (3) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;

(c) The Board may obtain any additional information it deems necessary to evaluate the applicant's competence and character.

(d) The Board may limit the physician's scope of practice as to geography; term; type of practice; and prescribing.

(e) A physician holding a Limited Physician License for Disasters and Emergencies shall not receive any compensation, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-12.5.

SECTION .2000 – EXPEDITED APPLICATION FOR PHYSICIAN LICENSE

21 NCAC 32B .2001 EXPEDITED APPLICATION FOR PHYSICIAN LICENSE

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

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

- (1) complete the Board's application form, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) on the Board's form, submit a photograph taken within the past year, at least two inches by two inches, certified as a true likeness of the applicant by a notary public;
- (4) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired U.S. passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. Those applicants shall submit a statement to the effect);
- (5) provide proof that applicant has held an active license to practice medicine in at least one other state, the District of Columbia, U.S. Territory or Canadian province for at least five years immediately preceding this application;
- (6) provide proof of clinical practice providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (7) provide proof of certification or recertification by an ABMS, CCFP, FRCP, FRCS, or AOA approved specialty board within the past ten years;
- (8) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA Physician Profile;
- (9) submit a NPDB/HIPDB report dated within 60 days of the applicant's oath;

- (10) submit a FSMB Board Action Data Bank report;
 - (11) submit two completed fingerprint record cards supplied by the Board;
 - (12) submit a signed consent form allowing a search of local, state and national files to disclose any criminal record;
 - (13) pay to the Board a non-refundable fee of three hundred fifty dollars (\$350.00), plus the cost of a criminal background check; and
 - (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) A clean license application means that the physician has none of the following:
- (1) professional liability insurance claim(s) or payment(s);
 - (2) criminal record;
 - (3) medical condition(s) which could affect the physician's ability to practice safely;
 - (4) regulatory board complaint(s), investigation(s), or action(s) (including applicant's withdrawal of a license application);
 - (5) adverse action taken by a health care institution;
 - (6) investigation(s) or action(s) taken by a federal agency, the U.S. military, medical societies or associations;
 - (7) suspension or expulsion from any school, including medical school.
 - (8) graduation from any United States or Canadian medical school that is not LCME or CACMS approved; or
 - (9) has passed no licensing examination other than Puerto Rico Written Examination/Revalida.
- (d) All reports must be submitted directly to the Board from the primary source, when possible.
- (e) The application process must be completed within one year of the date on which the application fee is paid. If not, the applicant shall be charged a new applicant fee.

Authority G.S. 90-9.1; 90-5; 90-11; 90-13.1.

21 NCAC 32F .0106 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED SERVICES OF THE US

The Board shall waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating the maintenance of licensure by an individual who is:

- (1) currently licensed by and in good standing with the Board;
- (2) serving in the armed forces of the United States or serving in support of such armed forces; and
- (3) serving in a combat zone, or serving with respect to a military contingency operation as defined by 10 U.S.C. 101(a)(13).

Authority G.S. 105-249.2; S. L. 2009-458 Section 7508 of the Internal Revenue Code; 10 U.S.C. 101.

21 NCAC 32R .0105 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED SERVICES OF THE US

The Board shall waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating the maintenance of licensure by an individual who is:

- (1) currently licensed by and in good standing with the Board;
- (2) serving in the armed forces of the United States or serving in support of such armed forces; and
- (3) serving in a combat zone, or serving with respect to a military contingency operation as defined by 10 U.S.C. 101(a)(13).

Authority G.S. 105-249.2; S. L. 2009-458 Section 7508 of the Internal Revenue Code; 10 U.S.C. 101.

The Board voted to adopt the proposed rules. The rules will be submitted to the Rules Review Commission for presentation at their July meeting.

ADJOURNMENT

This meeting was adjourned at 1:40pm, Thursday, June 17, 2010.

William A. Walker, MD
Secretary/Treasurer