

# forum

N C M E D I C A L B O A R D

Reflections on a  
Malpractice Case - page 5

## President's Message

## Notes on Passing the Baton



Charles L. Garrett, Jr, MD

It seems like a short time since last February when I became your Board's president; but after the October meeting, Stephen M. Herring, MD, DDS, a talented plastic surgeon from Fayetteville and long time member of the Board, will assume the presidency. I hope you will give him the same support you have given me. All of us on the Board enjoy the work we are doing on behalf of our licensees and the people of North Carolina. But meeting up to three full days every

month, coupled with the review work we do at home between meetings, is hard for those of us in active medical practice. However, I believe that actively practicing physicians are in the best position to deal with the many problems that our licensees bring before us. We need your support, and we need some of you to seek gubernatorial appointment to serve on this Board.

Our dedication of the Board's new office building was a glorious event. I am sorry that more of our licensees and members of the public could not attend. James N. Thompson, MD, president and chief executive officer of the Federation of State Medical Boards, gave a meaningful dedication speech and recounted the Board's illustrious 144-year history. As you may know, Dr Thompson is "one of us," having served at the Wake Forest University School of Medicine for many years and having been dean of that distinguished institution. His participation in the



Offices of the North Carolina Medical Board, 1203 Front Street, Raleigh, North Carolina.

dedication ceremony was certainly appropriate and deeply appreciated. Besides the pictures of our new facility that accompany this article, you will find a selection of photos of the dedication ceremony on pages three and four of this number of the *Forum*.

We are very proud of the Board's new offices, as you should be. As the plaque that adorns the entrance makes clear, it is dedicated to our licensees, to those who have served the Board, and, most particularly, to the health of the people of this state.

We have changed a number of things to make your interaction with

the Board easier, but please let us know if you encounter problems in your dealings with us. We want to be as "user friendly" as possible. Our Web site has won accolades for its completeness and ease of navigation and use. I encourage you to try it out at



The Board room in the new offices of the North Carolina Medical Board.

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*Primum Non Nocere*

# forum

N C M E D I C A L B O A R D

Raleigh, NC

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The *Forum* of the North Carolina Medical Board is published four times a year. Articles appearing in the *Forum*, including letters and reviews, represent the opinions of the authors and do not necessarily reflect the views of the North Carolina Medical Board, its members or staff, or the institutions or organizations with which the authors are affiliated. Official statements, policies, positions, or reports of the Board are clearly identified.

We welcome letters to the editor addressing topics covered in the *Forum*. They will be published in edited form depending on available space. A letter should include the writer's full name, address, and telephone number.

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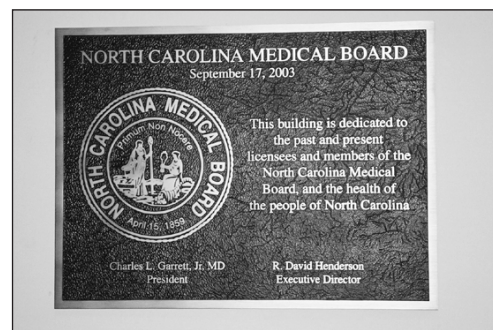
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[www.ncmedboard.org](http://www.ncmedboard.org). We are always open to suggestions for improvement.

Several changes were made to the Medical Practice Act by the General Assembly in 2003. These are fur-



*The dedication plaque affixed to the entrance of the new offices of the North Carolina Medical Board.*

ther detailed in this *Forum*. Scope of practice issues continue to confront your Board. We will deal with these matters as advised by our attorneys and as we believe is best for the health of the citizens of North Carolina. We are not alone. This is a nationwide concern. I was fortunate enough to be appointed to the special Scope of Practice Committee of the Federation of State Medical Boards. You can be assured that North Carolina will be represented and heard on these issues.



*Friends and former members of the North Carolina Medical Board gathered for dedication ceremony.*

October marks the last Board meeting for Walter J. Pories, MD, whose terms have maxed out. He has served this Board, our licensees, and the citizens of this state for the past six years. He has been a personal mentor and close friend. If ever the phrase "a gentleman and a scholar" were applied, it would have to be to Walter. His stellar academic background has been of immense benefit to us. His years of training residents has helped us better understand their problems and those of full time academic physicians. But he will be most remembered for his gentle manner, his cool head, and his leading us to the right decisions. None of us will ever forget his wonderful articles in the *Forum*, nor the excellent cartoons from the accomplished artist. But, knowing Walter, he will continue to grace our pages with his sage and comic advice. Please join me in wishing him "God speed" and thanking him for a job very well done.

## NCMB Building Dedication: A Photo Gallery

On September 17, 2003, the North Carolina Medical Board formally dedicated its new offices at 1203 Front Street, Raleigh, North Carolina. The ceremony was conducted by Charles L. Garrett, Jr, MD, the Board's president, and the dedication address was delivered by James N. Thompson, MD, president and CEO of the Federation of State Medical Boards. During the program, Dr Garrett recognized recently retired Board members Elizabeth P. Kanof, MD; Mr Hari Gupta; and George C. Barrett, MD (who was not present). He also announced the dedication of a conference room in the new building to John Tyler Dees, MD, the Board's late president. The photos on this and the next page of the *Forum* provide some highlights of the dedication ceremony.



*R. David Henderson, executive director of the North Carolina Medical Board, welcoming the Board's guests and introducing Charles L. Garrett, Jr, MD, the Board's president.*



*Charles L. Garrett, Jr, MD, the Board's president, opening the dedication ceremony.*



*Dr Garrett, (r), recognizing Elizabeth P. Kanof, MD, (l), a retired member of the Board, for her service.*



*Dr Garrett, (r), recognizing Hari Gupta, (l), a retired member of the Board, for his service.*



*Dr Garrett, (r), announces dedication of a conference room in the Board's new offices to John Tyler Dees, MD, the Board's late president. Mrs Dees, (l), listens.*



*Mrs John Tyler Dees unveils the plaque that will hang in the newly dedicated John Tyler Dees, MD, Conference Room in the Board's new offices*



## Photo Gallery



*James N. Thompson, MD, president and CEO of the Federation of State Medical Boards of the U.S., formally dedicates the North Carolina Medical Board's new office building.*



*Dr. Thompson asks Charles L. Garrett, Jr, MD, president of the Board, to assist him in cutting the ribbon opening the Board's new office building.*



*Dr. Thompson, (l), and Dr. Garrett, (r), announce the formal opening of the new offices of the North Carolina Medical Board.*



*R. David Henderson, (r), executive director of the North Carolina Medical Board, presents a Board lapel pin and a history of the Board to Dr. Thompson, (l).*



*Bryant D. Paris, (c), emeritus executive director of the Board, and his wife, Patsy, (r), greet Mrs. Martha K. Walston, (l), who, in 1981, became the Board's first public member.*



*Offices of the North Carolina Medical Board, 1203 Front Street, Raleigh, North Carolina.*

*A Personal Insight*

## Reflections on a Malpractice Case: Understanding and Learning

*A North Carolina Physician*

The North Carolina Medical Board recently asked me to explain a malpractice claim that was settled against me. It was determined that I failed to properly diagnose a case of ischemic bowel that ultimately contributed to the patient's death. It has taken me a great deal of time to reflect on how I could explain to the Board the situation I was in during the time I took care of this patient.

First, I will explain the case, and then I would like to explain the circumstances that I now know contributed to the care I rendered. The patient was admitted to our hospital for chest pain on the cardiology service and ultimately ruled out for a myocardial infarction. Soon afterwards, he experienced a bout of abdominal pain for which I was consulted. After ordering X rays and labs, my working diagnosis was non-specific abdominal pain. By the time of discharge, I concluded he was better and back to baseline. Despite instructions to contact me immediately should he experience pain, he presented back to the emergency room two days later with an acute abdomen. Shortly afterwards, he developed a perforation, was taken to surgery, and resected. He ultimately died of complications of his perforation. A malpractice claim was brought against me for failing to diagnose ischemic bowel prior to his discharge. The case was settled in mediation and a payment was made to his wife.

Now I would like to explain the circumstances I have come to see contributed to the care offered this patient and how I have changed in the way I practice as a direct result of that incident. First of all, let me offer a little history about my practice and myself. I was recruited to my hospital, located in a rural community, immediately after completing my fellowship in gastroenterology. I became board certified a year later. I was a solo practitioner, and from my arrival in the community until the time I was asked to consult on this patient, about seven years, it was standard in our hospital to ask the specialists, be they GI, pulmonary, or cardiology, to admit patients because the primary care providers depended on us to care for

their patients. In retrospect, I was working 60 to 70 hours a week and, being the only gastroenterologist in town, I was on call 24 hours a day, seven days a week.

I recall seeing this patient late in the evening, so late that I delayed dictating the consultation until the next day. I was overburdened, my patient responsibilities were such that I was working late into every evening, I was never at home, and my personal life suffered. Thank God I have a wonderfully supportive wife. I now realize how busy and demanding my responsibilities were. I often felt overwhelmed, tired, and stressed, but being the only physician in my specialty, I felt a sense of responsibility to these patients and referring doctors. I just could not decline a consult. As a direct result of this situation, I have come to learn that, because of how busy I was and how I felt responsible for consulting on all non-surgical patients with abdominal pain, I was just too busy, was too worn out, had too many patients, and was spread too thin to offer competent care.

Things have changed since that time. First of all, I realize I cannot do everything. I have a limit to how many hours I can work and how many patients and procedures I can perform. I also now have a partner. I fully accept responsibility for not correctly diagnosing the patient's ischemia. In retrospect, I would have made the time to personally review his X ray and not depend on a verbal interpretation as I had to at the time.

I firmly believe I am a competent physician and my failure to properly diagnose the patient was not due to medical negligence but to the fact that I practice in a rural, under-served setting and that I was extremely busy and overworked. I just did not know when to say: "I just cannot do it all." I wish the Board to understand what we, as physicians, deal with on a day-to-day basis in our community, which doesn't have enough primary care providers and specialists. Despite long hours of work, ever increasing threats of lawsuits, demands from managing our offices and our families, and developing trust with often inexperienced nurses, we truly love our profession.

*"I just did  
not know  
when to say:  
I just  
cannot  
do it all"*

### North Carolina Medical Board

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# General Assembly Amends Medical Practice Act with Session Law 2003-366

Amy L. Yonowitz, JD  
NCMB Legal Staff

On August 1, 2003, the Governor signed into law a bill entitled "An Act to Amend Certain Provisions of Article 1, Chapter 90 of the General Statutes Relating to the North Carolina Medical Board and the Practice of Medicine." This law, which became effective on October 1, 2003, makes changes to the composition of the Board, as well as procedural changes to the way disciplinary proceedings will be conducted by the Board. Following is an overview of the changes that have been made. If you would like to see a full text of the law, it is available on the North Carolina General Assembly Web site: [www.ncga.state.nc.us](http://www.ncga.state.nc.us).

**Board Composition:** Section 1 of Session Law 2003-366 makes changes to North Carolina General Statute § 90-2 regarding the composition of the Medical Board. Currently, the statute requires that the twelve member Board contain seven licensed physicians elected and nominated to the Governor by the North Carolina Medical Society. Of the five remaining members, current law requires that three be public members and one be a physician assistant or nurse practitioner, while no restrictions are placed on the remaining "at-large" member. The new law requires that this "at-large" member be "a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical Society." However, the law specifically states this change will not affect current Board members, who shall be allowed to serve out their terms.

In addition, this new law includes the following language regarding appointees to the Board: "Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition."

**Integrative Medicine:** There are references throughout the newly enacted law to "integrative medicine." A new statutory section, North Carolina General Statute § 90-2.1, defines integrative medicine as "a diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments."

Furthermore, as of the effective date of this law, the Board will be required to consult with a licensee who practices integrative medicine prior to taking any action against a licensee with respect to standards of

practice for integrative medical procedures.

**Disciplinary Actions by the Board:** North Carolina General Statute § 90-14 (a) enumerates the reasons for which the Board shall have the power to deny, annul, suspend, or revoke a license in this state. Currently, subsection (11) of § 90-14 (a) states that the Board may take action on a license for

Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients. In this connection the Board may consider repeated acts of a physician indicating the physician's failure to properly treat a patient. The Board may, upon reasonable grounds, require a physician to submit to inquiries or examinations, written or oral, by members of the Board or by other physicians licensed to practice medicine in this State, as the Board deems necessary to determine the professional qualifications of such licensee.

The new law adds language to subsection (11) in order to clarify what is required of the Board prior to taking action on a license for the reasons listed in subsection (11). The additional language requires that, "In order to annul, suspend, deny or revoke a license of an accused person, the Board shall find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered."

**Evidentiary Issues:** Finally, Session Law 2003-366 modifies North Carolina General Statute § 90-14.6 with respect to evidence that is admissible in hearings conducted by the Board. The following language is added to the statute.

(b) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, in proceedings held pursuant to this Article, the licensee under investigation may call witnesses, including medical practitioners licensed in the United States, with expertise in the same field of practice as the licensee under investigation, and the Board shall consider this testimony. Witnesses shall not be restricted to experts certified by the American Board of Medical Specialties.

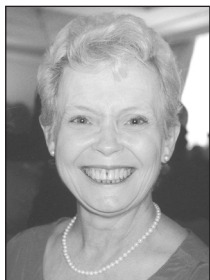
(c) Subject to the North Carolina Rules of Civil Procedure and Rules of Evidence, statements contained in medical or scientific literature shall be competent evidence in proceedings held pursuant to this Article.

It should be noted that both of these evidentiary changes to Article 1 of the Medical Practice Act still subject all evidence introduced at a Board proceeding to the North Carolina Rules of Civil Procedure and Rules of Evidence.



# The National Alliance for the Mentally Ill Family to Family Program

Violette Blumenthal, BSN, RN, RNC.



Ms Blumenthal

Over 30 years ago, I was in the spring semester of my last year in college, the first time around. After having studied the symptoms and causes of various mental illnesses, one of my fellow students asked our professor what she thought was *the* cause out of all that we had studied. She replied, "I think it's biochemical, but I can't prove it."

Almost 20 years later, as a nursing student in my second bachelor degree program, I was assigned to a patient with somatic schizophrenia on the locked unit of a hospital. It was horrible seeing her acutely ill: curled into a fetal position and begging us to do something about the bugs crawling in her head and the worms crawling in her belly. Two days later, back on her medications, she was as normal as anyone.

Thanks to these two experiences, I was in a better position than most to believe and accept that my 16-year-old son was ill when he was diagnosed with bipolar disorder in 1993. He wasn't bad. He didn't need to just shape up and get on with his life. And, thankfully, it wasn't my bad parenting that caused his problem. Unfortunately, this is not information that most family members of the mentally ill have.

However, nothing in my previous training or experience prepared me for being awakened, repeatedly, at three in the morning by a manic 16-year-old needing to talk. Nothing prepared me for assuring him that his breathing was normal (one of his delusions/hallucinations was that he couldn't breathe) for an hour at a time, several times a day. Nothing prepared me for the horror of seeing the EMTs strap him onto a stretcher in preparation for his second trip to the hospital with his worst episode. Nothing prepared me for the terrible fear that he would never have a normal day again. Nothing prepared me for the lack of day treatment in my area, for the need to drive him to the only program available 17 miles away (no transportation provided), and for the need to sleep in a sleeping bag in one of the seclusion rooms there so he could benefit from the program. (I worked nights as a nurse, drove him there in the morning, slept there during the day, brought him home in the afternoon, and was grateful to do it—otherwise he'd get no help and keep me up all day.)

Unfortunately, my prior training and experiences led me to believe that all he had to do was take his pills and he would be fine. Even as a nurse, even just the

medications were difficult—at one point he was on 19 pills a day! Two and a half years, five hospitalizations, and trials of practically every psychiatric medication known to man later, my son reached an almost miraculous stabilization that continues to this day. I am very grateful to his psychiatrists, to his therapists, to the hospital workers who monitored him, to a good friend/relative who happens to be a psychiatric nurse (who listened to me for *hours*), to him for being the kind young man he is, and to the National Alliance for the Mentally Ill (NAMI)—especially for its Family to Family Program.

This incredible program covers five major mental illnesses (major depression, schizophrenia, bipolar illness, panic disorder, and obsessive compulsive disorder), their symptoms, brain chemistry, and basic medications. It also offers coping skills, crisis intervention, listening and communication techniques, empathy, self-care for care-givers, and insights on rehabilitation, recovery, stigma, and advocacy. Developed largely by Dr Joyce Clifford Burland, a PhD in clinical psychology and herself a "family" member, this twelve-week program, which is free, has helped 60,000 family members in 44 states. It is a unique, peer education program.

Especially in these days of shortened hospital stays, family members are called on more than ever to care for loved ones who aren't yet stable, but who nevertheless will be discharged home. I had more experience than most family members do, but no one trained me for how to deal with an acutely ill family member 24 hours a day. His psychiatrists and therapists were wonderful, but they didn't have 2½ hours for 12 weeks to teach me what this class did. However, one of them did suggest that I take the class and that I get involved with the NAMI.

The first time I went to a NAMI meeting, I cried for almost the whole session. It was such a relief to not feel alone, to know that the other people there knew what I was going through, to get concrete suggestions for dealing with my son, and to hear that there was hope. The class further reinforced this. The NAMI and the program have meant so much to me that I have become an instructor and a member of the board of my local NAMI chapter. I hope to continue in both those roles as long as I live.

I am not alone in my gratitude for the NAMI program. Evaluations of the class are part of the last meeting. One class member I had was a psychiatrist who happens to be the daughter of a mentally ill parent. She took the class to cope with her own mother more

*"Nothing in my previous training or experience prepared me for being awakened, repeatedly, at three in the morning by a manic 16-year-old needing to talk"*

## *The National Alliance for the Mentally Ill*

*"Family members are called on to care for loved ones who aren't yet stable, but who will be discharged home"*

effectively, to ensure herself of the accuracy of the material so that she could be comfortable in referring patients' family members to the program, and to hone her skills for relating to family members. Even with 10 years experience, she wrote, "Your course turned out to be a treasure that I fervently wish had been presented to me during my training instead of 10 years into my practice. . . . The course was so accurate and helpful that I recommend it highly to any of my patients' family members who show up in my office."

Other class members have reported that the program helped them to understand (1) why diagnosing and finding the right medications can take time; (2) how to communicate better with the affected family member; (3) that their relative was not spoiled or lazy; (4) how to cope with their loved one. Still other class members have felt less anger toward and more empathy with their loved ones, less guilt and isolation for themselves. One comment particularly touched me: "Very necessary (this class)! Learned a great deal from the class. So much so that we were able to bring my stepson back home."

There has also been a pilot study of the Family to Family Program's effectiveness. In an article published by the American Psychiatric Association in 2001, Dr Lisa Dixon, of the University of Maryland School of Medicine in Baltimore, and her colleagues report that the study results suggest the Family to Family Program "enhanced family member's empowerment and reduced their subjective burden of mental illness by diminishing worry and displeasure. . . by the end of the 12-week program. . . and for six months after pro-

gram completion." (*Psychiatric Services*, 52:965, July 2001)

When a catastrophe-like mental illness strikes a family, anything that can alleviate guilt and isolation, anything that can increase the family's coping skills, and anything that gives the family hope for dealing with the illness is immensely valuable. This class does all that.

Referrals from therapists and psychiatrists are one of the major sources of students for the NAMI Family to Family Program. For further information about this approach to helping families help themselves and their loved ones, call the NAMI North Carolina office at (919) 788-0801.

Ms Blumenthal took her BS in biology from Butler University in Indianapolis, Indiana, in 1969. She taught high school biology for seven years. She then graduated magna cum laude from Salem State College, Salem, Massachusetts, with a BSN in 1988. Following that, she worked for five years as an RN in several Boston area community hospitals. At Duke University Medical Center since 1990, she works mostly in the Mother/Baby, Full-term Nursery, and Labor and Delivery areas. Her son became ill in 1993 and she became active in the NAMI in 1996. She coordinated the Durham Chapter from 1997 to 2000 and is currently membership chair and a family-to-family teacher. She also coordinates the Durham Chapter of the Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN). Ms Blumenthal was certified by the National Certification Corporation in December 2001 as a mother/baby nurse.

## *Radiological and Pathological Services*

### **Out-State Physicians Need North Carolina License to Provide Medical Services Related to Patients in NC**

*Marcus B. Jimison, JD  
NCMB Legal Staff*

Need a radiologist to interpret an X ray? Need a pathologist to interpret a specimen? Well, if the X ray or specimen pertains to a person receiving medical care within North Carolina from you, a North Carolina licensed physician, then the radiologist or pathologist to whom you send the X ray or specimen most likely must be licensed by the North Carolina Medical Board. If not, then you may have aided and abetted the unlicensed practice of medicine and committed an act that creates grounds for the Medical Board to suspend or revoke your medical license. Why? Let me explain.

North Carolina law defines the practice of medicine as follows.

Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person. A person who resides in any state and who, by



use of any electronic or other mediums, performs any of the acts described in this subsection shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board. (N.C. Gen. Stat. § 90-18(b).)

In regard to radiology, North Carolina law further states the following.

*Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. "Radiology" shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. . . . (N.C. Gen. Stat. § 90-18(c)(12)[emphasis added]).*

Lastly, N.C. Gen. Stat. § 90-18(a) reads: "[n]o person shall practice medicine or surgery. . . unless the person shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered. . . . [t]he person so practicing without license shall be guilty of a Class 1 misdemeanor."

What does all this mean? It means that the interpretation of radiological studies or pathological specimens for the purpose of forming a diagnosis or treatment plan is the practice of medicine (ie, "shall diagnose or attempt to diagnose, treat or attempt to treat"). Consequently, the person interpreting the study or specimen must have a North Carolina medical license, except as noted in the footnote below.

And it makes no difference if the study or specimen is sent outside the state for interpretation. To repeat

the last sentence of N.C. Gen. Stat. § 90-18(b): "[a] person who resides in any state and who, by use of any electronic or other mediums, performs any of the acts described in this subsection shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board."\* Therefore, mailing, e-mailing, faxing, FedEx-ing, UPS-ing, Pony Express-ing, or messenger pigeon-ing the study or specimen to an unlicensed, out-of-state radiologist or pathologist still results in a violation of the law.

Simple, yes?

At its core, North Carolina law seeks to assure the public that anyone who attempts to diagnose or treat persons in North Carolina actually holds a North Carolina medical license and is safe to practice. Otherwise, physicians could refer film or specimens to unlicensed pathologists or radiologists for interpretation, with such interpretations being relied upon by a physician here when formulating a diagnosis or treatment plan, without any guarantee that the unlicensed pathologist or radiologist who reviewed the film or specimen was qualified to do so with regard to education, training, competency, or character. If a radiologist or pathologist practices below minimum standards, then the Medical Board must have jurisdiction to suspend that practitioner's privilege to practice. The only means by which the Medical Board can put an end to a particular practitioner's substandard practice is by taking action against his or her license. That ability would be severely compromised, if not eviscerated, if the substandard practice came from an unlicensed individual practicing out-of-state. Thus, the only means by which to provide the public reasonable confidence that the radiologist or pathologist interpreting the X ray or the specimen is competent is to require that such person hold a North Carolina medical license.

*"North Carolina law seeks to assure the public that anyone who attempts to diagnose or treat persons in North Carolina actually holds a North Carolina medical license"*

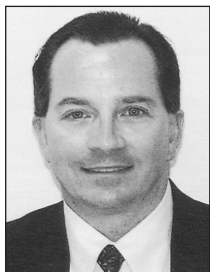
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\*Pursuant to N.C. Gen. Stat. 90-18(c)(11), a "non-registered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training" shall not be deemed to be practicing medicine in North Carolina. A plain reading of this exception, as well as common sense, would dictate that "irregular basis" would be interpreted as a physician consulting no more than a few times a year. It should not be interpreted as allowing an out-of-state, unlicensed radiologist or pathologist to handle a large number of cases on an on-going basis.

## North Carolina Medical Board Officers Elected: **Stephen M. Herring, MD, President; Charles L. Garrett, Jr, MD, President Elect; Robert C. Moffatt, MD, Secretary; H. Arthur McCulloch, MD, Treasurer**

R. David Henderson, executive director of the North Carolina Medical Board, has announced that the Board recently elected its officers for the coming year. Stephen M. Herring, MD, of Fayetteville, will take office as the Board's president on November 1. At the same time, Charles L. Garrett, Jr, MD, of Jacksonville, will become president elect. Robert C. Moffatt, MD, of Asheville, will continue as the Board's secretary, and H. Arthur McCulloch, MD, of Charlotte, will continue as the Board's treasurer. Their terms will run until October 31, 2004.

### **Stephen M. Herring, MD, President**



*Dr Herring*

Stephen M. Herring, MD, a native of Chapel Hill, North Carolina, took his BA degree at the University of North Carolina, Chapel Hill. He earned a DDS from the University of North Carolina School of Dentistry, followed by an MD from the Wake Forest University/Bowman Gray School of Medicine. He did his internship in general surgery and a residency in general surgery and plastic surgery at Bowman Gray. He is certified by the American Board of Plastic Surgery and holds licenses in both medicine and dentistry.

Currently in the private practice of plastic surgery in Fayetteville, Dr Herring is affiliated with Cape Fear Valley Medical Center and Highsmith-Rainey Memorial Hospital. He is a member of the American Society of Plastic and Reconstructive Surgeons and is active in state and local professional organizations. He is also a past president of the Cumberland County Medical Society and author and co-author of several journal articles.

Dr Herring was first named to the Board in 1998. He has served on several Board committees and has chaired the Policy Committee and the Investigative Committee. He served as Board secretary from November 1, 2002, and was chosen president elect in February 2003.

### **Charles L. Garrett, Jr, MD, President Elect**

Charles L. Garrett, Jr, MD was first named to the Board in January 2001. He served as the Board's secretary/treasurer from February 2002 through October 2002 and served as president elect of the Board from



*Dr Garrett*

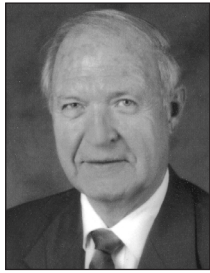
November 1, 2002, until assuming the office of president on the death of Dr John T. Dees in February 2003. Besides his service as a Board officer, he has chaired the Board's Policy Committee and is a member of the Investigative, Executive, and Legal Committees.

Dr Garrett is director of laboratories at Onslow Memorial Hospital; managing senior partner of Coastal Pathology Associates, PA; medical director and adjunct faculty member at the School of Medical Laboratory Technicians at Coastal Carolina Community College; medical examiner of Onslow and Jones Counties; southeastern regional pathologist for the Office of the Chief Medical Examiner of North Carolina; and executive director of the Onslow County Medical Society. A native of South Carolina, he received his undergraduate education at Wofford College in Spartanburg, SC, and took his MD, magna cum laude, at the Medical College of South Carolina in Charleston.

Dr Garrett did his postgraduate training at the Medical University Teaching Hospitals in Charleston, South Carolina, and a fellowship at the Medical College of Virginia and in the Office of the Chief Medical Examiner of Virginia. He is certified by the American Board of Pathology. He also served in the U.S. Navy, from which he was honorably discharged as a lieutenant commander.

A fellow of the College of American Pathologists, the American Society of Clinical Pathology, and the American Academy of Forensic Sciences, Dr Garrett is active in a large number of professional organizations and served as president of the North Carolina Medical Society in 1998. He continues his work with the Medical Society today in several capacities and is a Society delegate to the American Medical Association. He is also on the Board of Directors of the AMA's Political Action Committee.

Among his many other professional activities, Dr Garrett has presented a number of papers on forensic medicine to legal groups in North Carolina and other states. In 1998, Governor Hunt presented him the Order of the Long Leaf Pine. He is very active in church and civic affairs in Jacksonville.

**Robert C. Moffatt, MD, Secretary***Dr Moffatt*

Robert C. Moffatt, MD, reelected secretary of the Board, is a native of Tennessee and took his BA degree from East Tennessee State University. He earned his MD degree at the University of Tennessee Center for Health Sciences, Memphis, and did his internship at Memorial Mission Hospital in

Asheville. He completed his residency training in surgery at the University of Georgia College of Medicine and did a surgical oncology fellowship at Memorial Sloan Kettering Cancer Center. He holds certification from the American Board of Surgery, is a fellow of the American College of Surgeons, and is licensed in North Carolina, Georgia, and Mississippi. He was appointed to the Board in 2001 and has served on the Investigative, Licensing, and Physicians Health Program Committees. He was first elected Secretary in February 2003.

Dr Moffatt holds appointments at Memorial Mission Hospital and St Joseph's Hospital in Asheville. His practice is focused on surgical oncology. He has served as president of the Buncombe County Medical Society and is a member of the North Carolina Medical Society, the American Medical Association, and numerous other professional organizations. He was also Buncombe County medical examiner for seven years. Active in community affairs, over the years he has been on the Asheville Symphony Society Board, the King College (Bristol, TN) Board of Visitors and Board of Trustees, and the Mountain Ramparts Health Planning Council. He has also served as president of the Asheville Lyric Opera.

Among other honors, he was made a member of the Governor's Order of the Long Leaf Pine by Governor James B. Hunt, Jr.

**H. Arthur McCulloch, MD, Treasurer***Dr McCulloch*

A native of Ohio, H. Arthur McCulloch, MD, received a BA from Ohio State University and took his MD from the Medical College of Ohio. He did his internship at St Thomas Hospital Medical Center in Akron, Ohio, and his residency in anesthesiology at North Carolina Memorial Hospital.

Following his residency, he was a staff anesthesiologist at Wilford Hall USAF Medical Center. He is a diplomate of the American Board of Anesthesiology and is a clinical assistant professor of anesthesiology at the University of North Carolina. He practices with Southeast Anesthesiology Consultants, in Charlotte, and is vice chief of the Department of Anesthesiology at Carolinas Medical Center.

Dr McCulloch is an active member of the North Carolina Medical Society and, among other things, has served on its MedPAC Board and its Task Force on Office-Based Surgery. He is also a member of the North Carolina Society of Anesthesiologists, serving on that organization's Executive Committee and as its current president elect. He is a member of the House of Delegates of the American Society of Anesthesiologists. He was appointed to the Board in 2002 and was first elected treasurer in the spring of 2003.

Dr McCulloch is co-author of three journal articles.

## George L. Saunders, MD, of Shallotte, and Ms Shikha Sinha, of Morrisville, Appointed to the NCMB

R. David Henderson, executive director of the North Carolina Medical Board, has announced that Governor Easley has appointed George L. Saunders, MD, of Shallotte, and Ms Shikha Sinha, of Morrisville, to the North Carolina Medical Board to fill the unexpired terms of Dr John T. Dees, who died in February, and Mr Hari Gupta, who resigned from the Board in April. Mr Henderson said: "The members and staff of the Board are pleased and honored to welcome these two outstanding individuals to the Board. They are committed to the work of the Board and to the health and safety of the people of North Carolina."

**George L. Saunders, MD***George L. Saunders, MD*

Dr Saunders, of Shallotte, graduated from Loyola University of Los Angeles and earned his MD from the University of California at San Diego School of Medicine. He completed his residency training in family practice at St Joseph's Medical Center in Yonkers, NY, where he then served as a preceptor. He also

served on the faculty at New York Medical College as a clinical instructor in the Department of Medicine.



Following the completion of his medical education, Dr Saunders became the first medical director of the Urgent Care Network at Jackson Memorial-University of Miami Medical Center, and later was appointed associate clinical professor in the Department of Family and Community Medicine. He joined Landmark Learning Center, in Miami, where he served as medical executive director and quality assurance officer at the 360-bed facility for the developmentally disabled. During his tenure at the Learning Center, Dr Saunders received a state award for quality and efficiency of service.

Since 1992, Dr Saunders has been in private practice in Brunswick County where he has been a trustee for Brunswick Community College. At Brunswick Hospital, Dr Saunders has served as chief of the medical staff and is currently a hospital trustee.

In the past, Dr Saunders has held numerous appointments, including president, vice president, and recording secretary of the Dade County, Florida, Chapter of the National Medical Association. He also served as president of the Brunswick County Medical Society and as second vice president and convention chair of the Old North State Medical Society, by which group he was named Physician of the Year in 1998 and 1999.

He is currently an adjunct clinical instructor at the University of North Carolina School of Medicine and a preceptor for medical students, nurse practitioner students, and family practice residents.

Dr Saunders is a member of the American Geriatrics Society, the American Academy of Family Physicians, the National Medical Association, and other professional organizations. He is certified by the American Board of Family Practice and the American Board of Geriatric Medicine. Dr Saunders is the medical director of Autumn Care Shallotte and conducts lectures on dementia.

## Ms Shikha Sinha



*Ms Shikha Sinha*

Ms Sinha, of Morrisville, was born in South Carolina. She earned a bachelor of science degree in biology from the University of South Carolina, Columbia, as well as a master's degree in biostatistics and epidemiology. During her graduate career, Ms Sinha served as a statistical programmer at the University, conducting epidemiological studies involving therapeutic areas such as oncology and HIV/AIDS. She also designed and conducted a study titled: The Impact of an AIDS Education Program in the Workplace.

On completion of her master's degree, Ms Sinha served as a statistician at the South Carolina State Department of Education in Columbia. She went on to serve as the director of data management and statistical resources at Clinical Trials Support Services in the Research Triangle Park, where more than 30 people reported to her. In 2001, Ms Sinha became the human resource director for eMerging Information Systems. She is currently self-employed and provides consulting and training services for pharmaceutical and Contract Research Organization companies.

Ms Sinha assisted in organizing the 1993 Southeast SAS Users Group and was an active member for the AIDS International Education Society, and the School of Public Health Association. She experienced living in Kenya for two years, where she completed some of her high school education, and in Saudi Arabia for two and a half years, where she was involved in organizing cultural activities and other events for the International School. She is also a mom to two loving children and keeps herself actively involved in cultural, religious, and school events.

## SPEX Updated

Beginning in February 2003, a new, updated form of the Federation of State Medical Board's Special Purpose Examination (SPEX) was introduced.

To develop the new SPEX, the SPEX Program Committee, comprising physicians with experience serving on state medical boards and in the academic community, conducted a comprehensive review and update of the questions in the examination's data bank. In addition, in an effort to make the SPEX more user friendly for examinees, the format was revised from the previous two blocks of 210 questions each, to eight blocks of 50 questions each. The recommended passing score of 75

remains the same.

Also, a new policy on SPEX retakes for self-nominated candidates has been implemented to reduce the possibility of overexposure to the examination items by any one candidate. Details about the new policy are posted on the Federation's Web site.

SPEX is a high-quality, objective, and standardized cognitive examination commonly used by state medical boards when they determine certain physicians require an examination of clinical knowledge.

For further information about SPEX, contact Debbie Cusson of the Federation at (817) 868-4025. The FSMB Web site: [www.fsmb.org](http://www.fsmb.org).

## Pamela A. Rose Is Named Director of NCMB Human Resources Department



Ms Rose

R. David Henderson, executive director of the North Carolina Medical Board, recently announced that Ms Pamela A. Rose has joined the Board's staff as director of the NCMB's new Human Resources Department.

Ms Rose brings over 13 years of professional experience with her to the Board. For the past 10 years, she served as director of human resources at Embrex, Inc, a global biotechnology start-up company in Research Triangle Park, NC. As director, Ms Rose managed a team of four employees. She was also responsible for recruiting, compensation, benefits, payroll, and administration of all stock plans worldwide. She was involved in employee relations and training as well, and supported all global regions, including North America, Asia, Latin America, Europe, Australia, and Canada. She served previously as a personnel placement coordinator at Office Specialists in Miami, where she recruited, screened, and interviewed for temporary and permanent placements, maintained employee records, and managed and counseled employees.

Ms Rose earned a bachelor of science degree in management from Florida International University in Miami. On completion of her degree, she sought additional training in management, encompassing human resources, stock plans, and compensation. She has been certified in a variety of professional programs, including the Society of Human Resources Management HR Generalist Certificate Program, the American Compensation Program, the National Association of Stock Plan Professionals-Accounting and Auditing, and Finance and Accounting for Non-Financial Professionals.

Ms Rose is a member of the Society for Human Resources Management, the National Association of Stock Plan Professionals, and the National Center for Employee Ownership. She is proficient in a number of computer programs, including human resources information systems and Equity Edge, a stock options tracking system.

She has two children and resides in Cary.

"We are delighted to welcome Ms Rose to the Board's staff. She brings us a wealth of experience that will be invaluable in fulfilling the Board's mission," Mr Henderson said.

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## NCMB Revises Three Position Statements

At its meeting in August 2003, the North Carolina Medical Board completed work on and approved revisions of three of its position statements. They are presented below in marked versions to clearly indicate the changes made. Added language has been underlined. Deleted language has been lined through.

### THE PHYSICIAN-PATIENT RELATIONSHIP

The North Carolina Medical Board recognizes the movement toward restructuring the delivery of health care and the significant needs that motivate that movement. The resulting changes are providing a wider range and variety of health care delivery options to the public. Notwithstanding these developments in health care delivery, the duty of the physician remains the same: to provide competent, compassionate, and economically prudent care to all his or her patients. Whatever the health care setting, the Board holds that the physician's fundamental relationship is always with

the patient, just as the Board's relationship is always with the individual physician. Having assumed care of a patient, the physician may not neglect that patient nor fail for any reason to prescribe the full care that patient requires in accord with the standards of acceptable medical practice. Further, it is the Board's position that it is unethical for a physician to allow financial incentives or contractual ties of any kind to adversely affect his or her medical judgment or patient care.

Therefore, it is the position of the North Carolina Medical Board that any act by a physician that violates or may violate the trust a patient places in the physician places the relationship between physician and patient at risk. This is true whether such an act is entirely self-determined or the result of the physician's contractual relationship ~~association~~ with a health care entity. The Board believes the interests and health of the people of North Carolina are best served when the physician-patient relationship remains inviolate. The physician who puts the physician-patient relationship

## NCMB Revises Three Position Statements

at risk also puts his or her relationship with the Board in jeopardy.

### *Elements of the Physician-Patient Relationship*

The North Carolina Medical Board licenses physicians as a part of regulating the practice of medicine in this state. Receiving a license to practice medicine grants the physician privileges and imposes great responsibilities. The people of North Carolina expect a licensed physician to be competent and worthy of their trust. As patients, they come to the physician in a vulnerable condition, believing the physician has knowledge and skill that will be used for their benefit.

Patient trust is fundamental to the relationship thus established. It requires that

- there be adequate communication between the physician and the patient;
- the physician report all significant findings to the patient or the patient's legally designated surrogate/guardian/personal representative;
- there be no conflict of interest between the patient and the physician or third parties;
- ~~intimate~~ personal details of the patient's life shared with the physician be held in confidence;
- the physician maintain professional knowledge and skills;
- there be respect for the patient's autonomy;
- the physician be compassionate;
- The physician respect the patient's right to request further restrictions on medical information disclosure and to request alternative communications.
- the physician be an advocate for needed medical care, even at the expense of the physician's personal interests; and
- the physician provide neither more nor less than the medical problem requires.

The Board believes the interests and health of the people of North Carolina are best served when the physician-patient relationship, founded on patient trust, is considered sacred, and when the elements crucial to that relationship and to that trust-communication, patient primacy, confidentiality, competence, patient autonomy, compassion, selflessness, appropriate care-are foremost in the hearts, minds, and actions of the physicians licensed by the Board.

This same fundamental physician-patient relationship also applies to mid-level health care providers such as physician assistants and nurse practitioners in all practice settings.

### *Termination of the Physician-Patient Relationship*

The Board recognizes the physician's right to choose patients and to terminate the professional relationship with them when he or she believes it is best

to do so. That being understood, the Board maintains that termination of the physician-patient relationship must be done in compliance with the physician's obligation to support continuity of care for the patient.

The decision to terminate the relationship must be made by the physician personally. Further, termination must be accompanied by appropriate written notice given by the physician to the patient or the patient's representative, the relatives, or the legally responsible parties sufficiently far in advance (at least 30 days) to allow other medical care to be secured. Should the physician be a member of a group, the notice of termination must state clearly whether the termination involves only the individual physician or includes other members of the group. In the latter case, those members of the group joining in the termination must be designated. It is advisable that the notice of termination also include instructions for transfer of or access to the patient's medical records.

(Adopted July 1995)

(Amended July 1998, January 2000; March 2002; August 2003)

## ACCESS TO PHYSICIAN MEDICAL RECORDS

A physician's policies and practices relating to medical records under their control should be designed to benefit the health and welfare of patients, whether current or past, and should facilitate the transfer of clear and reliable information about a patient's care. ~~when such a transfer is requested by the patient or anyone authorized by law to act on the patient's behalf.~~ Such policies and practices should conform to applicable federal and state laws governing health information.

It is the position of the North Carolina Medical Board that notes made by a physician in the course of diagnosing and treating patients are primarily for the physician's use and to promote continuity of care. Patients, however, have a substantial right of access to their medical records and a qualified right to amend their records pursuant to the HIPAA privacy regulations. ~~are therefore the property of that physician. Moreover, the resulting record~~

Medical records are is a confidential document documents and should only be released when permitted by law or with proper written consent or authorization of the patient. Physicians are responsible for safeguarding and protecting the medical record and for providing adequate security measures.



Each physician has a duty on the request of a patient or the patient's representative to release a copy ~~or a summary~~ of the record in a timely manner to the patient or ~~anyone the patient designates~~ the patient's representative, unless the physician believes that such release would endanger the patient's life or cause harm to another person. This includes medical records received from other physician offices or health care facilities. If a summary is provided, it should include all the information and data necessary to allow continuity of care by another physician. A summary may be provided in lieu of providing access to or copies of medical records only if the patient agrees in advance to such a summary and to any fees imposed for its production.

~~The physician~~ Physicians may charge a reasonable fee for the preparation and/or the photocopying of ~~the materials~~ medical and other records. To assist in avoiding misunderstandings, and for a reasonable fee, the physician should be willing to review the ~~materials~~ medical records with the patient at the patient's request. ~~Materials~~ Medical records should not be held withheld because an account is overdue or a bill is owed (including charges for copies or summaries of medical records).

~~Physicians should not relinquish control over their patients' medical records to third parties unless there is an enforceable agreement that includes adequate provisions to protect patient confidentiality and to ensure patients' access to their records. This provision does not apply if the primary custodian of the records is a hospital or other health care facility.~~

Should it be the physician's policy to complete insurance or other forms for established patients, it is the position of the Board that the physician should complete those forms in a timely manner. If a form is simple, the physician should perform this task for no fee. If a form is complex, the physician may charge a reasonable fee.

To prevent misunderstandings, the physician's policies about providing copies or summaries of ~~patient~~ medical records and about completing forms should be made available in writing to patients when the physician-patient relationship begins.

Physicians should not relinquish control over their patients' medical records to third parties unless there is an enforceable agreement that includes adequate provisions to protect patient confidentiality and to ensure ~~patients'~~ patients' access to ~~their~~ those records.<sup>1</sup>

When responding to subpoenas for medical records, unless there is a court or administrative order, physicians should follow the ~~recommendations set out in~~

~~the North Carolina Medico-Legal Guidelines.<sup>2</sup>~~ applicable federal regulations.

<sup>1</sup> See also Position Statement on Departures from or Closings of Medical Practices.

<sup>2</sup> ~~Link: The North Carolina Medico-Legal Guidelines.~~

(Adopted November 1993)

(Amended May 1996, September 1997; March 2002; August 2003)

## DEPARTURES FROM OR CLOSINGS OF MEDICAL PRACTICES

Departures from (when one or more physicians leave and others remain) or closings of medical practices are trying times. They can be busy, emotional, and stressful for all concerned: practitioners, staff, patients, and other parties that may be involved. If mishandled, they can significantly disrupt continuity of care. It is the position of the North Carolina Medical Board that during such times practitioners and other parties that may be involved in such processes must consider how their actions affect patients. In particular, practitioners and other parties that may be involved have the following obligations.

### Permit Patient Choice

It is the patient's decision from whom to receive care. Therefore, it is the responsibility of all practitioners and other parties that may be involved to ensure that:

- ☐ patients are notified of changes in the practice, sufficiently far in advance (at least 30 days) to allow other medical care to be secured, which is often done by newspaper advertisement and by letters to patients currently under care;
- ☐ patients clearly understand that the choice of a health care provider is the patients';
- ☐ patients are told how to reach any practitioner(s) remaining in practice, and when specifically requested, are told how to contact departing practitioners; and
- ☐ patients are told how to ~~access~~ obtain copies of or transfer their medical records.

### Provide Continuity of Care

Practitioners continue to have obligations toward patients during and after the departure from or closing of a medical practice. Except in case of the death or other incapacity of the practitioner, practitioners may not abandon a patient or abruptly withdraw from the care of a patient. Therefore, patients should be given reasonable advance notice, sufficiently far in advance (at least 30 days) to allow other medical care to be secured. ~~to allow their securing other care.~~ Good continuity of care includes preserving, keeping confidential, and providing appropriate access to medical records.\* Also, good continuity of care may often

## NCMB Revises Three Position Statements

include making appropriate referrals. The practitioner(s) and other parties that may be involved should ensure the requirements for continuity of care are effectively addressed.

No practitioner, group of practitioners, or other parties that may be involved should interfere with the fulfillment of these obligations, nor should practitioners put themselves in a position where they cannot be

assured these obligations can be met.

\* Note: The Board's position statement on the Retention of Medical Records applies, even when practices close permanently due to the retirement or death of the practitioner.

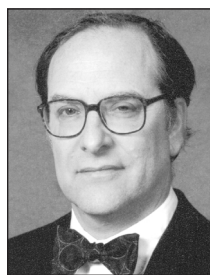
(Adopted January 2000)

(Amended August 2003)

## Vital Statistics and Death Certificates

*Michael E. Norins, MD*

*Member, North Carolina Medical Board*



*Dr Norins*

Vital statistics play a critical role in the development of local, state, and national health policy. For epidemiologists, death certificates provide a basic data set used to track the occurrence and mortality rates of a disease. This information plays a key role in how health research dollars are allocated. Furthermore, the data

are used in the development of health services policy affecting education, prevention and treatment.

Death certificate data are such a critical part of our epidemiologic approach to health issues, as well as to the legal system, that death certificates are addressed by all states in their health statutes, making it a legal requirement to complete timely and accurate reporting. In North Carolina, death certificates are addressed in the Public Health statute. The pertinent language for physicians is cited below from N.C. Gen. Stat. § 130-115.

- (a) A death certificate for each death which occurs in this State shall be filed with the local registrar of the county in which the death occurred within five days after the death. . . .
- (c) The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death. . . . In the absence of the physician or with the physician's approval, the certificate may be completed by an associate physician, the chief medical officer of the hospital or facility in which the death occurred or a physician who performed an autopsy upon the decedent under the following circumstances: the individual has access to the medical history of the deceased; the individual has viewed the deceased at or after death; and the death is due to natural causes. . . . The physician shall state the cause of death on the certificate in definite and precise terms. . . .

- (d) The physician or medical examiner making the medical certification as to the cause of death shall complete the medical certification no more than three days after death. . . .

In practice, the completion of death certificates can pose a logistical challenge. Patient care, especially surrounding a terminal illness, can be fragmented with the participation of multiple sub-specialists, so that the attending physician of record can be difficult to identify. In large practices, especially with the emergence of hospitalists, identifying the primary attending physician can also be difficult. It may require an extra effort to complete the death certificate in detail, listing the primary cause of death as well as the most important co-morbid causes of death or ill health.

One approach to accurate, timely completion of death certificates is to have a "first responder" policy. Whoever is first contacted to complete the death certificate takes on the responsibility of either completing it fully and accurately or ensuring that the death certificate is given to the appropriate physician. This can avoid the death certificate being bounced from staff person to staff person, eg, medical records to nursing, back to medical records, etc. A colleague to colleague hand-off is more likely to result in getting the document into the right hands in a timely fashion, avoiding delays that can be painful to surviving family when making final arrangements for the deceased.

As physicians, this task is part of our professional responsibility in service to our patients, their families, and the greater community. It is also *the law*.

**North Carolina  
Medical Board**



**1-800-253-9653**

*From the North Carolina Board of Nursing*

## Mandatory Employer Verification of Nurse Licensure Status

In June 2003, the North Carolina General Assembly enacted G.S. 90-171.43A Mandatory Employer Verification of Licensure Status, which reads in part as follows:

Before hiring a registered nurse or a licensed practical nurse in North Carolina, a health care facility shall verify that the applicant has a current, valid license to practice nursing pursuant to G.S. 90-171.43.

The law includes physician offices, ambulatory care facilities, and rural health clinics in the definition of health care facilities. This verification must be completed prior to employment of any licensed

nurse and must be done via the Board of Nursing's database, which contains the most accurate and current information on all nurses licensed in North Carolina. Employers can access the Board of Nursing's database through the automated verification system (919-881-2272) or through the Web site ([www.ncbon.com](http://www.ncbon.com)). Both systems require either a certificate number or social security number and are available to employers 24 hours a day, 7 days a week.

If you have further questions regarding this verification process, please contact the North Carolina Board of Nursing office at (919) 782-3211, ext. 260 or 268.

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## Autumn Treasure



Walter J. Pories, MD



# NORTH CAROLINA MEDICAL BOARD

## Board Orders/Consent Orders/Other Board Actions

### May - June - July 2003

## DEFINITIONS

### Annulment:

Retrospective and prospective cancellation of the authorization to practice.

### Conditions:

A term used for this report to indicate restrictions or requirements placed on the licensee/licensee.

### Consent Order:

An order of the Board and an agreement between the Board and the practitioner regarding the annulment, revocation, or suspension of the authorization to practice or the conditions and/or limitations placed on the authorization to practice. (A method for resolving disputes through informal procedures.)

### Denial:

Final decision denying an application for practice authorization or a motion/request for reconsideration/modification of a previous Board action.

ation/modification of a previous Board action.

### NA:

Information not available.

### NCPHP:

North Carolina Physicians Health Program.

### RTL:

Resident Training License.

### Revocation:

Cancellation of the authorization to practice.

### Summary Suspension:

Immediate temporary withdrawal of the authorization to practice pending prompt commencement and determination of further proceedings. (Ordered when the Board finds the public health, safety, or welfare requires emergency action.)

### Suspension:

Temporary withdrawal of the authorization to practice.

### Temporary/Dated License:

License to practice medicine 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 Dismissal:

Board action dismissing a contested case.

### Voluntary Surrender:

The practitioner's relinquishing of the authorization to practice pending or during an investigation. Surrender does not preclude the Board bringing charges against the practitioner.

### ANNULMENTS

NONE

### REVOCATIONS

NONE

### SUSPENSIONS

See Consent Orders:

**CORNWALL, Richard Orran, Physician Assistant**  
**CUMMINGS, Richard Edward, MD**  
**DYKERS, John Reginald, Jr, MD**  
**GASKINS, Wendy Talley, MD**  
**JOHNSON, Keith Emery, MD**  
**LANGSTON, Bernard Leroy, III, MD**  
**MARTIN, David Anson, Jr, MD**  
**NOLAN, Clyde, Jr, MD**  
**SHAFFER, John Sheridan, MD**  
**WRIGHT, Brent Dean, MD**

### SUMMARY SUSPENSIONS

**EATON, Hubert Arthur, Jr, MD**

Location: Wilmington, NC (New Hanover Co)

DOB: 5/25/1943

License #: 0000-17858

Specialty: IM (as reported by physician)

Medical Ed: Meharry Medical College (1969)

Cause: Dr Eaton may have violated laws involving the practice of medicine, may have committed numerous acts of unprofessional conduct and may be unable to practice medicine with reasonable skill and safety to patients as shown by the Notice of Charges and Allegations dated 5/15/2003. (See the entry relating to Dr Eaton in the "Look Up a Physician" section of the Board's Web site at [www.ncmedboard.org](http://www.ncmedboard.org).)

Action: 5/15/2003. Order of Summary Suspension of License issued. Order effective at the time of service on 5/16/2003.

**McCONATHA, Buford Dotridge, Physician Assistant**

Location: Wilmington, NC (New Hanover Co)

DOB: 3/10/1949

License #: 0001-00224

PA Education: Medical University of South Carolina (1976)

Cause:

Mr McConatha may have committed numerous acts of unprofessional conduct and may be unable to practice with reasonable skill and safety to patients. Further details may be found in the Board's Notice of Charges and Allegations against Mr McConatha, which appears among the documents related to Mr McConatha on the Board's Web site at [www.ncmedboard.org](http://www.ncmedboard.org).

Action: 7/17/2003. Order of Summary Suspension of Mr McConatha's license executed, effective 7/18/2003.

### CONSENT ORDERS

**BLOCK, Matthew, MD**

Location: Laurinburg, NC (Scotland Co)

DOB: 5/29/1964

License #: 2001-00308

Specialty: CD/IM (as reported by physician)

Medical Ed: New York University (1990)

Cause: On an evening in July 2002, using his own key, Dr Block entered the medical records department of Scotland Memorial Hospital after hours with his wife to review and sign charts. Later, he left the department to make rounds in the hospital. He left his wife behind in the department, asking her to sign his name to patient charts while he made rounds. She was left alone with the charts and did sign her husband's name to many charts. A hospital administrator noticed Mrs Block in the department and told her it was a controlled area and that she was not allowed access to patient records. She left the area promptly. In a hospital inquiry, Dr Block admitted he allowed his wife to sign some records and he was counseled regarding the moral, legal, and ethical implications of the incident. Dr Block expressed regret and had to resign 21 patient records. He admitted to a representative of the Medical Board that he had allowed his wife to sign his name on patient charts on several occasions.

Action: 7/23/2003. Consent Order executed: Dr Block is reprimanded.

**CARLSON, James Lennart, MD**

Location: Monroe, NC (Union Co)

DOB: 11/20/1959

License #: 2002-00010

Specialty: FP (as reported by physician)

**Medical Ed:** Medical College of Wisconsin (1991)  
**Cause:** To amend Dr Carlson's Consent Order of 2/13/2003. In 2002, Dr Carlson sexually harassed two nurses during the final year of his residency at Carolinas Medical Center. He has a history of sexually harassing co-workers and, in an effort to address the issues underlying his conduct and prevent its recurrence, he received therapy from Dr Abel at the Behavioral Medicine Institute from August to October 2002. He will continue his therapy with Dr Gullick or another NCPHP approved therapist. He has entered a contract with the NCPHP.

**Action:** 5/14/2003. Amended Consent Order executed: Dr Carlson surrenders his license effective immediately; the Board issues Dr Carlson a license to expire on the date shown on the license [6/30/2003]; he shall maintain and abide by a contract with the NCPHP; he shall comply with all therapy, report, and meeting requirements; he shall continue his therapy and shall comply with recommendations of his therapist; he shall direct his therapist to provide the Board quarterly reports of his progress; he shall provide a copy of the Consent Order to all current and prospective employers; he shall ensure a female chaperone, who has read the Consent Order, is present any time he has physical contact with a female patient; the chaperone shall document her presence and record whether any violations or misconduct occurs; on a quarterly basis, the chaperone's record shall be provided to the therapist; Dr Carlson shall ensure each patient he sees receives the "Principles of Medical Practice" statement and that a copy of the statement be posted in his office; every three months he shall ensure all patients he sees in a one-week period are given a "Patient Satisfaction Survey" to complete; the Satisfaction surveys shall be given to the therapist for inclusion in the quarterly report to the Board; each month Dr Carlson shall have three staff members, who have read the Consent Order, complete a "Staff Surveillance Form," which shall be provided to the therapist to be reported to the Board; he shall receive written approval of his current and future practice settings by the president of the Board, which approval the president is under no obligation to give; must comply with other conditions. This Consent Order takes the place of the Consent Order dated 2/13/2003.

#### **CORNWALL, Richard Orran, Physician Assistant**

**Location:** Advance, NC (Davie Co)

**DOB:** 5/19/1948

**License #:** 0001-00031

**PA Education:** Bowman Gray School of Medicine (1972)

**Cause:** On application for reissuance of license. Mr Cornwall was indicted in the U.S. District Court for the Middle District of North Carolina for one count of conspiracy to submit false claims and various counts of making false entries in violation of federal law. In May 2001, he pled guilty to one count of conspiracy to submit false claims to the U.S. Department of Health and Human Services and two counts of submitting false claims involving Medicare to the USDHHS. He was sentenced to six months imprisonment in a community corrections center facility, was fined \$6,000, and held jointly and severally responsible for \$200,000 in restitution. On 12/01/2001, he surrendered his PA license. He has completed his term of imprisonment and paid all fines and restitution.

**Action:** 5/11/2003. Consent Order executed: Mr Cornwall's PA license is suspended from 12/01/2001 to the date shown on the PA license issued pursuant to the Consent Order; he is issued a PA license dated to expire on the date shown on the license [11/30/2003]; must comply with other conditions.

#### **CUMMINGS, Richard Edward, MD**

**Location:** Kinston, NC (Lenoir Co)

**DOB:** 2/17/1950

**License #:** 0000-27904

**Specialty:** PS (as reported by physician)

**Medical Ed:** University of Miami (1977)

**Cause:** For certain breast augmentation and liposuction patients prior to 2002 and for most such patients during the first five months of 2002, Dr Cummings modified his postoperative call-back regime to extend the period of time between surgery and the first scheduled follow-up appointment and to place more reliance on interim telephone follow-ups. Between summer 1999 and spring 2002, Dr Cummings performed breast augmentation surgery on seven designated patients. In the spring of 2002, he performed liposuction on five designated patients. Consistent with the modified regime, and as stated in the

Board's Notice of Charges and Allegations, these patients were not scheduled for their first postoperative follow-up office appointment within 10 days following surgery. On 10/11/2002, the Board filed charges against Dr Cummings to the effect that the accepted and prevailing standard of care in North Carolina requires such patients be scheduled for a postoperative follow-up with the physician or physician extender within 10 days. On 6/03/2003, and prior to the issuance of the Board's charges, Dr Cummings modified his postoperative regime to comply with the standard of practice as described. The Board did not find that the extended postoperative call-back regime used by Dr Cummings harmed any patient and he cooperated with the Board in its investigation. By failing to schedule postoperative follow-up within 10 days with the patients referenced, Dr Cummings engaged in unprofessional conduct.

**Action:** 5/14/2003. Consent Order executed: Dr Cummings' license is suspended for three months; that suspension is stayed for three months subject to terms and conditions: he will schedule all breast augmentation and liposuction surgery patients for a follow-up office appointment not later than 10 days after surgery, and if the appointment visit is conducted by a physician extender, a physician follow-up will be scheduled within four weeks following surgery; no provision of this Consent Order shall constitute an admission for any purpose other than for this and any other proceeding before the North Carolina Medical Board.

#### **DYKERS, John Reginald, Jr, MD**

**Location:** Siler City, NC (Chatham Co)

**DOB:** 9/25/1935

**License #:** 0000-11837

**Specialty:** FP (as reported by physician)

**Medical Ed:** University of North Carolina School of Medicine (1960)

**Cause:** Relative to the Notice of Charges and Allegations against Dr Dykers filed in April 2003. Prior to May 2002, Patient A was a patient of Dr Dykers' practice, though was seen primarily by another physician Dr Dykers had employed. Dr Dykers' initial treatment of Patient A was in May 2002, at which time he continued the treatment for depression Patient A had been receiving. Following his medical treatment of Patient A, he asked her if he could engage her to give him a massage and she agreed to do so at a rate of \$20 an hour. Thereafter, Patient A came to Dr Dykers' office on a Saturday, outside regular office hours, to give him a massage. He and the patient were the only persons present in the office. Patient A massaged Dr Dykers for two hours and he paid her \$40. Subsequently, Dr Dykers arranged for her to come to his home to give him a massage, which she did and was again paid. Following this massage session, Patient A informed Dr Dykers she did not wish to provide massages in future and no further requests were made by Dr Dykers. Dr Dykers acknowledges his engaging Patient A to provide massages was a boundary violation.

**Action:** 7/23/2003. Consent Order executed: Dr Dykers' license is suspended for 30 days, the suspension being immediately stayed.

#### **GANT, James Curtis, MD**

**Location:** Jacksonville, NC (Onslow Co)

**DOB:** 6/26/1957

**License #:** 0000-32367

**Specialty:** PD (as reported by physician)

**Medical Ed:** University of Texas, Galveston (1983)

**Cause:** In August 1998, Dr Gant twice examined and treated Patient A, a 13-month-old girl. She had suffered from hydrocephalus from birth and had a VP shunt. When Dr Gant first saw her in his office, her mother reported a history of low-grade fever, vomiting, not wanting to take fluids, etc. She had been seen at Onslow Memorial Hospital Urgent Care the evening before and been diagnosed with bilateral otitis media, for which she was prescribed Amoxil®. Dr Gant found her to be alert and ruled out otitis media. He noticed red spots in her throat consistent with viral pharyngitis and consistent with her not wanting to swallow fluids. That diagnosis was recorded in the office record. He recommended ibuprofen for the throat pain. The mother returned with the child later in the day and the child was still not willing to take fluids. Dr Gant found the patient to be alert and had her and her mother stay at the office in order to administer fluids. After giving the patient about 30 cc of fluid, he sent her home. He recommended the mother con-

tinue to administer pedialyte but take the patient to the hospital is she continued to refuse fluids. The patient's parents took her to the Onslow Memorial emergency department in the evening due to their concern the patient's symptoms were worsening. Dr Gant spoke by telephone to the ER triage nurse from his home but did not go to the hospital. Once the patient was on the pediatric floor, Dr Gant ordered by telephone an IV and bolus of lactated ringers solution at 20 cc per kilogram. Three hours later, Dr Gant was informed by the nurse by telephone that the patient was crying and still in discomfort. Again, Dr Gant did not go immediately to the hospital to check on the patient. Patient A coded (respiratory arrest) at 11:30 PM and Dr Gant was paged. He was already on his way to the hospital for an emergency c-section and responded to the emergency page regarding Patient A, assisting in resuscitation efforts. After this, it became clear the patient was suffering from VP shunt malfunction. Though efforts were made by Dr Gant and other to resuscitate her and correct the malfunction, she died the next morning, after being transferred to Pitt County Memorial Hospital, from complications brought about by the shunt malfunction. Dr Gant failed to consider neurosurgical consultation on Patient A and also failed to go to the hospital in a timely fashion to see her. Dr Gant's care of Patient A was unprofessional conduct.

Action: 6/30/2003. Consent Order executed: Dr Gant is reprimanded

#### **GASKINS, Wendy Talley, MD**

Location: Cornelius, NC (Mecklenburg Co)  
 DOB: 10/17/1966  
 License #: 0097-00406  
 Specialty: PD (as reported by physician)  
 Medical Ed: East Carolina University School of Medicine (1993)  
 Cause: In January and March 2002, Dr Gaskins prescribed Oxycodone®, a controlled substance, to Mr A, an adult. At the time, Dr Gaskins did not treat adults and Mr A had not been a patient. She also prescribed Promethazine®, Ketorolac®, and Aphasol® to Mr A. This was done without thorough documentation of, among other things, the patient's history and physical examination, appropriate studies, a working diagnosis and treatment plan, and a rationale for prescribing narcotics. This constitutes unprofessional conduct.

Action: 5/15/2003. Consent Order executed: Dr Gaskin's license is suspended for three months effective immediately; this suspension is stayed subject to her complying with the Board's position statement titled "Contact with Patients Before Prescribing," and to her attending the Prescribing Controlled Substances course offered at the Vanderbilt University Medical Center.

#### **HARNED, Robert Glenn, MD**

Location: Asheville, NC (Buncombe Co)  
 DOB: 12/11/1959  
 License #: 0000-38353  
 Specialty: P (as reported by physician)  
 Medical Ed: Wake Forest University School of Medicine (1986)  
 Cause: On Dr Harned's request for retroactive reinstatement of his license. In 2002, Dr Harned failed to register his license as required by law and, as a result, that license became inactive on June 6, 2002. He continued to practice from that time until at least February 2003. He asked the Board to retroactively reinstate his license to June 6, 2002 so there would be no lapse in his authority of practice medicine. He now more fully appreciates the importance of promptly reviewing and responding to communications from the Board and registering his license in a timely manner.

Action: 6/16/2003. Consent Order executed: Dr Harned's license is reinstated effective June 6, 2002; Dr Harned is reprimanded for his failure to register as required; must comply with other conditions.

#### **HOUDEK, Debra Lee, Nurse Practitioner**

Location: Fletcher, NC (Henderson Co)  
 DOB: 9/12/1955  
 Approval #: 0002-01432  
 NP Education: NA  
 Cause: On information Ms Houdek improperly wrote prescriptions. While practicing in Asheville between September 2001 and April 2002, Ms Houdek wrote prescriptions for Adderall® (amphetamine) for her two children who had been diagnosed

with ADD. She wrote the prescriptions without the knowledge of her supervising physicians and without keeping a record of the prescriptions or the treatment she was providing. As a result of this improper prescribing, on March 3, 2003, she pled guilty in Buncombe County Superior Court to five misdemeanor counts of Practitioner Unlawfully Dispensing Controlled Substances. In May 2002, Ms Houdek's NP approval became inactive and she must reapply to the Board for approval before resuming her work as an NP.

Action: 7/16/2003. Consent Order executed: Ms Houdek is formally reprimanded for her conduct; she must make reapplication to the Board for approval to perform medical acts, tasks, and functions as an NP and understands the Board is under no obligation to grant such approval.

#### **JOHNSON, Keith Emery, MD**

Location: Southern Pines, NC (Moore Co)  
 DOB: 4/15/1954  
 License #: 0000-30178  
 Specialty: NTR/OS (as reported by physician)  
 Medical Ed: University of Iowa (1982)  
 Cause: Relative to the Notice of Charges and Allegations against Dr Johnson filed 10/10/2002, amended 5/27/2003. The Board finds and Dr Johnson admits that on or about February and March 2002, Dr Johnson contacted Craig Farmer, PhD, a psychologist, Tony Tyndall, and Bengie Hair for the purpose of discussing Dr Johnson's experimentation with a diagnostic device in a clinical setting and the need to obtain patients to participate in the experiment. During these contacts, Dr Johnson made reference to support groups of persons dealing with issues related to AIDS/HIV (such groups being known to Farmer, Tyndall, and Hair) and to Dr Johnson's desire to make a presentation about his experimentation to the groups and to have those persons later participate in experimentation with respect to the diagnostic device. Some of the persons in the said support groups are patients of health care providers and their treatment and identity are subject to confidentiality protections. In the circumstances and context of Dr Johnson's contacts, a reasonable person could infer and believe, and Farmer, Tyndall, and Hair do believe, that Dr Johnson's contacts gave the appearance that he desired to obtain confidential patient information without appropriate releases and authorizations from patients and to then contact the patients to arrange their participation in the experimentation. Dr Johnson admits that in the course of his contacts, he employed experimental research methods in a clinical setting that gave the appearance of failure to conform to the standards of acceptable and prevailing medical practice and the ethics of the medical profession. He further admits this constitutes grounds for disciplinary action. No confidential patient information was disclosed in the course of the activities investigated by the Board in connection with the Amended Charges and no patient was harmed by Dr Johnson.

Action: 7/28/2003. Consent Order executed: Dr Johnson's license is suspended for one year, which suspension is stayed immediately; he shall attend four CME hours of Board approved seminars and courses on compliance with HIPPA or other topics dealing with patient confidentiality; he shall submit himself and a psychological report by Art Luca (a board certified forensic examiner specializing in psychological assessment and diagnostics) to Dr Pendergast of the NCPHP for examination, evaluation, and the devising of any recommended treatment plan and compliance therewith; he agrees to comply with all laws, rules, and regulations in future.

#### **LANGSTON, Bernard Leroy, III, MD**

Location: Shallotte, NC (Brunswick Co)  
 DOB: 4/06/1945  
 License #: 0000-27938  
 Specialty: FP (as reported by physician)  
 Medical Ed: Medical University of South Carolina (1972)  
 Cause: On information that Dr Langston pre-signed prescription forms for a physician with no DEA registration. Dr Langston hired Dr Donald Leszczynski to practice in the Bolivia, NC, office of his group. Dr Langston knew Dr Leszczynski did not have the DEA registration needed to prescribe controlled substances when he hired him; however, he believed such registration would be issued shortly and he knew some of the patients Dr Leszczynski would see would need controlled substances. As a result, Dr Langston pre-signed a number of blank pre-



scription forms for use by Dr Leszczynski. Dr Leszczynski used this pre-signed blank forms to obtain controlled substances for himself rather than issuing them to patients. Dr Langston has provided employment opportunities for recovering physicians for years and his intentions were good in this case. When asked about this matter by the Board's investigator, Dr Langston was fully cooperative, honestly describing his conduct. The Board continues to have confidence in Dr Langston, provided he complies with this Consent Order.

Action: 6/09/2003. Consent Order executed: Dr Langston's medical license is suspended for 30 days; suspension is stayed on condition that Dr Langston attend and successfully complete the Nashville course on prescribing within 180 days of this Consent Order or within 180 days of the next available course offering, whichever is earlier.

#### **MARSHALL, John Everett, MD**

Location: Lincolnton, NC (Lincoln Co)

DOB: 7/13/1954

License #: 0000-39646

Specialty: OBG (as reported by physician)

Medical Ed: University Del Norte, Mexico (1981)

Cause: Regarding the Notice of Charges and Allegations of 10/10/2002. Dr Marshall began treating patient A in 1992 and, in August 2001, Patient A began working as a receptionist in his office. He continued treating her as her gynecologist after she became his receptionist. While she was serving as his employee and not during an encounter with her as a patient, Dr Marshall sometimes called Patient A "honey," and, on at least one occasion, rubbed her shoulders without her request or permission. He was attempting to be a kind and supportive employer but was insufficiently sensitive to how his actions made Patient A uncomfortable. Though released from any obligation to do so, Dr Marshall has maintained a relationship with counselors to continue work on the issues raised in his 12/31/1997 Consent Order with the Board. He has committed to the Board that he will continue that effort to ensure his manner of interacting with patients does not become problematic.

Action: 5/15/2003. Consent Order executed: Dr Marshall is reprimanded; he shall ensure a female chaperone who has read the Consent Order is present when he examines a female patient; the chaperone shall document she was present and no boundary violations or other misconduct occurred; the chaperone shall not be related to the patient; he shall continue his outpatient counseling relationships and shall comply with all recommendations made by the counselors; he shall comply with the patient and staff satisfaction system developed by Dr McAnulty; at the end of each week, a member of Dr Marshall's staff will complete a Staff Satisfaction Form and these forms shall be forwarded to Dr McAnulty once a month so he can incorporate them into his quarterly reports to the Board; Dr Marshall shall not review the staff satisfactions forms; a member of Dr Marshall's staff shall ask patients to complete a Patient Satisfaction Form in accord with Dr McAnulty's system; the forms shall be forwarded to Dr McAnulty for incorporation in his quarterly report to the Board; Dr Marshall shall not review this forms; Dr Marshall shall direct Dr McAnulty to provide quarterly reports to the Board; Dr Marshall must provide a copy of the Consent Order to all current and prospective employees and employers; he must comply with other conditions.

#### **MARTIN, David Anson, Jr, MD**

Location: Whiteville, NC (Columbus Co)

DOB: 11/03/1966

License #: 0095-01329

Specialty: IM (as reported by physician)

Medical Ed: University of North Carolina School of Medicine (1994)

Cause: In October 1998, Dr Martin established a physician-patient relationship with Patient A. During the next several years, that relationship continued and the Patient's family and Dr Martin's family developed a social friendship. In January 2001, Dr Martin and Patient A began a sexual relationship that eventually included sexual intercourse. During this time, Dr Martin continued the physician-patient relationship. Patient A and Dr Martin continued to have sexual relations until January 2002, when the affair ended. Patient A became distraught and was admitted to a psychiatric unit at Columbus County Hospital under Dr Martin's care. The next day, she was moved to another

medical facility where she was involuntarily committed for a time. Patient A attributes her impaired emotional state that led to her commitment to the stress of her affair with Dr Martin. Dr Martin admitted the affair to Board investigators and admitted he knew it was wrong. In this case, it appears the sexual relationship grew out of the prior personal relationship between Dr Martin and Patient A rather than from the physician-patient relationship. Dr Martin admits he should have referred Patient A to another physician in February 2001 to avoid obscuring his judgment concerning her health care. In September and October 2002, Dr Martin voluntarily obtained a psychological assessment from Dr Norris. Dr Norris does not believe Dr Martin is a sexual predator and that he can safely practice medicine subject to certain conditions. Dr Martin reports he has voluntarily complied with the conditions recommended by Dr Norris, including that he become involved with the NCPHP and be cooperative with the treatment plan the NCPHP develops for him.

Action: 6/19/2003. Consent Order executed: Dr Martin's license is suspended indefinitely. That suspension is stayed on the conditions noted here: Dr Martin shall ensure a female chaperone, who has read the Consent Order, is present when he physically examines a female patient; the chaperone shall document she was present and that no misconduct occurred; Dr Martin shall post a copy of the "Principles of Medical Practice" on his office wall, examination room walls, and other places where it can be easily read by patients; each month, he shall ask three members of his staff, who have read the Consent Order, to complete a "Staff Surveillance Form," which shall be forwarded quarterly to the Board's director of Investigations; during one week each quarter, he or his staff will ask all patients to complete a "Patient/Patient's Family Satisfaction Survey," which shall be forwarded quarterly to the Board's director of Investigations; he shall undergo a polygraph examination every six months to determine if he has been involved in sexual misconduct with his patients or female staff members; results of the polygraph shall be forwarded semi-annually to the Board's director of Investigations; he will seek an evaluation by the NCPHP and abide by its recommendations; within six months, Dr Martin shall enroll and participate in the Vanderbilt University boundary course; must comply with other conditions.

#### **NOLAN, Clyde, Jr, MD**

Location: Greensboro, NC (Guilford Co)

DOB: 12/25/1947

License #: 0000-23067

Specialty: D (as reported by physician)

Medical Ed: University of North Carolina School of Medicine (1974)

Cause: On reactivation of Dr Nolan's license. Dr Nolan failed to renew his license registration in December 2001. In February 2002, he was advised by the Board he had 30 days left to renew. In June 2002, his license became inactive due to his failure to register with the Board. Dr Nolan continued to practice while his license was inactive. In 3/04/2003, he was notified by the Board to stop practicing immediately. He continued to practice until 4/01/2003.

Action: 5/31/2003. Consent Order executed: Dr Nolan's license is reinstated retroactively to 6/07/2002; his license is suspended for 30 days, which suspension is stayed; must comply with other conditions.

#### **RAMSEY, Pamela Yvette, Physician Assistant**

Location: Durham, NC (Durham Co)

DOB: 7/25/1954

License #: 0001-03270

PA Education: NA

Cause: The Board charges and alleges that Patient A began treatment at Raleigh Associated Medical Specialists in about 1996; that Ms Ramsey treated patient A on one occasion at that practice in the fall of 2001; that within several weeks of that time, Ms Ramsey went to lunch and a movie with Patient A, who is married; that in December 2001, Ms Ramsey and Patient A exchanged Christmas gifts; that Patient A spent the night at Ms Ramsey's residence on two consecutive nights; that in July 2002, Ms Ramsey and Patient A traveled together to Toronto for a music festival; that, in addition, Ms Ramsey has socialized with Patient A on some four occasions; and that Ms Ramsey has gone to movies, musicals, and pharmaceutical education programs with Patient A and has visited Patient A's house at least once. Ms Ramsey's conduct as described above is unpro-

essional.  
 Action: 7/17/2003. Consent Order executed: Ms Ramsey is reprimanded for engaging in an unduly familiar personal relationship with Patient A; she shall strictly comply with the Board's Position Statement on Self-Treatment and Treatment of Family Members and Others with Whom Significant Emotional Relationships Exist.

**SHAFFER, John Sheridan, MD**

Location: Lexington, NC (Davidson Co)  
 DOB: 2/24/1948  
 License #: 0000-24199  
 Specialty: U (as reported by physician)  
 Medical Ed: Case Western Reserve University (1974)  
 Cause: As a result of a medical condition and his inability to continue practice, Dr Shaffer surrendered his license in September 2001. At that time, he had no intention of practicing medicine again, and he still has no such intention. On 8/30/2002, the Board filed charges against Dr Shaffer alleging he had committed unprofessional conduct by falsifying surgical results and records. He has denied those charges. To resolve this matter and without making any admissions, Dr Shaffer has agreed to a Consent Order with the Board.

Action: 7/23/2003. Consent Order executed: Dr Shaffer's license to practice medicine and surgery is indefinitely suspended and he will not re-apply for a license. No provision of the Consent Order constitutes an admission, though Dr Shaffer agrees that if he applies for a license in the future, the Board is entitled to accept and treat the facts and allegations in the Notice of 8/30/2002 as true and can rely on those facts in determining whether to grant or deny his license application.

**WRIGHT, Brent Dean, MD**

Location: Wilmington, NC (New Hanover Co)  
 DOB: 5/17/1957  
 License #: 0000-28448  
 Specialty: OBG (as reported by physician)  
 Medical Ed: University of Missouri-Columbia (1983)  
 Cause: On inappropriate conduct. In June 1998, Dr Wright established a physician-patient relationship with Patient A. He and his family hired Patient A in July 1998 to perform yard work at their residence and to assist in child care. Dr Wright terminated Patient A's employment in January 1999. Late in 1999, Dr Wright engaged in a sexual relationship with Patient A, which continued intermittently until September 2001. He claims he told Patient A prior to the beginning of the sexual relationship that he was ending their physician-patient relationship and that he gave her the names of several other doctors. His medical chart for Patient A does not reflect that he ended the physician-patient relationship, nor did he tell his staff. Numerous entries appear in the chart where Dr Wright's staff tried to schedule appointments with Patient A, who did not appear for her appointments and did not schedule new appointments. In March 2002, Patient A requested a prescription and Dr Wright wrote her a prescription for Zyrtec® but did not document it in her chart. Dr Wright acknowledges that, although he believed when he entered the sexual relationship with Patient A that the physician-patient relationship had ended, such a sexual relationship was improper and he should not have subsequently written her a prescription. He voluntarily contacted his employer, the Coastal AHEC, the NCPHP, and, through counsel, the Board. In February 2003, he voluntarily obtained an assessment from Dr Abel and Dr Irvin at the Behavioral Medicine Institute (BMI) of Atlanta. In March 2003, Dr Wright voluntarily completed four weeks of cognitive behavioral treatment with Drs Abel and Irvin. Dr Abel recommended Dr Wright be immediately involved in a sex-specific therapy designed for those involved in sexual harassment, sexual boundary violations, and sexual misconduct. Dr Abel believes Dr Wright can practice safely under certain conditions. Dr Wright reports, and Dr Abel confirms, that Dr Wright has voluntarily complied to date with conditions recommended by Dr Abel concerning Dr Wright's practice of medicine. Dr Wright is receiving psychotherapy in Wilmington with Gordon McInnis, MA, who serves as his behavioral supervising therapist and will follow through on the behavioral components of the recommended treatment. Dr Wright is also receiving psychotherapy with Daniel Patterson, MD, a psychiatrist in Wilmington and has entered into a contract with the NCPHP.

Action: 6/19/2003. Consent Order executed: Dr Wright's medical license is suspended indefinitely from the date of this Consent Order; that suspension is stayed on the following conditions: Dr Wright shall ensure a female chaperon, who has read the Consent Order, is present when he physically examines a female patient; the chaperon shall document she was present and that no misconduct occurred; Dr Martin shall post a copy of the "Principles of Medical Practice" on his office wall, examination room walls, and other places where it can be easily read by patients; each month, he shall ask two members of his staff, who have read the Consent Order, to complete a "Staff Surveillance Form," which shall be forwarded to Mr McInnis so he can incorporate them into quarterly reports to the Board; during one week each quarter, he or his staff will ask all patients to complete a "Patient Satisfaction Survey," which shall be forwarded to Mr McInnis for his quarterly report to the Board; he shall continue his outpatient therapy with Dr Patterson or another psychiatrist approved by the Board's president and he shall comply with all recommendations of the psychiatrist; he shall direct Dr Patterson or his successor to provide reports to Mr McInnis for inclusion in his quarterly reports to the Board and to the NCPHP; he shall have the personality checklist prepared by the BMI staff for his case completed by a medical partner and by another person who sees Dr Wright regularly and forwarded to Mr McInnis, who will review them with Dr Wright; he shall continue therapy with Mr McInnis as a behavioral supervising therapist to focus on relapse prevention and review of surveillance forms and checklists; he shall direct Mr McInnis or his successor to provide quarterly reports to the director of the Investigations Department of the Board; he shall maintain and abide by a contract with the NCPHP; must comply with other conditions. After six months, Dr Wright may petition the Board to request termination of this Consent Order, which the Board is under no obligation to grant; in the event of denial, he may petition again at a time set by the Board.

MISCELLANEOUS ACTIONS

NONE

DENIALS OF RECONSIDERATION/MODIFICATION

NONE

DENIALS OF LICENSE/APPROVAL

**AMIR, Guy, MD**

Location: Royal Palm Beach, FL  
 DOB: 6/24/1971  
 License #: NA  
 Specialty: NA  
 Medical Ed: Fatima, Manila, Philippines (1997)  
 Cause: The Board has found Dr Amir failed to respond within a reasonable time and in a reasonable manner to inquiries from the Board concerning any matter affecting the license to practice. Specifically, he failed to provide information regarding his post-graduate training.

Action: 7/23/2003. Letter issued denying license application. [A hearing on the denial has been requested and scheduled for October 2003.]

**SULLIVAN, Timothy Andrew, MD**

Location: Laurinburg, NC (Scotland Co)  
 DOB: 7/07/1965  
 License #: 2000-00633  
 Specialty: N (as reported by physician)  
 Medical Ed: Eastern Virginia School of the Medical College of Hampton Roads (1995)  
 Cause: The Board finds Dr Sullivan, who surrendered his license in March 2002, would be unable to practice with reasonable skill and safety.

Action: 1/18/2003. Application for license denied. [He may request a hearing within 10 days of receipt of the letter denying his application.]

SURRENDERS

**DIAMOND, Patrick Francis, MD**

Location: Wilmington, NC (New Hanover Co)  
 DOB: 5/15/1946

License #: 0098-00042  
 Specialty: FP (as reported by physician)  
 Medical Ed: Autonomous University Tanaulipas, Mexico (1987)  
 Action: 6/26/2003. Voluntary surrender of medical license.

**LOCK, George Joseph, Physician Assistant**

Location: Princeton, NC (Johnston Co)  
 DOB: 8/26/1958  
 License #: 0001-01050  
 PA Education: Bowman Gray School of Medicine (1987)  
 Action: 5/20/2003. Voluntary surrender of PA license.

**REESE, Perry, III, MD**

Location: Roseboro, NC (Sampson Co)  
 DOB: 8/17/1958  
 License #: 0094-00988  
 Specialty: FP (as reported by physician)  
 Medical Ed: Wayne State University (1990)  
 Action: 6/03/2003. Voluntary surrender of medical license.

**WHITE, Steven William, Physician Assistant**

Location: Cameron, NC (Moore Co)  
 DOB: 12/19/1962  
 License #: 0001-02116  
 PA Education: Midwestern University (1996)  
 Action: 6/19/2003. Voluntary surrender of PA license.

See Consent Orders:

**CARLSON, James Lennart, MD**

COURT APPEALS/STAYS

NONE

CONSENT ORDERS LIFTED

**HOLMES, Joseph Nathan, MD**

Location: Charlotte, NC (Mecklenburg Co)  
 DOB: 10/07/1956  
 License #: 0000-37854  
 Specialty: IM (as reported by physician)  
 Medical Ed: Texas Tech University (1986)  
 Action: 6/23/2003. Order issued lifting Consent Order of 3/09/2002.

**O'DONNELL, Robert William, MD**

Location: Whiteville, NC (Columbus Co)  
 DOB: 1/30/1942  
 License #: 0000-29636  
 Specialty: P (as reported by physician)  
 Medical Ed: University of Maryland (1974)  
 Action: 6/23/2003. Order issued lifting Consent Order of 4/13/2002.

TEMPORARY/DATED LICENSES:

ISSUED, EXTENDED, EXPIRED, OR REPLACED BY FULL LICENSES

**CONNINE, Tad Robert, MD**

Location: Great Mills, MD  
 DOB: 1/19/1964  
 License #: 0099-00193  
 Specialty: RO (as reported by physician)  
 Medical Ed: University of Southern Florida (1992)  
 Action: 6/19/2003. Temporary/dated license extended to expire 6/30/2004.

**GOTTSCHALK, Bernard Joseph, MD**

Location: Wilmington, NC (New Hanover Co)  
 DOB: 5/10/1955  
 License #: 0000-30162  
 Specialty: IM/ON (as reported by physician)  
 Medical Ed: University of Pittsburgh School of Medicine (1981)  
 Action: 7/17/2003. Temporary/dated license extended to expire 1/31/2004.

**HEINER, Daniel Edward, MD**

Location: Charlotte, NC (Mecklenburg Co)  
 DOB: 7/06/1964  
 License #: Resident Training License  
 Specialty: ORS (as reported by physician)

Medical Ed: University of Kansas (1997)  
 Action: 7/17/2003. RTL issued to expire 7/31/2004.

**LAVINE, Gary Harold, MD**

Location: Kinston, NC (Lenoir Co)/Winterville, NC (Pitt Co)  
 DOB: 11/04/1964  
 License #: 2001-00403  
 Specialty: EM (as reported by physician)  
 Medical Ed: University of South Alabama (1989)  
 Action: 6/19/2003. Temporary/dated license extended to expire 12/31/2003.

**MATTHEWS, Charles Joseph, MD**

Location: Raleigh, NC (Wake Co)  
 DOB: 2/03/1955  
 License #: 0000-27245  
 Specialty: N (as reported by physician)  
 Medical Ed: University of Virginia (1978)  
 Action: 7/17/2003. Temporary/dated license extended to expire 1/31/2004.

**PRESSLY, Margaret Rose, MD**

Location: Sylva, NC (Jackson Co)  
 DOB: 5/05/1956  
 License #: 0000-34548  
 Specialty: FP (as reported by physician)  
 Medical Ed: University of North Carolina School of Medicine (1990)  
 Action: 6/19/2003. Temporary/dated license extended to expire 12/31/2003.

See Consent Orders:

**CARLSON, James Lennart, MD**  
**CORNWALL, Richard Orran, Physician Assistant**

DISMISSALS

**CUMMINGS, Richard Edward, MD**

Location: Kinston, NC (Lenoir Co)  
 DOB: 2/17/1950  
 License #: 0000-27904  
 Specialty: PS (as reported by physician)  
 Medical Ed: University of Miami (1977)  
 Cause: On 10/11/2002, the Board filed a Notice of Charges and Allegations against Dr Cummings in which it claimed Dr Cummings had violated the standard of practice and committed unprofessional conduct in performance of certain cosmetic surgery procedures. The 13th Claim in the Charges alleged he re-used disposable tissue expanders. After taking testimony, the Board found the tissue expanders used by Dr Cummings can be re-used if properly sterilized, and that Dr Cummings properly sterilizes all tissue expanders before re-use. Re-use of tissue expanders by Dr Cummings has resulted in no harm to any patient.

Action: 5/14/2003. Retraction and Dismissal with Prejudice issued: The 13th Claim of the Charges issued on 10/11/2002 is hereby retracted and dismissed with prejudice.

**SAFWAT, Mohab Wafik Shafik, MD**

Location: Winston-Salem, NC (Forsyth Co)  
 DOB: 10/22/1967  
 License #: Resident Training License  
 Specialty: GS/U (as reported by physician)  
 Medical Ed: Ein Shams University, Egypt (2001)  
 Action: 7/28/2003. Order Dismissing Charges Without Prejudice issued. Following a hearing on 7/17/2003, the Board determined there was good cause to grant the motion by Dr Safwat's counsel requesting dismissal of the Notice of Charges and Allegations of 5/02/2003.



## CHANGE OF ADDRESS FORM

*Mail Completed form to:* North Carolina Medical Board  
PO Box 20007, Raleigh, NC 27619

*Please print or type.*

Date: \_\_\_\_\_

Full Legal Name of Licensee: \_\_\_\_\_

Social Security #: \_\_\_\_\_ License/Approval #: \_\_\_\_\_

*(Check preferred mailing address)*

☐ Business: \_\_\_\_\_

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

☐ Home: \_\_\_\_\_

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

*The Board requests all licenses maintain a current address on file with the Board office. Changes of address should be submitted to the Board within 60 days of a move.*

## North Carolina Medical Board Meeting Calendar, Examinations

**Meeting Dates:** November 19-21, 2003; December 17-18, 2003; January 21-23, 2004;  
February 18-19, 2004; March 17-19, 2004

### Residents Please Note USMLE Information

#### United States Medical Licensing Examination Information (USMLE Step 3)

Computer-based testing for Step 3 is available on a daily basis. Applications are available on the North Carolina Medical Board's Web site at <http://www.ncmedboard.org/exam.htm>. If you have additional questions, please e-mail Tammy O'Hare, GME/Examination Coordinator, at [tammy.ohare@ncmedboard.org](mailto:tammy.ohare@ncmedboard.org).

#### Special Purpose Examination (SPEX)

The Special Purpose Examination (or SPEX) of the Federation of State Medical Boards of the United States is available year-round. For additional information, contact the Federation of State Medical Boards at PO Box 619850, Dallas, TX 75261-9850, or telephone (817) 868-4000.

North Carolina Medical Board  
1203 Front Street  
Raleigh, NC 27609

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