



**SPECIAL MEETING MINUTES**

**April 9, 2020**

**Via Videoconference**

Minutes of the North Carolina Medical Board (NCMB) Special Meeting held April 9, 2020.

A Special Meeting of the North Carolina Medical Board was held via conference call at 6:00 p.m. on April 9, 2020. Bryant A Murphy, MD, President, called the meeting to order. Board members in attendance were: Bryant A. Murphy, MD, President; Venkata R. Jonnalagadda, MD, President-Elect; John W. Rusher, M.D., Secretary/Treasurer; Ralph A. Walker, JD; Shawn P. Parker, JD; Michaux R. Kilpatrick, MD; Joshua D. Malcolm, JD; Damian F. McHugh, MD; W. Howard Hall, MD; Devdutta G. Sangvai, MD; Varnell D. McDonald-Fletcher, EdD, PA-C; Christine M. Khandelwal, DO and Jerri L. Patterson, NP.

### **CONFLICTS OF INTEREST**

Dr. Murphy reminded the Board members of their duty to avoid conflicts of interest with respect to any matters coming before the Board as required by the State Government Ethics Act. No conflicts were reported.

### **ORDER MAKING THE EXPIRATION DATE FOR ALL EMERGENCY LICENSES BE THIRTY DAYS AFTER THE COVID-19 STATE OF EMERGENCY ENDS**

Background: There are multiple NCMB rules related to emergency licensure, including 21 NCAC 32B .1706, 21 NCAC 32B .1707, 21 NCAC 32S .0219; 21 NCAC 32W .0116 and 21 NCAC 32V .0111. Most of these rules have a renewable expiration date that is the shorter of (a) thirty (30) days from the start of practice or license issue date, or (b) the declared end of an emergency.

Unless the expiration date is modified, NCMB staff will soon have to begin the process of renewing many of the emergency licenses it has issued to combat the COVID-19 pandemic. Doing so will take up valuable NCMB staff resources and time that could otherwise be devoted to both pandemic-related and routine duties. It will be a more efficient process to change the expiration date for these emergency licenses to be thirty (30) days after the State of Emergency as declared in Governor Cooper's Executive Order No. 116 has ended, and that change will not put the people of North Carolina at undue risk.

**Board Action:** Under the authority granted in N.C. Gen. Stat. § 90-12.5, the NCMB ORDERS the following:

1. All emergency licenses the NCMB issues in relation to the COVID-19 pandemic shall expire thirty (30) days after the State of Emergency as declared in Governor Cooper's Executive Order No. 116 has ended.

2. This Order shall be effective as of the date the NCMB voted to take this action on April 9, 2020, and shall apply (a) prospectively to all future emergency licenses issued by the NCMB and (b) retroactively to all emergency licenses already issued by the NCMB relating to the COVID-19 pandemic.

**ORDER WAIVING PASSAGE OF THE PHYSICIAN ASSISTANT NATIONAL CERTIFYING EXAMINATION FOR NEW PHYSICIAN ASSISTANT GRADUATES DURING THE COVID-19 EMERGENCY**

Background: Pursuant to Rule 21 NCAC 32S .0202(a)(4), applicants for a physician assistant (PA) license must take and pass the Physician Assistant National Certifying Examination (PANCE). Recent graduates of accredited physician assistant educational programs are unable to take the PANCE as a result of the ongoing crisis associated with the COVID-19 pandemic.

Allowing graduates of accredited PA programs who have been unable to take the PANCE after the March 10, 2020 declared State of Emergency to obtain a temporary license without taking PANCE will assist hospitals and other healthcare facilities and practices in combatting the COVID-19 outbreak.

**Board Action:** Under the authority granted in N.C. Gen. Stat. § 90-12.5, the NCMB ORDERS the following:

1. 21 NCAC 32S .0202(a)(4) is waived to the extent that applicants who graduated from an accredited physician assistant educational program after February 1, 2020, are not required to provide documentation of achieving a passing score on the PANCE.

2. Practice under a temporary license granted pursuant to this Order shall be under the supervision of an on-site supervising physician. On-site supervision shall mean having immediate access, either in-person or electronically, to a physician physically present on the facility premises should medical issues arise.

3. Any license issued pursuant to this Order shall expire six months from the date of issuance or when a holder of a license takes and fails the PANCE. Furthermore, any license issued pursuant to this Order may be terminated should this Order be amended or rescinded by the Board, or otherwise affected by further Executive Order.

**ORDER REGARDING EMERGENCY TEMPORARY REINSTATEMENT OF NURSE PRACTITIONER APPROVAL TO PRACTICE DURING THE COVID-19 EMERGENCY**

Background: In response to the ongoing COVID-19 State of Emergency, the Nurse Practitioner Joint Subcommittee recommended an expedited reinstatement process by which nurse practitioners can go from inactive status to active status. The expedited process waives the requirements of current certification, continuing education, and payment of a fee. All other requirements, including supervision, having a collaborative practice agreement, and quality improvement meetings, would remain. Nurse practitioners who have had their approvals to practice surrendered or suspended due to disciplinary action or who have been inactive for more than two years are ineligible for temporary reinstatement.

All temporary reinstatements under this process will expire on August 1, 2020.

This process reflects Board emergency rule 21 NCAC 32B .1707 which allowed physicians and physician assistants to reinstate inactive licenses quickly. Under both processes, inactive licensees who have had disciplinary action or who have been out of clinical practice for more than two years are ineligible for temporary reinstatement.

Board Action: Under the authority granted in N.C. Gen. Stat. § 90-12.5, the NCMB ORDERS the following:

1. A nurse practitioner with an inactive approval to practice status who applies for approval to practice pursuant to this Order shall meet the qualifications for approval to practice in Rules 21 NCAC 32M .0103(a)(1), .0104(a) and (b), .0107, and .0110.

2. A nurse practitioner shall receive notification from the Board of Nursing of approval of the application by both Boards prior to beginning practice.

3. The provisions of registration and certification in Rule 21 NCAC 32M .0104(a)(1), continuing education in Rule .0107, and submission of a fee in Rule .0113 are waived.

4. All other statutory and regulatory provisions and requirements pertaining to nurse practitioner practice shall remain.

5. Applicants with approvals to practice that were surrendered or suspended due to disciplinary action are ineligible.

6. The emergency approval to practice is temporary and will expire on August 1, 2020, unless the waiver provisions are amended or rescinded by the Board, or otherwise affected by further Executive Order.

### **ORDER WAIVING CERTIFICATION EXAMINATIONS FOR NEW NURSE PRACTITIONER GRADUATES DURING THE COVID-19 EMERGENCY**

Background: In response to the ongoing COVID-19 State of Emergency, the Nurse Practitioner Joint Subcommittee recommended a waiver of new nurse practitioner graduates taking and passing a certification exam before receiving an approval to practice. Under the waiver, a new NP graduate can obtain a temporary emergency approval to practice for six months. All other requirements would remain, except the supervision requirement is heightened. Under the proposed waiver Order, new NP graduates with an emergency, temporary approval must have "on-site supervision." On-site supervision shall mean having immediate access, either in-person or electronically, to a physician physically present on the facility premises should medical issues arise.

Additional considerations in support of a waiver:

- Only those applicants who have successfully graduated from an approved NP educational program after the March 10, 2020 declaration of the State of Emergency will be eligible.
- NP graduates are not able to take their certification examinations as the examinations have been indefinitely delayed during the crisis.

- Most NP graduates pass their certification examinations on the first try.
- NP educational programs contain a clinical component.
- If for any reason an applicant is able to take a certification exam while holding a temporary approval and fails it, then the temporary approval expires.
- Temporary approvals are good for only six months.

**Board Action:** Under the authority granted in N.C. Gen. Stat. § 90-12.5, the NCMB ORDERS the following:

1. 21 NCAC 32M .0103(a)(3) is waived to the extent that applicants for first-time approval who graduated from an accredited nurse practitioner educational program after March 10, 2020 are not required to provide documentation of certification by a national credentialing body.

2. Practice under an approval granted pursuant to this Order shall be under the supervision of an on-site supervising physician. On-site supervision shall mean having immediate access, either in-person or electronically, to a physician physically present on the facility premises should medical issues arise.

3. Any approval issued pursuant to this Order shall expire six months from the date of issuance, or this Order is either amended or rescinded by the Board, or otherwise affected by further Executive Order.

**ORDER REGARDING THE REASSIGNMENT OF NURSE PRACTITIONERS TO A NEW PRACTICE AREA TO MEET CRITICAL NEEDS DURING THE COVID-19 EMERGENCY**

On March 27, 2020, the Board approved an Order allowing health care institutions to temporarily reassign physician assistants to new practice areas within the same facility without submitting a new intent to practice form or updating supervisory arrangements. The waivers were conditioned upon: 1) the PA being delegated only those tasks for which the PA is qualified and competent to perform; and 2) the PA having reasonable access to a physician, either in-person or electronically, for on-going consultation and supervision should medical issues arise.

In consultation with Board of Nursing, NCMB staff requests the Board adopt a similar Order for nurse practitioners.

**Board Action:** Under the authority granted in N.C. Gen. Stat. § 90-12.5, the NCMB ORDERS the following:

1. Nurse practitioners may be reassigned to a new practice area within the same facility (i.e., hospital, multi-specialty group practice) without submitting a new approval to practice application or updating their collaborative practice agreements, so long as:

a. the nurse practitioner is reassigned to perform only those medical tasks which the nurse practitioner is competent and qualified to do; and

b. the nurse practitioner has reasonable and immediate access to a physician, either in person or electronically, should medical issues arise.

2. During the temporary emergency reassignment, the nurse practitioner is expected to comply with all other applicable rules, including the requirement to confer at least monthly with a physician to ensure meaningful supervision and quality assurance within the new practice setting.

3. This Order is effective only during the length of the declared state of emergency in North Carolina. Once the governor has lifted the state of emergency, any nurse practitioner who continues practicing in the new setting is expected to file a new approval to practice application and update her or his collaborative practice agreements within thirty days.

### **COVID-19 DRUG PRESERVATION RULE FOR NURSE PRACTITIONERS**

On March 27, 2020, the Board, in response to a request from the Secretary of the North Carolina Department of Health and Human Services, adopted emergency and temporary rules to help prevent a shortage of certain drugs that may be used in treating COVID-19. These rules, however, only applied to physicians and physician assistants.


Recognizing the emergency rules failed to include nurse practitioners, the DHHS now requests the Board and Board of Nursing adopt the same emergency and temporary rules to prevent nurse practitioners from improperly prescribing restricted COVID-19 drugs.

On April 6, 2020, the Nurse Practitioner Joint Subcommittee met by teleconference and recommended approval of the attached emergency and temporary rules.

Board Action: Adopt Emergency Rule 21 NCAC 32M .0119 and Temporary Rule 21 NCAC 32M .0119 as shown on Attachment 1.

### **ADJOURNMENT**

There being no further business, the NCMB adjourned at 6:45 p.m. on April 9, 2020.

  
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John W. Rusher, MD; Secretary/Treasurer