

North Carolina Medical Board
License Committee
January 2011

Thomas Hill, MD, Chair, Donald Jablonski, DO, Karen Gerancher, MD, Mr. John Lewis

Open Session

Old Business

1. Pre-populating the application form

Issue: There was discussion during the September Board meeting about new applications being “pre-populated” with information from old applications with regard to misdemeanors, felonies, malpractice, privileges and regulatory Board actions. This affects licensees who have previously been licensed by NCMB; applicants who applied in the past and were denied, expired or withdrew. The general consensus of staff was to not pre-populate this information. However, because the data for LI (License Information) page, applications and renewals is stored in one place a majority of the information is pre-populated. The instructions for these pages are currently being reviewed for necessary modification. Also, pre-populating this information has been one of the things applicants have requested through our survey.

Committee Recommendation: Have staff provide an update at the January meeting regarding the status of changing the instructions.

Board Action: Have staff provide an update at the January meeting regarding the status of changing the instructions.

1/2011 Update: Staff meeting has been scheduled to update instructions. Update will be provided at Licensing Committee meeting.

2. Medical School Faculty Limited License (MSFL)

Issue: Physicians holding a current medical school faculty license of more than one year duration (109 physicians of a total 133 MSFL holders) were sent the following letter: The purpose of this letter is to request information regarding your North Carolina medical license. Our records indicate you currently hold a Medical School Faculty License (MSFL). North Carolina Administrative Code (21 NCAC 32B .0801 & .0802) requires that physicians with a MSFL have a full time appointment as either a lecturer, assistant professor, associate professor, or full professor at one of the following medical schools:

- Duke University School of Medicine
- University of North Carolina at Chapel Hill School of Medicine
- Bowman Gray School of Medicine
- East Carolina University School of Medicine

The MSFL also limits the physician’s practice to the confines of their employment as a member of the medical faculty. This license may not be used to engage in a

practice outside the realm of a medical school. Based on the criteria noted above please provide the Board:

- a. A letter or other document confirming you have an existing full-time faculty appointment to one of the medical schools listed and are limiting your practice as required.
- b. Verification and details of the appointment signed by the Dean or Acting Dean of the Medical School at which you currently practice. If you are unable to provide confirmation of your current eligibility for a MSFL you are requested to make your license inactive (form enclosed). You may apply for a full and unrestricted license if you are eligible (requirements available on the Board's website at: www.ncmedboard.org/licensing).

Please respond to this letter by July 15, 2010. If you believe you have received this letter in error, or if you have any questions on this matter, please feel free to call or email me. Thank you in advance for your cooperation.

Physicians with a MSFL of less than one year duration, and who had thus just recently provided documentation of eligibility for the MSFL were not included in mailing list. I did not determine the order of medical school listing. It is copied directly from NCAC.

Responses have been received, one way or another, several only after multiple requests, from 108 physicians.

83 physicians confirmed their current eligibility for continued MSFL

- Duke University School of Medicine – 39
- University of North Carolina at Chapel Hill School of Medicine - 25
- Bowman Gray School of Medicine – 14
- East Carolina University School of Medicine – 5

25 physicians requested inactive status. Physicians who requested information about later re-activation or application for a full and unrestricted license were advised that both processes would require completion of an essentially new application. 1 physician did not respond and could not be located. Duke University confirmed this physician was no longer at Duke (gastroenterology) and did not have a faculty appointment. Graph represents total number of current MSFL holders at each medical school. Total adds to more than 109 because this is all MSFL, including those not sent letters requesting confirmation of status (those with MSFL of less than 1 year).

Miscellaneous Observations:

Mean age of physicians with MSFL – 45 years old (Range 30 – 71 years old).

Mean years since initial MSFL issue date – 5 years (range 1 – 14 years).

Department with largest number of MSFL – Duke Anesthesiology – 19 physicians

Number of MSFL physicians graduated from US medical schools – 21 physicians.

Committee Recommendation:

- a. All applications for MSFL should be screened to determine if applicant is eligible for full and unrestricted license (FUL). Physicians eligible for FUL should not be allowed to apply for MSFL.
- b. The following statement should be added to MSFL yearly renewal: "I certify that I remain eligible for continued medical school faculty limited licensure, that I have a full

time faculty appointment at a North Carolina medical school, and that I am limiting my practice to the confines of my employment as a member of the medical school faculty”.

Board Action:

- a. All applications for MSFL should be screened to determine if applicant is eligible for full and unrestricted license (FUL). Physicians eligible for FUL should not be allowed to apply for MSFL.
- b. The following statement should be added to MSFL yearly renewal: “I certify that I remain eligible for continued medical school faculty limited licensure, that I have a full time faculty appointment at a North Carolina medical school, and that I am limiting my practice to the confines of my employment as a member of the medical school faculty”.

Tasked to Operations 1/5/2011

3. It is suggested that the following rule be amended as indicated in (b)(9)

21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE

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

(b) All applicants for reinstatement shall:

- (1) submit a completed application, attesting under oath that information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (5) submit reports from all state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;
- (6) submit the AMA Physician Profile; and, if applicant is an osteopathic physician, also submit the AOA Physician Profile;
- (7) submit a NPDB/HIPDB report dated within 60 days of the application's submission;

- (8) submit a FSMB Board Action Data Bank report;
 - (9) submit documentation of CME obtained in the last three years, upon request;
 - (10) submit two completed fingerprint cards supplied by the Board;
 - (11) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
 - (12) provide two original references from persons with no family or material relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of submission of the application; and
 - (D) bearing the original signature of the author.
 - (13) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;
 - (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher); or
 - (2) within the past ten years obtained certification or recertification of CAQ by a speciality board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
 - (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (d) All reports must be submitted directly to the Board from the primary source, when possible.
- (e) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.
- (f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Committee Recommendation: Accept proposed change to 21 NCAC 32B .1350 by adding "upon request" in (b)(9).

Board Action:

Amend 21 NCAC 32B .1350 (b)(9) as follows: submit documentation of CME obtained in the last three years, upon request;

Amend 21 NCAC 32B .1350 (c) as follows:

In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has of one of the following:

Notify Rules Review that the word "specialty" in (c) (2) is misspelled.

(2) within the past ten years obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or

1/2011 Update: Tasked to Legal 1/5/2011

4. Requiring examinations for a resident training license

Issue: During the Fall RTL debriefing session with DIOs and House Staff representatives there was a discussion regarding the NCMB requiring physicians to pass USMLE Steps 1 & 2 or COMLEX 1 & 2 to be eligible for a training license and whether any GME office would object to this. David advised GME offices to check around and let the Board know if there would be any issues with their institutions if the NCMB required this. Dr. Gerancher suggested that before the NCMB implements this rule the Dean of Students at the medical schools be notified. Dr. Baker (CMC) suggested that plenty of notice be given to the GME offices and the physicians applying for a training license. David advised since there was no rush to implement this rule, the Board would try to make this effective 1/1/2012.

Committee Recommendation: Implement a rule requiring USMLE 1&2 (CK and CS) or COMLEX 1&2 (CK and CS) for a resident training license.

Board Action: Implement a rule requiring passage of USMLE 1&2 (CK and CS) or COMLEX 1&2 (CK and CS) for a resident training license.

1/2011 Update: Rule has been drafted and will be presented for approval to Rules Review with ample advance notice to interested parties for a 2012 effective date.

New Business

1. Privileges Suspended Section of License Applications

Issue: Recently the Board reviewed a physician license application in which the physician had been fired by her group practice for cause and then “voluntarily resigned” from the hospital staff before any action was taken by the hospital (related to the same incident which caused the physician to be fired from her group practice). This physician did not list any “Privileges suspended”; essentially answering the question “No”. The Board has previously determined, for the purposes of this question, that a group practice or employer should properly be considered a “health care institution”. It is an organization that does “issue credentials” to physicians. Nevertheless, in order to clarify the intent of the *Privileges Suspended* question Dr. Kirby proposes the definitions of “Actions” and “Health Care Institutions” be amended to include specific reference to physician group practices or employers.

Privileges Suspended/Authority to Practice Interrupted

Have you ever had an action taken against you by a health care institution, including employers or group practices? If so, list each occurrence.

Actions include warnings, censures, discipline, admissions monitored, privileges limited, privileges suspended, or/revoked; remediation, probation, withdrawals/resignations of

privileges, suspension or termination of employment or a resignation under threat of investigation or disciplinary action or denial of staff membership.

Health care institutions include hospitals, health maintenance ~~organizations, or~~ preferred provider organizations, any facility in which you trained, any group practice, or any other ~~provider~~ organizations that issue credentials to physicians.

Staff Recommendation: Accept proposed changes. (SSRC)

2. 21 NCAC 32B.1303(a)(14) & (15)

Issue: It has been noted that we have a latent ambiguity in our physician licensing rules on the 3-tries-per step (or level) and get a 75 issue. It is recommended that the rule be cleaned up to make it stronger and clearer, although no different in application.

Staff Recommendation: Amend the rule as outlined below.

21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE

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

- (14) if applying on the basis of the USMLE, submit:
 - ~~(A) a transcript from the FSMB showing a score of at least 75 on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3;~~
 - (A) a transcript from the FSMB showing a two-digit score of at least 75 on USMLE Step 1, Step 2 clinical knowledge examination, and Step 3, as well as passage of the Step 2 clinical skills assessment;
 - (B) proof that the applicant has passed each step within three attempts. However, the Board shall waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years.
- (15) if applying on the basis of COMLEX, submit:
 - ~~(A) a transcript from the NBOME showing a score of at least 75 on COMLEX;~~
 - (A) a transcript from the NBOME showing a two-digit score of at least 75 on COMLEX Level 1, Level 2 cognitive evaluation and Level 3, as well as proof of passage of the Level 2 performance evaluation;
 - (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years.

History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1; Eff. August 1, 2010.

3. Guidelines for Reporting Withdrawal and Denial of Applications to NPDB, HIPDB and FSMB

Issue: There has been discussion regarding exactly what license application “withdrawals and denials” should be reported to FSMB, NPDB and HIPDB. We have contacted all three entities and recently received guidance and direction regarding the reporting issues. See bookmarked copy of Mr. Balestrieri’s January 4, 2011 memorandum outlining the reporting guidelines.

Staff Recommendation: Consider placing a copy of these guidelines on the Board Book under the informational tab.

4. Letters of Advice

Issue: Senior Staff Review Committee request that a letter of advice be sent to applicants who are applying to NC for their initial full license in any jurisdiction and have less than 2 years PGT. The letter will provide advice regarding appropriately limiting the applicant's scope and practice in accordance with their training and expertise.

Staff Recommendation: Create pre-approved letter of advice for applicants in the above described category.

5. Medical School Faculty License

Issue: There has been discussion about whether it is appropriate to have a time limitation on Medical School Faculty Licenses. The proposed rule implements an expiration date after three years. Dr. Kirby will address this issue and whether the three year expiration date is appropriate.

Proposed Rules:

21 NCAC 32 BB.0800 SCOPE OF PRACTICE UNDER MEDICAL SCHOOL FACULTY LIMITED LICENSE

A physician holding a Medical School Faculty Limited License may practice only within the confines of the medical school or its affiliates. "Affiliates" shall mean the primary medical school hospital(s) and clinic(s), as designated by the ACGME.

History Note: G.S. 90-12.3

21 NCAC 32BB .0801 APPLICATION FOR MEDICAL SCHOOL FACULTY LIMITED LICENSE

The Medical School Faculty License is limited to physicians who have expertise which can be used to help educate North Carolina medical students, post-graduate residents and fellows but who do not meet the requirements for Physician licensure.

(A) In order to obtain a Medical School Faculty License, an applicant shall:

1. submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
2. submit the Board's form, signed by the Dean or his appointed representative, indicating that the applicant has received full-time appointment as either a lecturer, assistant professor, associate professor, or full professor at a medical school in the state of North Carolina.
3. submit documentation of a legal name change, if applicable;
4. submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
5. submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be

stamped on the form; the dean or other official of the applicant's medical school shall sign this form, verifying the information;

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

7. submit proof of satisfactory completion of at least one year of GME approved by ACGME, CFPC, RCPSC, or AOA; or evidence of other education, training or experience, determined by the Board to be equivalent;

~~7-8.~~ submit reports from all medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;

~~8-9.~~ submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA Physician Profile;

~~9-10.~~ submit a NPDB report, HIPDB report, dated within 60 days of applicant's oath;

~~10-11.~~ submit a FSMB Board Action Data Bank report;

~~11-12.~~ submit two completed fingerprint record cards supplied by the Board;

~~12-13.~~ submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;

~~13-14.~~ provide two original references from persons with no family or marital relationship to the applicant. These letters must be:

- (a) from physicians who have observed the applicant's work in a clinical environment within the past three years;
- (b) on forms supplied by the Board;
- (c) dated within six months of the applicant's oath; and
- (d) bearing the original signature of the writer.

~~14-15.~~ pay to the Board a non-refundable fee of \$350.00, plus the cost of a criminal background check;

~~15-16.~~ upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

- (B) All reports must be submitted directly to the Board from the primary source, when possible.
- (C) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.
- (D) An application must be completed within one year of the date of the applicant's oath.
- (E) This license is valid for the shorter of three years or the duration of the holder's appointment to the academic staff of the school.
- (F) This rule shall apply prospectively.

History Note: G.S 90-12.3; 90-13.2

Staff Recommendation: Remove the 3 year time limit.

6. Fines

Issue: There has been some discussion regarding implementation of fines. Additional information will be forthcoming following 1/13/11 conference call.

Staff Recommendation: Recommendation will be forthcoming.