

North Carolina Medical Board  
License Committee  
January 2013

Paul Camnitz, MD, Chair, Janice Huff, MD, Thelma Lennon, Pascal Udekwu, MD

Open Session

Old Business

1. FCVS Language on Web Site - Fisher

Issue: Staff was requested to draft language for the web site with regard to using/not using FCVS for a license application. The main goal is to make applicants aware that if they do not have a completed FCVS profile it is not recommended that they start an application for an FCVS profile for their NC license.

9/2012 Board Action: Accept update that this task has been assigned to the public affairs department for editing the website. Public Affairs will provide an update at November meeting.

11/16/2012 Board Action: Accept as information. Revisit in January with update from Public Affairs.

2. Physician Education Update – Hemphill

Issue: The Board previously approved staff to move forward with developing an education tool for applicants as part of the application process. Ms. Hemphill will provide an update on what has been accomplished.

11/16/2012 Board Action: Continue to investigate the best possible way to implement without implementing a rule and making it mandatory.

Staff Recommendation: After further investigation, it is recommended that this project be abandoned. Mrs. Hemphill will provide an update. (Henderson & Hemphill)

3. Request to amend the malpractice section on the application form – Mackiewicz

Issue: The Legal Department has requested #3 of the malpractice section of the application be amended by adding the underlined wording:

In the table below, list all relevant information for any of the three scenarios below that apply to you.

1. You were named in a malpractice lawsuit.
2. A malpractice lawsuit filed against you was resolved with a judgment (regardless of appeal), award, payment or settlement regardless of whether the payment or settlement was in your name.
3. A malpractice settlement or payment was made, affecting or involving you, where no

lawsuit was filed or where you were not individually named.

11/16/2012 Board Action: Refer back to legal department for a recommendation for the committee to consider at January 2013 meeting.

New Recommendation:

In the table below, list all relevant information for any of the three scenarios below that apply to you.

1. You were named in a malpractice lawsuit.
2. A malpractice lawsuit filed against you was resolved with a judgment (regardless of appeal), award, payment or settlement regardless of whether the payment or settlement was in your name.
3. A malpractice settlement or payment was made involving your patient care. ~~affecting~~  
~~—or involving you, where no lawsuit was filed or where you were not individually named.~~

New Business:

1. 21 NCAC 32B .1303 (a)(12) – Hemphill/Cooke

Issue: Applicants for initial physician licensure and reinstatement are required to submit proof of licensure by other state medical or osteopathic boards. (See 21 NCAC 32B. 1303(a)(12) and 21 NCAC 32B.1350(b)(5), below, with relevant portions struck through.\* Staff has determined that this requirement is unnecessary, because:

- The NCMB obtains information about disciplinary actions against a licensee from the FSMB, AMA, AOA, and NPDB/HIPDB databanks. Verification by individual state licensing boards is redundant.
- Although state boards once told each other about licensees being under investigation, that occurs quite rarely now. State boards increasingly are reluctant to inform another board about an investigation until that board has taken final action.
- If an applicant for a North Carolina license fails to disclose a pending action in another state, and the other board takes public action, the NCMB will learn about it from the FSMB. Then, the NCMB may investigate the applicant/licensee for two issues: failure to disclose; and the underlying conduct.

There are other reasons to drop this requirement.

- Obtaining proof of licensure from other state boards can be time-consuming for applicants, particularly those with multiple licenses, such as radiologists and other telemedicine physicians.

- Public policy favors increased license portability and reduced bureaucratic obstacles to licensure.
- Cost savings will accrue to the applicants, since they must pay for each license verification. The NCMB's fee is \$25, but this may be less than average. There also will be significant time savings for applicants.
- NCMB licensing staff time will be reduced, as there will be fewer documents to collect, analyze, and check for quality assurance.
- Processing time of license applications and reinstatements may be shortened.
- As reported at the Fall 2012 AIM Licensing and Technology Meeting, several other boards have dropped this requirement.

Steps to implementation:

- Approval by Licensing Committee and full Board.
- Rule-Making process: preparation of proposed rule amendment, preparation of fiscal commentary or fiscal note, publication, public hearing, final Board action, approval by Rules Review Commission. (Cautionary note: the RRC has authority to meddle with anything in a rule once an agency has brought the rule before it.)
- Internal work: revising the licensing application, FAQs, other areas on the website, GLS forms.
- Getting the word out: putting an item on the website, informing NAMSS, the NCMS, NCHA, etc.

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**\*NOTE:** THERE IS NOT A CORRESPONDING REQUIREMENT FOR PAS OR RTLS IN THE RULES. INSTEAD, STAFF HAS BEEN REQUESTING VERIFICATIONS AS PART OF THE "CATCH ALL" PROVISION IN EACH LICENSING RULE WHICH ALLOWS THE NCMB TO REQUEST ADDITIONAL INFORMATION IT DEEMS APPROPRIATE. THEREFORE, THERE IS NO NEED TO AMEND THOSE RULES. ONLY INTERNAL PROCEDURE, FAQs, ETC WILL NEED TO BE CHANGED.

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**21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE**

- (a) In order to obtain a Physician License, an applicant shall:
- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
  - (2) submit a photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
  - (3) submit documentation of a legal name change, if applicable;

- (4) 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;
- (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) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- (7) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (8) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE; FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
  - (A) COMLEX,
  - (B) NBOME, and
  - (C) MCCQE;
- (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
  - (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have satisfactorily completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
  - (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
  - (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (10) submit a FCVS profile:
  - (A) If the applicant is a graduate of a medical school approved by LCME, CACMS or COCA, and the applicant previously has completed a FCVS profile; or
  - (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA or CACMS;
- (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, 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;
- ~~(12) 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 licensee;~~

- (13) submit an AMA Physician Profile and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
  - (14) if applying on the basis of the USMLE, submit:
    - (A) a transcript from the FSMB showing a score on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3; and
    - (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 on COMLEX Level 1, both portions of Level 2 (cognitive evaluation and performance evaluation) and Level 3; and
    - (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;
  - (16) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
  - (17) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;
  - (18) submit a FSMB Board Action Data Report;
  - (19) submit two completed fingerprint record cards supplied by the Board;
  - (20) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
  - (21) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
    - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
    - (B) on forms supplied by the Board;
    - (C) dated within six months of the submission of the application; and
    - (D) bearing the original signature of the writer;
  - (22) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
  - (23) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
    - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors;
    - (B) SPEX (with a score of 75 or higher); or
    - (C) COMVEX (with a score of 75 or higher);
  - (2) within the past 10 years obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
  - (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.

- (c) All reports must be submitted directly to the Board from the primary source, when possible.
- (d) An applicant shall appear in person for an interview with the Board or its agent, if the Board needs more information to complete the application.
- (e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

*History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1;*

*Eff. August 1, 2010;*

*Amended Eff. January 1, 2012; November 1, 2011; October 1, 2011.*

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## **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; and
- (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);
  - (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;
  - (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 shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character, if the Board needs more information to complete the application.
- (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.

*History Note: Authority G.S. 90-8.1; 90-9.1; 90-10.1; 90-13.1;  
Eff. August 1, 2010;  
Amended Eff. November 1, 2011.*

Staff Recommendation: Repeal the regulatory requirement for verification of other state licenses.

## 2. AIMAP Recommendation - Cooke

Issue: One of AIMAP's recommendations was to explore methods of handling licensees with an active license who are not in active practice. For fiscal year 2012, out of 33,464 active licensees, 3,764 reported they were not involved in patient care.

Staff Recommendation: Accept as information

### 3. Proposed Change to Pre-Approved PLOC Protocol – Dr. Kirby

Issue: Included in the current list of pre-approved PLOC<sup>1</sup> (Board Book Tab 350 #15) is a provision to send a “postgraduate training letter” to “all applicants who are still in or have not completed a residency” which states the following:

*Congratulations on recently fulfilling the requirements for a full and unrestricted license to practice medicine in North Carolina. Your license has been issued and formal notification has been sent under separate cover. However, because you have not completed a postgraduate training program, the Board emphasizes its expectation that you will appropriately limit your practice to those areas where you are competent. Furthermore the Board would like to know if you terminate your residency position prematurely.*

This pre-approved PLOC was initiated after the Board received a cluster of license applications from relative weak or poorly performing residents who were just finishing their first year of post graduate training. After license interviews with some of these applicants the Board became concerned these applicants were applying for a full and unrestricted license as a means to end what was otherwise an undistinguished medical education. Initially the plan was to send these inchoate physicians an informal and non-reportable letter of advice. However, when the concept of the letter of advice was rejected by the Board as an option for this (and several other similar) situations it was decided to use a pre-approved PLOC. Recently several Board member have become concerned the long term consequences of a potentially perpetually reportable PLOC may outweigh its benefits, and sending this cautionary warning to “all applicants who are still in or have not completed a residency” may be misapplied.

Recommendation:

- a. Send a “postgraduate training letter” pre-approved PLOC only to those applicants who have not completed at least 2 years of postgraduate training. This would anticipate the Board’s already approved recommendation to change the PGT licensure prerequisite to require completion of a least 2 years postgraduate training.
- b. The preapproved PLOC does not include the standard PLOC warning caveat:  
*“The Board considers this to have been an investigation. Under certain circumstances, other credentialing, regulatory, or licensing boards may require that you report this investigation. A copy of this letter may be used for that purpose”.*

An additional paragraph could be included in the “postgraduate training letter” which specifically states the Board does not consider this to have been an investigation and the pre-approved PLOC is not reportable to any other credentialing, regulatory, or licensing board.

<sup>1</sup> In order to qualify for the pre-approved PLOC process the license application must be otherwise “pristine” and only one item of concern can be present in a given application. For errors or omissions (such as failure to report academic probation, etc.) there can be no question the circumstances which led to the error were inadvertent and unintentional.

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<sup>1</sup> In order to qualify for the pre-approved PLOC process the license application must be otherwise “pristine” and only one item of concern can be present in a given application. For errors or omissions (such as failure to report academic probation, etc.) there can be no question the circumstances which led to the error were inadvertent and unintentional.