MINUTES

The North Carolina Medical Board

September 13-16, 1995

1203 Front St.
Raleigh, NC
The September 1995 meeting of the North Carolina Medical Board was held at the Board's office, 1203 Front Street, Raleigh, NC 27609. The meeting was called to order at 5:00 pm, September 13, 1995, by Walter M. Roufail, MD, President. Board members in attendance were: Harold L. Godwin, MD, President Pro-Tempore; Ernest B. Spangler, MD, President Elect; George C. Barrett, MD, Secretary/Treasurer; Hector H. Henry, II, MD; Mr. David L. Howe; Mr. Paul Saperstein; Wayne W. VonSeggen, PA-C; Mrs. Martha K. Walston; F. Danford Burroughs, MD; George Johnson, Jr., MD, and Charles E. Trado, Jr., MD.

Staff members present were: Mr. Bryant D. Paris, Jr., Executive Director; Ms. Helen Diane Meelheim, Director of Finance Operations & Human Resources; Mr. James A. Wilson, Board Attorney; Mr. William H. Breeze, Jr. Staff Counsel; Mr. Don R. Pittman, Investigative Director; Mr. Edmond Kirby-Smith, Investigator; Mr. Dale E. Lear, investigator; Mr. Alan M. Evans, Investigator; Mrs. Therese Dembroski, Investigator; Ms. Barbara Brame, Investigator; Mrs. Jenny Olmstead, Senior Investigative Secretary; Ms. Anne Goding, Investigative Secretary; Ms. Pearlina Dowling, Complaint Coordinator; Mr. Dale Breaden, Director of Communications and Public Affairs; Mrs. Wanda A. Long, Executive Staff Assistant; Mrs. Teresa Wrenn, PA/NP Coordinator; Ms. Tiajuana Jackson, Administrative Assistant; Mr. Jeff Denton, Operations Assistant; Mrs. Joy D. Cooke, Licensing Director; Ms. Michelle Lee, Asst. Director of Licensing; Mr. Jeff A. Peake, Licensing Assistant I; Mrs. Ann Z. Norris, Verification Secretary; and Mr. Peter Celentano, Controller.

AGENDA - Public

Board Members Assisting in Legal Actions
Dr. Johnson raised the question of whether or not Board members assisting lawyers or plaintiffs with legal actions would be a conflict of interests for Board members.

The Board adopted a motion presented by Mr. Howe, seconded by Dr. Godwin, to accept the following resolution:

Because such action might disqualify a Medical Board member from later participating in Board deliberation and action, it is inappropriate for any Board member to take part as advisor to either party in what might later become subject to Board review and action toward a person licensed by the Board.

James R. Winn, MD and Susan Spaulding, of FSMB
James R. Winn, MD, Executive Vice President and Susan Spaulding, Vice President, of the Federation of State Medical Boards, met with the Board and discussed the Federation goals, Ad-hoc Committee on Telemedicine, North American Free Trade Agreement (NAFTA), Self Assessment Instrument (SAI), and other topics brought up by the Board members.

Communication Department Update
Dale Breaden presented to the Board an update of the Communication Department entitled, "Notes for a Communication Program Focused on the Regulated Professions and the Public". The Board accepted this as information.

Podiatric Scope of Practice - Simple Soft Tissue Procedure
Dr. Spangler reported that he and Dr. Henry met twice with two members of the NC Board of Podiatry Examiners as part of the committee to define simple soft tissue procedures established by the passage Senate Bill 399. The next committee meeting will be September 25, 1995. The committee will complete its work by Sunday, October 1, 1995. The Board accepted this as information.
Minutes for approval
The Board adopted a motion presented by Dr. Johnson, seconded by Mr. Saperstein, to approve the minutes of the July 1995 Board meeting as presented.

Medical Schools - Ethics
Dr. Johnson discussed a fax he received from the UNC Dean of Education listing what is being taught to medical students regarding ethics. The Board accepted this as information.

Resolution re: Dr. Walter Roufail
The Board adopted a motion presented by Dr. Godwin, seconded by Mr. Saperstein, to accept the following resolution:
Whereas Walter Roufail, MD has been President of the NC Medical Board for the past year and whereas Dr. Roufail discharged the duties and responsibilities of this office in an exemplary manner, be it resolved that Dr. Roufail be made aware that the NC Medical Board gratefully acknowledges his services to the medical and lay population of the state of North Carolina.

Ad Hoc Committee on Telemedicine
Dr. W. Roufail appointed Dr. G. Barrett, Dr. H. Godwin, and Mr. P. Saperstein to serve as members of the AdHoc Committee on Telemedicine. This committee is to discuss the issue of telemedicine and present a report to the Board at the November meeting.

EXECUTIVE DIRECTOR'S REPORT
The Executive Director, Bryant D. Paris, Jr., presented the following information in his Executive Director's report:

Executive Summary of The Ad Hoc Committee on Physician Impairment Report on Sexual Boundary Issues of the Federation of State Medical Boards (see appendix)

Physician-Patient Relationship
Since the distribution of the Board's statement on Physician Patient Relationship, the Board staff has received a number of positive responses and no negative responses to the position.

Report on Misadventures
Mr. Wilson has formally communicated with Dr. Butts, the Chief Medical Examiner, regarding medical misadventures. As a result of the request for information about misadventures, Dr. Butts' office supplied the Board staff with misadventures recorded in 1990. The staff has begun the process of investigating those matters. Reports for subsequent years will be supplied to the staff as the Medical Examiners Office compiles the materials.

Meeting with Dr. David Forsberg
On July 25, 1995, Mr. Paris met with Dr. David Forsberg, a radiologist in Durham, who is probably the first teleradiology practice in the state having contracts in twenty other states. Dr. Forsberg gave Mr. Paris a tour of his facility. The two exchanged their concerns about the need for him, and other physicians in the practice, to have licenses in twenty other states.

Interviews and Meetings
Since the last Board meeting, Mr. Paris has interviewed seven applicants for various medical licenses.

On July 26, 1995, Dale Breaden and Mr. Paris met with Professor Malcolm Forsyth from the University of Kent at Canterbury, UK. Dr. Forsyth was visiting North Carolina to inquire into the operation of the relationship of PHP with the Medical Board. An article regarding this matter is included in the current Bulletin.

On August 25th, Mr. Paris attended a Pharmacy Association meeting, at which time Dave Work, Executive Director of the Pharmacy Board, was presented the 1995 North Carolina Pharmacist-of-the-Year Award.

On August 30th, Mr. Paris attended a Wake AHEC (Adult Health Education Center) program entitled, Operational and Strategic Planning for Physicians in a Managed Care Era. The meeting was strictly a financial program to determine whether or not the introduction of new procedures are cost effective.

On August 31st, H. Diane Meelheim, James A. Wilson, and Bryant D. Paris, Jr. met with Dr. Robert Vanderberry to discuss the NCPHP Budget and the concern that the Board has regarding the release of information between organizations.

On September 5th, Mr. Paris was interviewed by television station WGHP, channel 8 in Greensboro. The thrust of the interview was the responsiveness of physicians to requests for release of patient records.
Considerable staff time has been devoted to the questions regarding podiatry soft tissue procedures.

Ms. Meelheim and Mr. Paris, have jointly responded to the Policy Committee regarding the offer for continued assistance from Dr. John Anderson.

**Action Items**
Items beginning with the May Board meeting were presented and the status of each item was discussed.

The Board accepted the Executive Director's Report as information.

**LEGISLATIVE UPDATE**
Bill Breeze presented a report on legislation (see appendix), which was ratified during the current session of legislature. The Board accepted this as information.

The following motion was made, seconded, and passed unanimously: MOVED: That the Board direct staff to draft for publication changes in the rules to provide for new corporate entities which can be formed as a result of the enactment of Chapter 351 and Chapter 382 of the Session Laws of 1995.

A motion was passed to close the session to preserve information confidential under the NC General Statute 90-21.22.

**ATTORNEY'S REPORT**
A motion was adopted to close the session to prevent disclosure of information made confidential by sections 90-8 and 90-16 of the General Statutes and not a public record within the meaning of Chapter 132 of the General Statutes.

Mr. Wilson sought clarification of the Board’s intention s regarding the termination of three consent orders.

A motion was adopted to return to open session.

**Letter Requesting Opinion on Administration of Drugs by Registered Radiologic Technicians**
The Board received a letter from John E. Caldemeyer, M.D., Vice Chairman, Department of Radiology, Margaret R. Pardee Memorial Hospital, asking whether Registered Radiologic Technologists may administer medications to person undergoing certain procedures. Board Action: Dr. Roufail is to respond to Dr. Caldemeyer that the law permits physicians to "delegat[e] to a qualified person any acts, tasks or functions which are otherwise permitted by law or established by custom," but that the Board is unaware of any law that otherwise permits Registered Radiologic Technologists to administer medication and has insufficient information to satisfy itself whether such a practice has been established by custom.

**Suspensions for failure to register**
Mr. Wilson reported that those who were suspended as a result of registration checks being returned for insufficient funds or otherwise had been made good.

Board Action: For each affected physician, dismiss the Notice of Intention to Suspend License.

Mr. Wilson reported that there were a number of physicians who, at the July meeting, were suspended for failure to register but whom the Board has since learned received no actual notice of the Notice to Suspend. In most of these cases, it appears an institution signed the return receipt on behalf of the physician, realized the physician was no longer with the institution, and then returned the original envelope to the Board.

Board Action: For each affected physician, staff is to enter an order reflecting the lack of actual notice and rescinding the original suspension as of the date of that suspension.

Mr. Wilson reported that there were a number of physicians who, at the July meeting, were suspended for failure to register but who now claim to have notified the Board prior thereto that they intended to retire. In most of these cases, it appears the physician notified the Medical Society, not the Board.

Board Action: For each affected physician, enter an order reflecting the notice of retirement and rescinding the original suspension as of the date of that suspension.

Mr. Wilson reported that in excess of 500 physicians indicated, by checking the appropriate block on the registration form, their intention not to register.

Board Action: Give these physicians notice of the Board’s intention to suspend their licenses for failure to register.

**FORMAL ACTION - 9/95 - PUBLIC**

**CHARGES EXECUTED**
McELLIGOTT, James Brendan, MD - Grimesland, NC
a. 8/21/95 - Charges executed
b. 8/23/95 - Charges served on MD

CONSENT ORDERS EXECUTED

NELSON, Mark Theodore, MD - Dunn, NC
7/28/95 - Consent Order executed

FIELDMAN, Rhonda Glen, PA - Roseboro, NC
8/16/95 - Consent Order executed

HEARINGS - 9/95

CARROLL, Ray T., M.D. - Circleville, OH
9/14/95 PUBLIC HEARING
Catchline: Notice of Charges and Notice of Hearing
BOARD ACTION: REVOKE LICENSE

GORDON, Mark Anthony, P.A. - Wilmington, NC
9/14/95 PUBLIC HEARING
Catchline: Order of Summary Suspension of License
Notice of Charges and Notice of Hearing
BOARD ACTION: Hearing rescheduled (witnesses unable to attend)

SPECIAL VOLUNTEER LICENSE
9/15/95 PUBLIC HEARING
Catchline: Hearing Notice and Proposed Rules for a Special Volunteer License
BOARD ACTION: The Board adopted a motion by Dr. Godwin and seconded by Mr. Saperstein to adopt the Volunteer License Rule as published August 15, 1995 in volume 10 - number 10 of the North Carolina Register at pages 831 and 832.

POLICY COMMITTEE REPORT

Symposium re: treatment of obesity
Dr. Burrougs has agreed to attend a symposium for Medical Board members re: the treatment of obesity. The meeting will be held on October 28, 1995, in Orlando, Florida. The meeting is to provide information and help develop guidelines regarding anorectics. The Board adopted a motion presented by Mrs. Walston, seconded by Mr. Saperstein, to authorize the Board to pay Dr. Burrougs' expenses to the meeting in Orlando.

By-Laws
The Board adopted a motion presented by Dr. Burrougs, seconded by Mr VonSeggen, to adopt the by-laws (see Appendix) with the following changes:
- Article III Section VI to be deleted.
- Article VI, Section III to read "...Except as otherwise provided herein or by applicable law, these bylaws may be amended or repealed and new bylaws may be adopted by a two-thirds (2/3) majority vote."

Education Evaluators
Dr. Johnson discussed the organization called "Education Evaluators". He discussed the way in which they instruct on clinical evaluations and examinations. The Board adopted a motion presented by Dr. Barrett, seconded by Dr. Henry, to invite the Education Evaluators to the November 1995 Board meeting.

OPERATIONS COMMITTEE
The following Operations Committee report was presented to the Board:

Operations Committee Minutes - September 1995

Present: Walter M. Roufail, MD, President; George C. Barrett, MD, Secretary/Treasurer; Ernest B. Spangler, MD, Chairman and President Elect; Bryant D. Paris, Jr., and H. Diane Meelheim

The meeting was called to order by Dr. Spangler at 10:00AM
The Board adopted a motion presented by Mr VonSeggen, seconded by Dr. Godwin, to accept the Operations Committee report as presented.

THE EMERGENCY MEDICAL SERVICE COMMITTEE REPORT

First Responder and Automated Defibrillation
The Alamance County EMS program has submitted a study proposal for EMS-First responders and Automated Defibrillation Responders. This proposal has been endorsed by the North Carolina state EMS Advisory Counsel. Approval of this study will assist the Office of EMS in developing guidelines for EMS-First Responders and Automated Defibrillation Responders. The Board adopted a motion presented by Dr. Johnson, seconded by Dr. Burroughs, to approve the Alamance Co. EMS First Responder and Automated Defibrillation study project proposal for a period of one year from the date of this approval in accordance with 21 NCAC 32H section .0900 of the Emergency Medical Services Advanced Life Support Rules.

A motion was passed to close the session to preserve information confidential under the NC General Statute 90-21.22.

A motion was passed to return to open session.

Communicating EMS Rulings
Dr. Johnson stated that it was not enough to send the OEMS a copy of the Board meeting minutes regarding OEMS. He requested that all motions passed be communicated in writing listing specifically what was passed regarding OEMS. The Board adopted a motion by Dr. Johnson, seconded by Dr. Burroughs, to send to the OEMS written copies listing specifically all motions passed regarding OEMS.

EMS Certification Report
Prepared for the NC Medical Board - 7/01/95 - 7/31/95
Motion: The Board adopted a motion by Dr. Johnson, seconded by Dr. Burroughs, to accept the EMS Certification report as presented.

Motion: The Board adopted a motion by Dr. Johnson, seconded by Dr. Burroughs, to accept the EMS report as presented.

A motion was passed to close the session to investigate, examine, or determine the character and other qualifications of applicants for professional licenses or certificates while meeting with respect to individual applicants of such licenses or certificates

PHYSICIAN ASSISTANT COMMITTEE REPORT -
W. VonSeggen, G. Johnson, D. Burroughs

I. PA Full License Applications -
provisional license approval issued between 6/28/95 - 8/23/95

Board Action: Approve

PROVISIONAL APPROVAL FOR
PA NAME          INTENT TO PRACTICE ISSUED
(* * * * Indicates PA has not submitted Intent to Practice Application)

BAUMER, David, PA-C        HUDDSON, Tonya, M.D.
CHAVIS, Robert, PA-C        HUDSON, Tonya, M.D.
CHIN, Marian, PA-C          HUDSON, Tonya, M.D.
COE, Thomas, PA-C           HUSSO, Mark, M.D.
CURIALE, Anthony, PA-C      BRADLEY, Betty, M.D.
DAVE, Meena, PA-C           REID, William, M.D.
DEBARTH, Kenneth, PA-C      BLAIR, James, M.D.
FERTIG, Norman, PA-C        REDEKER, Charles, M.D.
GLENN, Robert, PA-C         BILBREY, George, M.D.
GOLD, Wayne E., PA-C        WILSON, Charles, M.D.
JANSEN, Ingram, PA-C        VERRETT, Charlotte, M.D.
MERRILL, Susan, PA-C        DEBARTH, Kenneth, PA-C
RICH, Janet, PA-C           BLAIR, James, M.D.
SKOSKI, Myron, PA-C         ALLEN, William, M.D.
SHANTON, Gregory, PA-C      LATHAM, Georgia, M.D.
STANFORD, Peter, PA-C       WORTHEN, Mark, M.D.
TAYHEY, James, PA-C         LANDWATER, Lance, M.D.
THIEBAUD, Eugene, PA-C      KELLY, David, M.D.
TROYON, Sharon, PA-C        SMITH, John B., M.D.
TRAUX, Dorothy, PA-C        HARR, Charles, M.D.
WELDEN, Jennifer, PA-C      JACKSON, Barney, M.D.
WILSON, Patricia, PA-C      MICHELVEEN, John, M.D.
WHITE, Peter, PA-C          MICHAEL, Richard, M.D.

II. PA Temporary License Applications -
provisional license approval issued between 6/28/95 - 8/23/95

Board Action: Approve

PROVISIONAL APPROVAL FOR
PA NAME          INTENT TO PRACTICE ISSUED

BOWMAN, Alicia, PA        MICHAEL, Douglas, M.D.
COLE, Katherine, PA       JACOBS, William R., M.D.
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<td>DILLARD, Wilbert</td>
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<td>GRAY, Lee A.</td>
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<td>GARDNER, William</td>
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(**** Indicates PA has not submitted Intent to Practice Application)
III. The following physician assistants hold a temporary license and are requesting a full PA license by submitting passing NCCPA results-

**Board Action:** Approve
- **BROWN, Lynn D., PA**
- **EDWARDS, R., Elizabeth, PA**

IV. PA Intent to Practice applications provisionally approved -

**Committee Recommendation:** Approve
- **AARON, Charles, PA**
- **SMITH, Douglas, M.D.**
- **BAKER, Wanda, PA**
- **GAINOR, Charles, M.D.**
- **BELL, Elisabeth, PA**
- **EHTESHAMUL, Haque, M.D.**
- **BURKEY, Beth, PA**
- **MELIO, Frantz, M.D.**
- **CEDERQUIST, Clarence, PA**
- **WILLIS, Robert, M.D.**
- **COOKE, Eleanor, PA**
- **GLOWER, Donald, M.D.**
- **CUTLER, Robert, PA**
- **RHODES, Charles, M.D.**
- **DAVIS, Paul, PA**
- **MARLETTE, Marine, M.D.**
- **DIXON, Randall, PA**
- **CADER, Cas, M.D.**
- **DONALD, Karen, PA**
- **WHITE, Mack, M.D.**
- **DONNELLY, Margaret, PA**
- **HARRESON, John, M.D.**
- **EDENFIELD, George, PA**
- **POWELL, Ronald, M.D.**
- **ELLIOTT, Lawrence, PA**
- **WOODYEAR, John, M.D.**
- **FELTON, Harold, PA**
- **ZAMMITT, Joseph, M.D.**
- **GARBER, Diane, PA**
- **PAGE, Stephen, M.D.**
- **GEORGE, Robert, PA**
- **O'BREIRNE, Kenneth, M.D.**
- **GENTILE, Elizabeth, PA**
- **FERGUSON, Amy, M.D.**
- **GERMINO, Victor, PA**
- **REECE, Donald, M.D.**
- **GRAVATT, Steven, PA**
- **ROBBINS, Grover, M.D.**
- **GUY, Thomas, PA**
- **KOVARICICH, John, M.D.**
- **HALL, Robert, PA**
- **MURRAY, Charles, M.D.**
- **HENDERSON, David, PA**
- **BURKE, Annette, M.D.**
- **HILL, Jennie, PA**
- **BOLIN, Lewis, M.D.**
- **JONES, David, PA**
- **BARKER, Joseph, M.D.**
- **KATZ, Jeffrey, PA**
- **FAULKENBERRY, Russell, M.D.**
- **KRAPE, Harvey, PA**
- **WILLIAMS, Marcus, M.D.**
- **LAMM, Greyard, PA**
- **TAKLA, Medhat, M.D.**
- **LAREZ, Guadalopec, PA**
- **BROWN, Lucy, M.D.**
- **LISHCYNISKY, Michael, PA**
- **MOORE, Craig, M.D.**
- **LYONS-CLARKE, Amie, PA**
- **MCBRIE, Jack, M.D.**
- **MCDOWELL, Julie, PA**
- **LINZ, Walter, M.D.**
- **MCHATTON, Timothy, PA**
- **WHITE, Lena, M.D.**
- **MELTON, Claudia, PA**
- **BENJAMIN, Brian, M.D.**
- **MERCER, Minnie PA**
- **SULLIVAN, Raymond, M.D.**
- **MILLER, Richard, PA**
- **JACQUISOWITZ, Sam, M.D.**
- **MITCHELL, Charles, PA**
- **MACCORMACK, John, M.D.**
- **MORRIS, Robert, PA**
- **FLETCHER, Robert, M.D.**
- **MOTSINGER, Elisabeth, PA**
- **SOPER, Herbert, M.D.**
- **NEWCOMB, Christopher, PA**
- **JOHNSON, Randall, M.D.**
- **OCHS, Gary, PA**
- **ALMQUIST, Robert, M.D.**
- **PEPPARD, Diane, PA**
- **SCHAEN, Michael, M.D.**
- **POWELL, Debra, PA**
- **NORRIS, Clarence, M.D.**
- **RINEHULS, David, PA**
- **MOORE, Donald, M.D.**
- **ROBINSON, Peggy, PA**
- **DODDS, George, M.D.**
- **SALIMBENI, John, PA**
- **BURTON, Harry, M.D.**
- **SCHRUM, Wilbur, PA**
- **GASKINS, Raymond, M.D.**
- **SEFFELS, Allan, PA**
- **BRYAN, J. Hugh, M.D.**
- **SLOYAN, Sheldon, PA**
- **WILLIAMS, Ronald, M.D.**
- **SMITH, Jeanna, PA**
- **GRANDIS, Arnold, M.D.**
- **STONE, Janice PA**
- **HASHEMEE, Sayed, M.D.**
- **STRATTON, Suzone, PA**
- **SAYERS, Daniel, M.D.**
- **TAYLOR, Allison, PA**
- **SMITH, Jean, M.D.**
- **TRUTT, Christine, PA**
- **ALMARIO, Joselito, M.D.**
- **VAIL, Cynthia, PA**
- **TIDLER, James, M.D.**
A motion was passed to return to open session.

VI. Public Agenda Items For Committee Discussion -

A. Assessing Core Medical Knowledge of Inactive Licensees.

1. PA Regulations Subchapter 320.0002 (3).

B. Assessing N.C. Medical Board support for amending Medical Practice Act pertaining to the limit of two Licensed Physician Assistants at any time for one Primary Supervising Physician.

C. Application Form Improvement.

*Note:* Staff will prepare suggested changes and additions of the following forms and present to the PA Advisory Committee at the January Meeting.

1. PA License Application.

2. Proposed application page to include with the PA License Application until the application has been revised.

3. PA Intent to Practice Application.

4. Physician Extender Annual Registration Application.

D. Discuss possible expansion of the staff midlevel personnel for licensing from one to two in the 1996 Budget.

*Note:* Staff will evaluate calls both quantity & topically by using a log sheet.

E. Please note that the PA Advisory Committee is scheduled to meet on November 15, 1995 from 11:00am-1:00pm at the Board’s office. PA Advisory Committee meeting (8/28) summary.

A motion was passed to close the session to investigate, examine, or determine the character and other qualifications of applicants for professional licenses or certificates while meeting with respect to individual applicants of such licenses or certificates.
I. NP initial applications recommended for approval after staff review -

Board Action: Approve

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<th>Primary Physician Name</th>
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<tr>
<td>ABBOTT, Linda</td>
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<td>ARNOLD, Cheryl</td>
<td>MONTES, Anita</td>
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II. NP applications for Adding Practice Sites administratively approved -

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III. NP applications for Job Change administratively approved -

Board Action: Approve

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IV. NP Back-Up Administrative Approval Since July 1995
Nurse Practitioner Hearing
SUBCHAPTER 21 NCAC 32M APPROVAL OF NURSE PRACTITIONERS - as approved with amendments (see Appendix for copy of rules as approved).

LICENSURE INTERVIEWS
The Board conducted 14 licensure interviews. A written report was presented to the Board for review. The Board adopted the committee’s recommendation to approve the written report.

LICENSURE COMMITTEE REPORT - September 1995
Six cases were reviewed by the committee. A written report was presented to the Board for review.

A motion was passed to return to open session.

MISCELLANEOUS
(1) Donna Harward - Educational Consultant from UNC to possibly speak about processes available for procedures on evaluating physicians.

COMMITTEE RECOMMENDATION: Consider inviting members of the consortium (Education Evaluators) for a half-hour presentation (with video) of their procedure for assessing physicians.

BOARD ACTION: Accept Committee Recommendation

(2) Recommend considering a legislative change to put a limit on the fee for reinstatement.

COMMITTEE RECOMMENDATION: Change G.S. 90-15.1 from "...Upon payment of all fees and penalties which are "due, to "... Upon payment of all fees and penalties which are due, not to exceed the current application fee."

BOARD ACTION: Motion to accept the Committee Recommendation - Motion tabled until November.

(3) The September 29th meeting for RTL coordinators is scheduled as originally planned with 6 institutions responding affirmative, 3 awaiting a response and 1 not able to attend.

BOARD ACTION: Accepted as information.

(4) Proposed rule change .0305 Examination Basis For Endorsement

Mr. Paris to present. Presentation was given to License Committee.

COMMITTEE RECOMMENDATION: Accept proposed rule change

Mr. Paris presented the proposed rule change (see appendix) and suggested that Board Members give further thought to the recommendation for future action. The Board agreed.

AGENDA - SEPTEMBER 1995

(1) Approval of physicians for license by endorsement; physicians for reinstatement of NC license; physicians for Faculty Limited license; and physicians for VIP Certificates of Registration.

BOARD ACTION: (WV, GJ) Approved as presented

(2) Approval of License Committee report.

BOARD ACTION: Approve as presented - Two physician’s cases were not discussed due to omission from the written report. This information was distributed to Board Members 9/17/95 for written approval.

Motion: (GJ, CT) The Board approved a motion to accept the Licensure Report as presented.

LICENSED BY ENDORSEMENT OR EXAMINATION

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A motion was passed to close the session to preserve information confidential under the NC General Statute 90-21.22, 90-8, 90-16, 90-14.

**NCPHP COMMITTEE REPORT**
The Board reviewed 20 cases involving participants in the NC Physicians Health Program. A written report was presented for the Board’s review. The Board adopted the committee’s recommendation to approve the written report.

**INVESTIGATIVE COMMITTEE REPORT**
The Investigative Committee chaired by Dr. Henry, and including Dr. Trado, Mr. VonSeggen, Dr. Godwin, Dr. Spangler, and Mr. Saperstein, reported on 39 investigative cases. A written report was presented to the Board for review. The Board adopted the committee’s recommendation to approve the written report. The specifics of this report are not included as they are not public information.

**INFORMAL INTERVIEWS**
The Board conducted 43 Informal interviews to discuss specific issues which concerned the Board. A written report was presented to the Board for review. The Board adopted the committee’s recommendation to approve the written report. The specifics of this report are not included as these actions are not public information.

**COMPLAINT COMMITTEE REPORT**
The Complaint Committee chaired by Mrs. Walston and including Dr. Burroughs, Mr. Howe, and Dr. Barrett, reported on 34 complaint cases. A written report was presented to the Board for review. The Board adopted the committee’s recommendation to approve the written report. The specifics of this report are not included as these actions are not public information.

**MALPRACTICE REPORT**
The Malpractice Committee chaired by Dr. Spangler and including Dr. Henry, reported on 60 cases. A written report was presented to the Board for review. The Board adopted the committee’s recommendation to approve the written report. The specifics of this report are not included as these actions are not public information.

A motion was passed to return to open session.

**ADJOURNMENT**
This meeting was adjourned on July 22, 1995.

George Barrett, MD  
Secretary/Treasurer
APPENDIX
From The Executive Director's Report

EXECUTIVE SUMMARY
THE AD HOC COMMITTEE ON PHYSICIAN IMPAIRMENT REPORT ON SEXUAL BOUNDARY ISSUES
OF THE FEDERATION OF STATE MEDICAL BOARDS

Two significant matters worthy of comment were found in the opening statement. It is recommended that medical board's use standardized guidelines for dealing with sexual boundary issues, yet elsewhere in the report, under guidelines for investigation it suggests that a complaint be seriously investigated "on it's on merits". The second item involved the committee's statement that "sexual misconduct is not viewed as a form of impairment" but instead, "a violation of the publics trust". "While a mental disorder may be a basis for sexual misconduct..., such conduct is not usually due to physical/mental impairment". "While sexual addiction is a frequently used phrase, it is not recognized as a disease according to the diagnostic and statistical manual of Psychiatric Disorders, Version IV."

In the guidelines for investigation, the Board does have the authority to investigate reported allegations of sexual misconduct. Such reports are vigorously pursued by the staff with the support and encouragement of the Board.

Regarding patient sensitivity, North Carolina law clearly permits the Board to be sensitive to patients who are subject to sexual misconduct by physicians. Over the years, the Board has exercised strenuous energies to assure that patients are treated with dignity and with no exposure to the public unless the complainant requested public exposure. In this section of patient sensitivity, it was recommended that the Board should afford the complainant the opportunity to appear before the Board or sub-committee. In the past, Board members who have interviewed complainants later recused themselves from participating as a Board member at a hearing. I would not encourage the full Board to interview the complainant in order to avoid the question of being prejudice, should the Board charge a physician for unprofessional conduct.

As you see, I do not agree with the Federation's guidelines that the full Board interview a complainant. Obviously, if the physician has been charged and a hearing is being conducted then it is appropriate for the full Board to hear the testimony of the witness.

In identifying patterns of behavior the Board, for years, has used all information in its possession to determine whether or not a physician should be charged--- that is, malpractice reports, hospital reports, complaints, prescribing activities, etc.

The report suggests that comprehensive psychological evaluation be conducted. The statute permits this. We have on many occasions obtained such evaluations, we have also received assistance from the Physicians Health Program in this area. Of each of these suggestions in the investigative process, we have the ability, by law, to use or have used all of the recommendations regarding investigations.

Concerning the Guidelines for Medical Boards: Hearing Issues, the report suggest that the Board should determine if sufficient evidence exist to proceed with formal charges. Again, for the purpose of assuring an unbiased Board hearing, I believe that a subcommittee or a member of the Board should determine the sufficiency of evidence. Under each of the hearing issues this Board has used each of the recommendations.

Under the heading of Disciplinary Options, this Board has the ability and has used each of the recommendations contained in this section (with the exception of the ability to fine). Under the guidelines for monitoring, this Board has, in the past, used each of the recommendations except that the Board has never required chaperons to sign medical records attesting to attendance during examination. This Board may consider using that in the future in a Consent Order or Board Order.
There is a strong recommendation regarding physician education. This Board has a well prepared informative position statement regarding unacceptable sexual conduct. The Board has also utilized this topic in its *Bulletins*. I personally attended a NC Medical Society sponsored program in Durham two years ago, at which time two physicians who had been disciplined by this Board regarding sexual misconduct were on the program as part of a panel to educate physicians in this area.

In conclusion, I find two items of benefit from the report: 1) this Board does not have the ability to fine physicians 2) Consider the requirement of chaperons to sign medical records attesting to attendance during examinations.
Nurse Practitioner Hearing

SUBCHAPTER 21 NCAC 32M APPROVAL OF NURSE PRACTITIONERS - is proposed to be amended as follows:

.0001 DEFINITIONS
The following definitions apply to this Subchapter:

1. "Medical Board" means the North Carolina Medical Board.
2. "Board of Nursing" means the Board of Nursing of the State of North Carolina.
3. "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
4. "Nurse Practitioners or NP" means a currently licensed registered nurse approved to perform medical acts who functions at the direction of or under the supervision of a licensed physician for those medical acts. Only a registered nurse approved by the Medical Board and the Board of Nursing may legally identify oneself as a Nurse Practitioner. It is understood that the nurse practitioner, by virtue of RN licensure, is independently accountable for those nursing acts which he or she may perform.
5. "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Rule .0003(c).
6. "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
7. "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, is held accountable for the on-going supervision and evaluation of the medical acts performed by the nurse practitioner as defined in the site specific written protocols. The primary supervising physician shall assume the responsibility of assuring the Boards that the nurse practitioner is qualified to perform those medical acts described in the site specific written protocols.
8. "Back-up Supervising Physician" means the licensed physician who, by signing the nurse practitioner application for approval an agreement with the nurse practitioner and the primary supervising(s), is held accountable for supervising the performance of medical acts by the nurse practitioner in accordance with the site specific written protocols when the Primary Supervising Physician is not available. The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
9. "Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Subchapter.
10. "Written standing protocols" means the signed and dated set of written practice guidelines maintained at each practice site which describe the prescribing privileges, treatments, tests and procedures that define the scope of the nurse practitioner's medical acts in that setting.

History Note: Statutory Authority G.S. 90-18(14); 90-18.2; 90-171.23(b);
Amended Eff._____.

.0002 SCOPE OF PRACTICE
The nurse practitioner is responsible and accountable for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner is educationally prepared and for which competency has been maintained, with physician supervision as described in 21 NCAC 32M.0010. These services include but are not restricted to:

1. promotion and maintenance of health;
2. prevention of illness and disability;
3. diagnosing, treating and managing acute and chronic illnesses;
4. guidance and counseling for both individuals and families;
5. prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs;
6. planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
7. evaluating health outcomes.

History Note: Statutory Authority G.S. 90-18.2; 90-171.42;
.0003 NURSE PRACTITIONER APPROVAL

(a) Qualifications for nurse practitioner approval.
A registered nurse must be approved by the Medical Board and the Nursing Board before the individual may practice as a nurse practitioner. The Boards may grant approval to practice as a nurse practitioner to an individual who:

(1) is currently licensed as a registered nurse by the Board of Nursing.
(2) has successfully completed an approved educational program as outlined in Rule .0004 of this Subchapter;
(3) has an unrestricted license to practice as a registered nurse and, if applicable, an unrestricted approval to practice as a nurse practitioner unless the Boards consider such condition and agree to approval;
(4) submits any information deemed necessary to evaluate the application;
(5) has a primary supervising physician agreement; and
(6) pays the appropriate fee.

(b) Application for nurse practitioner approval.

(1) Application for nurse practitioner approval must be made upon the appropriate forms and must be submitted jointly by the nurse practitioner and primary supervising physician(s).

(2) Applications for first-time approval in North Carolina shall be submitted to the Nursing Board and then processed by both Boards as follows:

(A) the Nursing Board will verify compliance with (a)(1)-(4) of this Rule;
(B) the Medical Board will verify compliance with (a)(4)-(6) of this Rule; and
(C) the appropriate Board will notify applicant of final approval status.

(3) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

(A) addition or change of primary supervising physician shall be submitted to the Medical Board;
(B) requests for change(s) in scope of practice shall be submitted to the Nursing Board;
(C) the appropriate Board will notify applicant of final approval status; and

(4) Interim status for nurse practitioner applicant may be granted as follows:

(A) a registered nurse who is a new graduate of an approved nurse practitioner educational program as set forth in Rule .0004 of the Subchapter; or
(B) a registered nurse seeking first time approval to practice as a nurse practitioner in North Carolina who has worked previously as a nurse practitioner in another state and who meets the nurse practitioner educational requirements as set forth in Rule .0004 of this Subchapter; and
(C) the Nursing Board has issued interim approval with the following limitations:

(i) no prescribing privileges;
(ii) physician on-site for appropriate ongoing supervision, review and countersigning of notations of medical acts in all patient charts within 24 hours of nurse practitioner applicant-patient contact; and
(iii) may not exceed a period of six months.

(5) the registered nurse who was previously approved to practice as a nurse practitioner in this state shall:

(A) meet the nurse practitioner approval requirements as stipulated in (a)(1)(3-6);
(B) complete the appropriate application; and
(C) receive notification of approval from the appropriate Board.

(6) if for any reason a nurse practitioner discontinues working in the approved supervising physician(s) arrangement, the Boards shall be notified in writing and the nurse practitioner's approval shall automatically terminate or be placed on an inactive status until such time as a new application is approved in accordance with this Subchapter.

History Note:  Statutory Authority G.S. 90-18(13)(14); 90-18.2;90-171.20(7); 90-171.23(b); 90-171.42
Amended Eff.______

.0004 REQUIREMENTS FOR APPROVAL OF NURSE PRACTITIONER EDUCATIONAL PROGRAMS

(a) The Joint Subcommittee shall establish the requirements for approval of nurse practitioner educational programs.

(b) A nurse practitioner applicant must provide to the Board of Nursing evidence of successful completion of a course of formal education which contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience.

(1) The core curriculum shall contain as a minimum the following components:
(A) health assessment and diagnostic reasoning including:
   (i) historical data;
   (ii) physical examination data;
   (iii) organization of data base.

(B) pharmacology;

(C) pathophysiology:

(D) clinical management of common health care problems and diseases related to:
   (i) respiratory system
   (ii) cardiovascular system
   (iii) gastrointestinal system;
   (iv) genitourinary system;
   (v) integumentary system;
   (vi) hematologic and immune systems;
   (vii) endocrine system;
   (viii) musculoskeletal system;
   (ix) infectious diseases;
   (x) nervous system;
   (xi) behavioral, mental health and substance abuse problems;

(E) clinical preventive services including health promotion and prevention of disease;

(F) client education related to (b)(1)(D) and (E) of this Rule; and

(G) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(2) Nurse practitioner applicants who may be exempt from components of the core curriculum requirements listed in Paragraph (b)(1) of this Rule are:

(A) Any nurse practitioner approved in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.

(B) A nurse practitioner certified by a national credentialing body approved by the Nursing Board who also provides evidence satisfying (b)(1)(A-C) of this Rule shall be exempt from core curriculum requirements in (b)(1)(D-G) of this Rule. Evidence of satisfying (b)(1)(A-C) of this Rule shall include, but may not be limited to:
   (i) a narrative of course content; and
   (ii) contact hours.

(C) A nurse practitioner applicant whose formal education does not meet all of the stipulations in Paragraph (b) of this Rule may appeal to the Board of Nursing on the basis of other education and experience.

History Note: Statutory Authority G.S. 90-18(14); 90-171.42; Eff. January 1, 1991. Amended Eff.______

.0005 ANNUAL RENEWAL

Each registered nurse who is approved as a nurse practitioner in this state will, upon notification from the Medical Board, annually renew said approval by:

(a) (1) Verifying current RN licensure;
   (2) Submitting the fee required in Rule .0012 of this Subchapter; and
   (3) Completing the renewal form; and
   (4) Providing documentation of the required number of hours of Continuing Education as stipulated in Rule .0006 of this Subchapter.

(b) If the nurse practitioner has not renewed within 30 days of renewal date, set by the Medical Board, the approval to practice as a nurse practitioner will lapse.

History Note: Statutory Authority G.S. 90-6; 90-18(14); 90-171.23(b); Eff.____

.0006 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, beginning no sooner than two (2) years after initial approval has been granted, the nurse practitioner must earn 30 hours of continuing education every two (2) years. At least three (3) hours of continuing education every two (2) years shall be the study of the medical and social effects of
substance abuse including abuse of prescription drugs, controlled substances, and illicit drugs. Continuing Education hours are those hours for which approval has been granted by the American Nursing Nurses Credentialing Center (ANCC) and Accreditation Council on Continuing Medical Education (ACCME), or other national credentialing bodies approved by the Board of Nursing consistent with Paragraph (d) (2) (B) (ii) of this Rule have granted approval.

Documentation must be maintained by the nurse practitioner at each practice site and made available upon request to either Board.

History Note: Statutory Authority G.S. 90-6; 90-18(14); 90-171.23(14);
Effect______.

.0007 INACTIVE STATUS
(a) Any nurse practitioner who wishes to place his or her approval on inactive status may notify the Boards by completing the form supplied by the Boards.
(b) The registered nurse with inactive nurse practitioner status shall not practice as a nurse practitioner.
(c) The registered nurse with inactive nurse practitioner status who reapplies for approval to practice shall be required to meet the qualifications for approval as stipulated in Rule .0003(a)(1)(3-5) and (b) of this Subchapter.

History Note: Statutory Authority G.S. 90-18(13); 90-18.2; 90-171.36;
Effect______.

.0008 PRESCRIBING AUTHORITY
(a) The prescribing stipulations contained in the Rules apply to writing prescriptions and ordering the administration of medications.
(b) Prescribing and dispensing stipulations are as follows:
(1) Drugs and devises that may be prescribed by the nurse practitioner in each practice site must be included in the written standing protocols as outlined in Rule .0009(2) of this Section.
(2) Controlled Substances (Schedules 2, 2N, 3, 3N, 4, 5) defined by the State and Federal Controlled Substances Acts may be prescribed or ordered as established in written standing protocols, providing all of the following restrictions are met:
   (A) the nurse practitioner has an assigned DEA number which is entered on each prescription for a controlled substance.
   (B) dosage units for schedules 2, 2N, 3 and 3N are limited to a one week's supply except Dextroamphetamine, Methylphenidate and Pemoline for the treatment of Attention Deficit Disorder (ADD) or Attention Deficit Disorder with Hyperactivity (ADHD) which are limited to a 30 day supply; and
   (C) the prescription or order for schedules 2, 2N, 3 and 3N may not be refilled.
(3) The nurse practitioner may prescribe a drug not included in the site specific written standing protocols only as follows:
   (A) upon a specific written or verbal order obtained from the supervising physician before the prescription or order is issued by the nurse practitioner; and
   (B) the written or verbal order as described in Part (b)(3)(A) of this Rule must be entered into the patient record and signed by the nurse practitioner with a notation that it is issued on the specific order of the supervising physician.
(4) Refills may be issued for a period not to exceed one year except for schedules 2, 2N, 3 and 3N controlled substances which may not be refilled.
(5) Each prescription must be noted on the patient's chart and include the following information:
   (A) medication and dosage;
   (B) amount prescribed;
   (C) directions for use;
   (D) number of refills; and
   (E) signature of the nurse practitioner.
(6) The prescribing number assigned by the Medical Board to the nurse practitioner must appear on all prescriptions issued by the nurse practitioner.
(7) Prescription Format:
   (A) All prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number and prescribing number.
   (B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.
(c) The nurse practitioner must dispense drugs and devices included in the written standing protocols for each practice site from the Board of Pharmacy, and must carry out the function of dispensing in accordance with 21 NCAC 46.1700, which is hereby incorporated by reference including subsequent amendments of the referenced materials.

History Note: Statutory Authority G.S. 90-6; 90-18*(14); 90-18.2; 90-171.23(14); 90-171.42; 58 Fed. Reg. 31, 171 (1993) (to be codified at 21 C.F.R. 1301);
Eff. February 1, 1991
Amended Eff.____: September 1, 1994; March 1, 1994.

.0009 PHYSICIAN SUPERVISION
Supervision shall be provided by the approved physician(s) as follows:

(1) Availability:
   (a) The supervising physician shall be continuously available for direct communications by radio, telephone, or telecommunications.
   (b) The supervising physician shall be readily available for consultation or referrals of patients from the nurse practitioner.
   (c) If the nurse practitioner is to perform duties at a site away from the supervising physician, the application must clearly specify the circumstances and the supervisory arrangements.

(2) Written Standing Protocols:
   (a) Written standing protocols approved and signed by both the supervising physician(s) and the nurse practitioner shall be maintained in each practice site;
   (b) The written standing protocols shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and implemented by the nurse practitioner consistent with Rule .0008 of this Section, and which are appropriate for the diagnosis and treatment of the most commonly encountered health problems in that practice setting.
   (c) The written standing protocols shall include a pre-determined plan for emergency services.
   (d) The written standing protocols shall specify the process by which the nurse practitioner shall refer a patient to a physician other than an approved supervising physician.
   (e) The nurse practitioner must be prepared to demonstrate upon request to a member of either the Board of Nursing or the Medical Board, or an agent, the ability to perform medical acts as outlined in the site specific written standing protocols.

(3) Countersigning of Medical Acts:
   (a) The maximum time interval between the nurse practitioner's contact with the patient and medical record review and countersigning of medical acts by the supervising physician is seven days for outpatient (clinic/office) nurse practitioner-patient contacts.
   (b) The time interval for countersigning of notations of medical acts in the medical records of inpatients (hospital, long-term care institutions) by the supervising physician must comply with the rules and regulations of the institution, but at a minimum:
      (i) the initial workup, medical orders and treatment plan, must be countersigned within seven days of the time of nurse practitioner-patient contact; and
      (ii) in the acute inpatient setting, the initial workup, medical orders and treatment plan must be countersigned and dated within two working days of the nurse practitioner-patient contact.
   (c) The time interval between the nurse practitioner-patient contact and countersigning by the supervising physician of the nurse practitioner's notations of medical acts in the medical records of patients in special community-based care programs, such as dialysis and hospice, must comply with the rules and regulations of the specific care program.

(4) Supervising Physicians:
   (a) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, cannot be named as a supervising physician.
   (b) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation if fully licensed and approved to supervise by the Medical Board.
   (c) All physicians who may supervise the nurse practitioner in any manner must be approved in accordance with this Subchapter before nurse practitioner supervision occurs.

History Note: Statutory Authority G.S. 90-6; 90-18 (14); 90-18.2; 90-171.23(14);
Amended Eff.____: March 1, 1994.
.0010 METHOD OF IDENTIFICATION
The nurse practitioner shall wear an appropriate name tag spelling out the words "Nurse Practitioner".


.0011 DISCIPLINARY ACTION
The approval of a nurse practitioner may be restricted, denied or terminated by the Medical Board and the registered nurse license may be restricted, denied, or terminated by the Nursing Board, if, after due notice and hearing in accordance with provisions of Article 3A of G.S. 150B, the appropriate Board shall find one or more of the following:
1. that the nurse practitioner has held himself out or permitted another to represent him as a licensed physician;
2. that the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than at the direction of, or under the supervision of, a physician licensed by the Medical Board who is approved by the Board to be that nurse practitioner's supervising physician;
3. that the nurse practitioner has performed or attempted to perform medical acts not approved in the site specific standing protocols or for which the nurse practitioner is not qualified by education and training to perform.
4. that the nurse practitioner has been convicted in any court of a felony or other criminal offense;
5. that the nurse practitioner is adjudicated mentally incompetent or that the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner; or
6. that the nurse practitioner has failed to comply with any of the provisions of this Subchapter.

History Note: Statutory Authority G.S. 90-18(14); 90-171.37; Eff. February 1, 1991. Amended Eff.____.

.0012 FEES
(a) An application fee of one hundred dollars ($100.00) must be paid at the time of initial application for approval and each subsequent application for approval to practice. The one hundred dollar ($100.00) application fee shall be equally divided between the Board of Nursing and the Medical Board. No other fees are shared.
(b) The fee for annual renewal of approval, due July 1, is fifty dollars ($50.00).
(c) No portion of any fee in this Rule is refundable.

History Note: Statutory Authority G.S. 90-6; Eff. January 1, 1991; Amended Eff.____.
LEGISLATIVE REPORT - SEPTEMBER 1995

BUSINESS AND CORPORATE MATTERS

Health Care Collaborative Practice (Chapter 382; HB 774) Effective October 1, 1995.

SUMMARY: The professional Corporation act was amended in this bill to expand the list of those health care providers who may collaborate to form a professional corporation as provided in N.C. Gen Stat 55B-14 to include the following:

1. A licensed psychologist and a physician practicing psychiatry to render psychotherapeutic and related services;
2. Any combination of a registered nurse, nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, certified nurse midwife, and certified nurse anesthetist, to render nursing and related services that the respective shareholders are licensed, certified, or otherwise approved to provide;
3. A physician and a physician assistant who is licensed, registered, or otherwise certified under Chapter 90 of the General Statutes to render medical and related services;  Comment: Current statutes permit physician assistants to form professional corporations if our professional corporation rules are modified.
4. A physician practicing psychiatry, or a licensed psychologist, or both, and a certified clinical specialist in psychiatric and mental health nursing to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide;
5. A physician and any combination of a nurse practitioner, certified clinical specialist in psychiatric and mental health nursing, or certified nurse midwife, registered or otherwise certified under Chapter 90 to render medical and related services that the respective shareholders are licensed, certified, or otherwise approved to provide; and
6. A physician practicing anesthesiology or surgery and a certified nurse anesthetist to render anesthesia and related medical services that the respective stockholders are licensed, certified or otherwise approved to provide.

This bill also amended the definition of professional service to include services provided by a clinical social worker certified under N.C.Gen. Stat. §93B-3.

Limited Liability Companies (Chapter 351; HB 473) Effective October 1, 1995.

SUMMARY: This bill modifies the professional corporation act to permit professionals licensed in other states to become shareholders in professional corporations in North Carolina, subject to conditions set by the licensing board. There is a curious restriction in this law limiting the North Carolina practice of such a corporation to shareholders who hold a North Carolina license. Any professional practicing for the corporation in North Carolina will have to be a shareholder in the corporation. This new law also permits a foreign professional corporation to obtain a certificate of authority to transact business in North Carolina. Only North Carolina licensees can provide professional services in North Carolina for the corporation.

Physician Corporation Act (Chapter 395; SB 396) Effective October 1, 1995.

SUMMARY: This act permits physicians to enter cooperative agreements for the provision of medical services. Prior to the effective date of this law, these arrangements are barred by state and federal antitrust laws. The cooperative agreement must be approved by the Department of Human Resources upon a determination that the benefits of any restriction in competition outweigh the disadvantages attributable to a reduction of competition as a result of the agreement. The Attorney General is given the power to void any agreement of this type by objecting to it. The cost for gaining approval of one of these agreements is set by statute not to exceed $15,000. The activities under the cooperative agreement must be reported to the department of Human resources every two years for a periodic review. The fee for this review is not to exceed $2,500.
CRIMINAL MATTERS

Insurance Fraud (Chapter 43; HB 103) Effective October 1, 1995.

SUMMARY: Any person who with the intent to injure or defraud or deceive an insurer, or an insurance claimant, presents, or causes to be presented, a written or oral statement, including computer generated documents, as part of, or in support of, or in opposition to a claim for payment, knowing that the statement contains false or misleading information, or anyone who assists that person in some way in doing that, is guilty of a Class H felony. In a civil cause for recovery against one who has been convicted of this crime, the conviction may be entered into evidence against the defendant and the court may award the prevailing party compensatory damages, attorney fees, costs and reasonable investigative costs.

Consent for Unemancipated Minor's Abortion (Chapter 462 HB 481) Effective October 1, 1995.

SUMMARY: No physician shall perform an abortion on an unemancipated minor without first obtaining written consent of the minor and one of the following: a parent having custody of the minor; or the legal guardian or legal custodian of the minor; or a parent with whom the minor is living; or a grandparent with whom the minor has been living for at least six months proceeding the date of the minor's written consent. A waiver may be granted by a district court judge. If a medical emergency exists an exception to this consent requirement is permitted. Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person on whom the abortion is performed is an unemancipated minor shall be guilty of a Class I misdemeanor.

HEALTH CARE

OB/GYN Access. (Chapter 63; HB 773) Effective January 1, 1996.

SUMMARY: Each health benefit plan issued renewed or amended after December 31, 1995 must allow any female plan participant who is age 13 or over to have direct access to an OB/GYN participating in the plan; no referral can be required.

Health Workers Liability (Chapter 228; SB 449) Effective June 13, 1995.

SUMMARY: Those who serve on an expert panel appointed by the state health director to evaluate the risks of HIV/HBV transmission by an infected health care worker are granted legal immunity under NCGS §130-144, which previously gave immunity only to those investigating the risk of transmission. Immunity does not apply to violations of NCGS §130-143 governing the confidentiality of an AIDS patient's medical record.

LICENSING OF HEALTH PROVIDERS AND LICENSURE ISSUES

Amend the Definition of Podiatry (Chapter 248; SB 399) Effective June 14, 1995.

SUMMARY: This law expands the scope of the practice of podiatry to include treatment of all ailments of the foot and ankle and their related soft tissue structures (except amputation of the entire foot, the administration of anesthetic other than local, and the surgical correction of clubfoot of an infant two years of age or less) to the level of the myotendinous junction. Except for procedures for bone spurs and simple soft tissue procedures, any surgery on the ankle or on the soft tissue structures related to the ankle must be performed in a licensed hospital or a multispecialty ambulatory surgical facility where the podiatrist has privileges. This law establishes a committee composed of two members from the North Carolina Board of Podiatry and two members of the North Carolina Medical Board which shall define what constitutes "soft tissue procedures" referred to in the statute. Dr. Henry and Dr. Spangler serve on this committee.
Child Support/License Revocation (Chapter 538; HB 168) Effective January 1, 1996.

SUMMARY: Drivers and occupational licenses may be forfeited for failure to pay child support. A parent found by a court to be delinquent in child support payments in an amount equal to one month of payments may be required to forfeit licensed privileges until such time as the clerk of Superior Court certifies the parent is no longer delinquent. The clerk of court will inform the relevant board of both the finding of delinquency and any subsequent certification of payment. The board will revoke or reinstate accordingly. Revocation will remain in effect until the licensee applies for reinstatement and submits certification from the clerk of court that the payments are no longer delinquent. An additional provision of the law permits the Department of Human Resources to notify a licensing board that a licensee is delinquent in payment of child support.


SUMMARY: This provision of the law is designed to assist the state in tracking the availability of health care providers to determine areas of the state where access to health care and services is limited and to anticipate future health care shortages. Pursuant to this law every licensing board having authority to license physicians, physician assistants, nurse practitioners, and nurse midwives must modify procedures for licensure renewal to include the collection and reporting of the following information to the North Carolina Health Care Reform Commission (the successor to the North Carolina Health Planning Commission):
   1. area of specialty;
   2. address of all locations where the individual practices; and
   3. other information deemed relevant by the Health Care Reform Commission after consultation with the licensing board.

MEDICAL LICENSING

Change Medical Board Name (Chapter 94; SB 1017) Effective May 22, 1995.

SUMMARY: This bill changed the name of the Board of Medical Examiners of the State of North Carolina to the North Carolina Medical Board.

Amend the Medical Practice Act (Chapter 405; SB 653) Effective October 1, 1995.

SUMMARY: Changes in the Medical Practice Act are as follows. When the Board has concerns about the competence of a physician, it may, upon reasonable grounds, order the physician to submit to written or oral examinations. The Board is permitted to discipline a physician for any type of patient exploitation. The Board may pursue disciplinary action against a physician based on any disciplinary ruling by a licensing agency in another jurisdiction. (Previously the Board could act only on suspension or revocation in another jurisdiction.) A physician whose license is revoked is prohibited from having the license restored for two years following the date of revocation. The Board may send disciplinary notices to a physician at the last known address shown in the records of the Board. A return receipt showing failure to locate the physician at that address will be deemed service of the notice. When a decision of the Board in a disciplinary action is appealed, the Board must be given notice and an opportunity to be heard before the court may grant a stay of an order of the Board. The Board will receive notice of changes in privileges for physicians who practice in hospitals, other health care institution including HMOs, and all other provider organizations that issue credentials to physicians for practice. Physicians without professional liability insurance are required to report to the Board any award for damages or any settlement of any malpractice claim affecting his or her practice within 30 days of the award or settlement.

MISCELLANEOUS

Clarify Volunteer EMS Liability (Chapter 85; SB 118) Effective May 17, 1995.

SUMMARY: A medical or health care provider who serves as medical director of an EMS agency without compensation and volunteer members of rescue squads will not be liable for damages for injuries connected with the rendering of that service unless the injury or death is caused by gross negligence,
wanton conduct, or intentional wrongdoing. Previously the law protected only volunteers at local health departments and nonprofit community health centers and those treating patients referred by such entities. This law became effective on May 17, 1995. The changes in law in this bill provides is that a volunteer medical or health care provider serving as medical director of an EMS agency who receives no compensation for medical services or other related services and who does not charge money for those services, shall not be held liable for damages or injuries alleged to have been sustained by a person by reason of an act or admission in the rendering of treatment unless it is established that the injuries or the death of that person was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the person rendering treatment.

Concealed Handgun Permit (Chapter 398; HB 90) Effective December 1, 1995.

SUMMARY: This bill allows citizens to carry concealed handguns. The passage of this bill does not mean that the Board will have to permit people with concealed handguns enter the building or places where it is meeting. A provision of the law allows the posting of a prohibition prohibiting the carrying of concealed handguns on the premises.

PUBLIC RECORDS AND RULEMAKING.

SUMMARY: This act makes the following changes in the public records law:

1. Requires a public agency to provide a requested copy of a public record free, or at "actual cost", or at the amount prescribed by statute. Actual cost is defined so that it does not include costs of the public agency would have incurred had the request not have been made.

2. Requires that before a computer system is purchased, the public agency must determine that the system will not impair the public's access to public records.

3. Prohibits public agencies from denying access to public records on the grounds that they contain confidential information commingled with nonconfidential information. If it is necessary to separate the information to permit inspection because of laws requiring confidentiality, after June 30, 1996, the agency must bear the costs of separation.

4. Public agencies may not require requestors of public records to disclose their purposes or motives.

5. Establishes a timetable for public agencies to compile an index of public records on their computer databases....(state agencies by July 1, 1996)

6. Changes in the law compelling public disclosure or the copying of public records give lawsuits on these issues priority on the court docket; and allow the court to charge a successful plaintiff's attorney's fees against the agency if the agency acted without substantial justification in denying access and against an individual public employee or official who knowingly violated the public records law. But, if the employee or official sought and acted on the advice of a lawyer and followed the advice, no fees could be assessed against that person.

Administrative Rulemaking Changes (CH 507; HB 230 Section 27.8) Effective December 1, 1995.

SUMMARY: This new law changes the rulemaking process significantly. No rule can take effect without approval from the Rules Review Commission. Agencies can no longer put a rule into effect over the objection of the Rules Review Commission. Agencies will have to give 60 day notice of intent to make rules under the new law before the proposed new rule can be published. This will delay the publication process for 60 days compared with the present procedure. Henceforth except in the case of an exception for special gubernatorial action, permanent rules will become effective only one time each year under the following circumstances. The proposed rule has to be approved by the Rules Review Commission(RRC). A new session of the General Assembly must convene after that approval. That session must convene at least 25 days after the RRC meeting that approved the rule. No legislator introduces a bill to disapprove the rule within the first thirty days of the session. The rule becomes
effective on the thirty-first legislative day of the session. Fiscal notes are required for rules that will have a substantial economic impact. "Substantial economic impact" means "an aggregate financial impact on all persons affected of at least five million dollars ($5,000,000) in a twelve month period." These changes in the rulemaking procedure are effective for rules published in the December 1, 1995, North Carolina Register and in subsequent registers.

**STUDIES AND COMMISSIONS**


**SUMMARY:** The Health Care Reform Commission replaces the North Carolina Health Care Planning Commission.

The following motion was made, seconded, and passed unanimously: MOVED: That the Board direct staff to draft for publication changes in the rules to provide for new corporate entities which can be formed as a result of the enactment of Chapter 351 and Chapter 382 of the Session Laws of 1995.