

# **MINUTES**

**North Carolina Medical Board**

**June 9, 2014**

**1203 Front Street  
Raleigh, North Carolina**

General Session Minutes of the North Carolina Medical Board Special Meeting via Teleconference held June 9, 2014.

The June 9, 2014 special meeting of the North Carolina Medical Board was held via teleconference at the Board's Office, 1203 Front Street, Raleigh, NC 27609. Paul S. Camnitz, MD, President, called the meeting to order. Board members in attendance were: Cheryl L. Walker-McGill, MD, President-Elect; Pascal O. Udekwu, MD, Secretary/Treasurer; Ms. Thelma Lennon; Eleanor E. Greene, MD; Subhash C. Gumber, MD; Mr. Michael Arnold; Ms. H. Diane Meelheim, FNP; Debra A. Bolick, MD; Timothy E. Lietz, MD; Barbara E. Walker, DO. Absent was Mr. A. Wayne Holloman.

### **Presidential Remarks**

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

### **Proposed Legislative Agenda for the 2014 Legislative Session**

The Board discussed proposed changes to the Medical Practice Act that address issues related to Board member terms, the NCMB Review Panel, licensee e-mail addresses, fee increases, service of various orders, discovery, and reports of hospital suspensions due to delinquent medical records. In addition, the Board discussed proposed changes to the law governing the NC Physicians Health Program as recommended by the State Auditor.

The proposed statutory changes are shown on Attachment 1.

### **Board Action:**

The Board approved the proposed statutory changes as shown on Attachment 1 and directed its legislative liaisons to seek these changes during the 2014 Legislative Session.

### **ADJOURNMENT**

This meeting was adjourned at 6:40 p.m., June 9, 2014.

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Pascal O. Udekwu, MD  
Secretary/Treasurer

## Attachment 1

### **§ 90-2. Medical Board.**

(a) There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 12 members.

(1) Seven of the members shall be duly licensed physicians recommended by the Review Panel and appointed by the Governor as set forth in G.S. 90-3.

(2) The remaining five members shall all be appointed by the Governor as follows:

a. One shall be a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical Society. This Board position shall not be subject to recommendations of the Review Panel pursuant to G.S. 90-3.

b. Three shall be public members, and these Board positions shall not be subject to recommendations of the Review Panel pursuant to G.S. 90-3. A public member shall not be a health care provider nor the spouse of a health care provider. For the purpose of Board membership, "health care provider" means any licensed health care professional, agent or employee of a health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this section, a person enrolled in a program as preparation to be a licensed health care professional or an allied health professional shall be deemed a health care provider. For purposes of this section, any person with significant financial interest in a health service or profession is not a public member.

c. One shall be a physician assistant as defined in G.S. 90-18.1 or a nurse practitioner as defined in G.S. 90-18.2 as recommended by the Review Panel pursuant to G.S. 90-3.

(a1) Each appointing and nominating authority shall endeavor to see, insofar as possible, that its appointees and nominees to the Board reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

(b) No member shall serve more than two complete ~~consecutive~~ three-year terms, except that each member shall serve until a successor is chosen and qualifies.

(c) Repealed by Session Laws 2003-366, s. 1, effective October 1, 2003.

(d) Any member of the Board may be removed from office by the Governor for good cause shown. Any vacancy in the physician, physician assistant, or nurse practitioner membership of the Board shall be filled for the period of the unexpired term by the Governor from a list submitted by the Review Panel pursuant to G.S. 90-3 except as provided in G.S. 90-2(a)(2)a. Any vacancy in the public membership of the Board shall be filled by the Governor for the unexpired term.

(e) The North Carolina Medical Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as any private

person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

**§ 90-3. Review Panel recommends certain Board members; criteria for recommendations.**

(a) There is created a Review Panel to review all applicants for the physician positions and the physician assistant or nurse practitioner position on the Board except as provided in G.S. 90-2(a)(2)a. The Review Panel shall consist of nine members, including four from the Medical Society, one from the Old North State Medical Society, one from the North Carolina Osteopathic Medical Association, one from the North Carolina Academy of Physician Assistants, one from the North Carolina Nurses Association Council of Nurse Practitioners, and one public member currently serving on the Board. All physicians, physician assistants, and nurse practitioners serving on the Review Panel shall be actively practicing in North Carolina.

The Review Panel shall contract for the independent administrative services needed to complete its functions and duties. The Board shall provide funds to pay the reasonable cost for the administrative services of the Review Panel. The Board shall convene the initial meeting of the Review Panel. The Review Panel shall elect a chair, and all subsequent meetings shall be convened by the Review Panel.

The Governor shall appoint Board members as provided in G.S. 90-2. The Review Panel shall attempt to make its recommendations to the Governor reflect the composition of the State with regard to gender, ethnic, racial, and age composition.

The Review Panel and its members and staff shall not be held liable in any civil or criminal proceeding for exercising, in good faith, the powers and duties authorized by law.

(b) To be considered qualified for a physician position or the physician assistant or nurse practitioner position on the Board, an applicant shall meet each of the following criteria:

- (1) Hold an active, nonlimited license to practice medicine in North Carolina, or in the case of a physician assistant or nurse practitioner, hold an active license or approval to perform medical acts, tasks, and functions in North Carolina.
- (2) Have an active clinical or teaching practice. For purposes of this subdivision, the term "active" means patient care, or instruction of students in an accredited medical school or residency, or clinical research program, for 20 hours or more per week.
- (3) Have actively practiced in this State for at least five consecutive years immediately preceding the appointment.
- (4) Intend to remain in active practice in this State for the duration of the term on the Board.
- (5) Submit at least three letters of recommendation, either from individuals or from professional or other societies or organizations.
- (6) Have no public disciplinary history with the Board or any other licensing board in this State or another state over the past 10 years before applying for appointment to the Board.
- (7) Have no history of felony convictions of any kind.
- (8) Have no misdemeanor convictions related to the practice of medicine.
- (9) Indicate, in a manner prescribed by the Review Panel, that the applicant: (i) understands that the primary purpose of the Board is to protect the public; (ii) is willing to take appropriate disciplinary action against his or her peers for misconduct or violations of the standards of care or practice of medicine; and (iii) is aware of the time commitment needed to be a constructive member of the Board.

(c) ~~The review panel~~ Review Panel shall recommend at least two qualified nominees for each open position on the Board. If the Governor chooses not to appoint either of the recommended nominees, the Review Panel shall recommend at least two new qualified nominees.

(d) Notice of open physician positions or the physician assistant or nurse practitioner position on the Board shall be sent to all physicians currently licensed to practice medicine in North Carolina and all physician assistants and nurse practitioners currently licensed or approved to perform medical acts, tasks, and functions in this State.

(e) Applicants for positions on the Board shall not be required to be members of any professional association or society, except as provided in G.S. 90-2(a)(2)a.

(f) Notwithstanding any provision contained in G.S. 90-16, the Board may provide confidential and non-public licensing and investigative information in its possession to the Review Panel.

(g) All applications, records, papers, files, reports, and all investigative and licensing information received by the Review Panel from the Board and other documents received or gathered by the Review Panel, its members, employees, agents and consultants as a result of soliciting, receiving and reviewing applications and making recommendations as required above shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Review Panel and the Board, their employees, agents or consultants, except as provided herein. The Review Panel shall publish on its website the names and practice addresses of all applicants within ten days of the application deadline. The Review Panel shall publish on its website the names and practice addresses of the applicants recommended to the Governor within 10 days of notifying the Governor of those recommendations.

(h) The Review Panel is a public body within the meaning of Article 33C of Chapter 143 of the General Statutes. In addition to the provisions contained in that Article permitting a public body to conduct business in a closed session, the Review Panel shall meet in a closed session to review applications, interview applicants, review and discuss information received from the Board and discuss, debate and vote on recommendations to the Governor. (1858-9, c. 258, s. 9; Code, s. 3126; Rev., s. 4493; C.S., s. 6607; 1981, c. 573, s. 3; 2007-346, s. 4.)

#### **§ 90-5.2. Board to collect and publish certain data.**

(a) The Board shall require all physicians and physician assistants to report to the Board certain information, including, but not limited to, the following:

- (1) The names of any schools of medicine or osteopathy attended and the year of graduation.
- (2) Any graduate medical or osteopathic education at any institution approved by the Accreditation Council of Graduate Medical Education, the Committee for the Accreditation of Canadian Medical Schools, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.
- (3) Any specialty board of certification as approved by the American Board of Medical Specialties, the Bureau of Osteopathic Specialists of American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.
- (4) Specialty area of practice.
- (5) Hospital affiliations.
- (6) Address and telephone number of the primary practice setting.
- (7) ~~An A current effective e-mail address or facsimile number which shall not be made available to the public and~~ the Board may use or make available shall be used for the purpose of expediting the dissemination of disseminating or soliciting information about a affecting public health emergency. or the practice me medicine.

- (8) Any final disciplinary order or other action required to be reported to the Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of privileges.
- (9) Any final disciplinary order or action of any regulatory board or agency including other state medical boards, the United States Food and Drug Administration, the United States Drug Enforcement Administration, Medicare, or the North Carolina Medicaid program.
- (10) Conviction of a felony.
- (11) Conviction of certain misdemeanors, occurring within the last 10 years, in accordance with rules adopted by the Board.
- (12) Any medical license, active or inactive, granted by another state or country.
- (13) Certain malpractice information received pursuant to G.S. 90-5.3, G.S. 90-14.13, or from other sources in accordance with rules adopted by the Board.

(a1) The Board shall make e-mail addresses ~~and facsimile numbers~~ reported pursuant to G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the North Carolina Controlled Substance Reporting System established by Article 5E of this Chapter.

(b) Except as provided, the Board shall make information collected under G.S. 90-5.2(a) available to the public.

(c) The Board may adopt rules to implement this section.

(d) Failure to provide information as required by this section and in accordance with Board rules or knowingly providing false information may be considered unprofessional conduct as defined in G.S. 90-14(a)(6). (2007-346, s. 6; 2009-217, s. 2; 2013-152, s. 5.)

#### **§ 90-13.1. License fees.**

(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of ~~three~~ four hundred ~~fifty~~ dollars (~~\$350.00~~ \$400.00).

(b) Each applicant for a limited license to practice in a medical education and training program under G.S. 90-12.01 shall pay to the Board a fee of one hundred dollars (\$100.00).

(c) An applicant for a limited volunteer license under G.S. 90-12.1A or G.S. 90-12.1B shall not pay a fee.

(d) A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a duplicate license.

(e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board.

(f) For the initial and annual licensure of an anesthesiologist assistant, the Board may require the payment of a fee not to exceed one hundred fifty dollars (\$150.00).

#### **§ 90-13.2. Registration every year with Board.**

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay an annual registration fee of ~~one~~ two hundred ~~seventy-five~~ fifty dollars (~~\$475.00~~ \$250.00), except those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars (\$125.00), and those who have a retired limited volunteer license pursuant to G.S. 90-12.1B ~~or shall pay an annual registration fee of twenty-five dollars (\$25.00), and those who have a limited volunteer license pursuant to G.S. 90-12.1A shall pay no annual registration fee.~~ However, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12.01 shall not be required to pay more than one annual registration fee for each year of training.

~~(c) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.~~

(~~d~~ c) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(~~e~~ d) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars (\$50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. The Board shall retain jurisdiction over the holder of the inactive license.

(~~f~~ e) Except as provided in G.S. 90-12.1B, a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee.

(~~g~~ f) Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13.1.

#### **§ 90-14. Disciplinary Authority.**

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(n) Notwithstanding subsection (m) of this section, if the licensee has retained counsel ~~and the Board has not made a nonpublic determination to initiate disciplinary proceedings~~, the Board may serve orders to produce, ~~orders to appear~~, submit to assessment or examination or orders following a hearing or provide notice that the Board will not be taking any further action against a licensee to both the licensee and the licensee's counsel.

#### **§ 90-14.2. Hearing before disciplinary action.**

(a) Before the Board shall take disciplinary action against any license granted by it, the licensee shall be given a written notice indicating the charges made against the licensee, which notice may be prepared by a committee or one or more members of the Board designated by the Board, and stating that the licensee will be given an opportunity to be heard concerning the charges at a time and place stated in the notice, or at a time and place to be thereafter designated by the Board, and the Board shall hold a public hearing not less than 30 days from the date of the service of notice upon the licensee, at which the licensee may appear personally and through counsel, may cross examine witnesses and present evidence in the licensee's own behalf. A licensee who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the licensee resides. The licensee may file written answers to the charges within 30 days after the service of the notice, which answer shall become a part of the record but shall not constitute evidence in the case.

(b) Once charges have been issued, neither counsel for the Board nor counsel for the respondent shall communicate ex parte, directly or indirectly, pertaining to a matter that is an issue of fact or a question of law with a hearing officer or Board member who is permitted to participate in a final decision in a disciplinary proceeding. In conducting hearings, the Board shall retain independent counsel to provide advice to the Board or any hearing committee constituted under G.S. 90-14.5(a) concerning contested matters of procedure and evidence.

(c) Once charges have been issued, the parties may engage in discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1. Additionally, the Board shall provide the respondent or respondent's counsel with any exculpatory evidence in its possession, except the

Board shall not be required to provide information that would identify an anonymous complainant or information relating to advisory opinions, recommendations or deliberations by the Board, its staff and its consultants that will not be entered into evidence.

**§ 90-16. Self-reporting requirements; confidentiality of Board investigative information; cooperation with law enforcement; patient protection; Board to keep public records.**

...

~~(d) The Board shall provide the licensee or applicant with access to all information in its possession that the Board intends to offer into evidence in presenting its case in chief at the contested hearing on the matter, subject to any privilege or restriction set forth by rule, statute, or legal precedent, upon written request from a licensee or applicant who is the subject of a complaint or investigation, or from the licensee's or applicant's counsel, unless good cause is shown for delay. The Board is not required to provide any of the following:~~

- ~~(1) A Board investigative report.~~
- ~~(2) The identity of a non-testifying complainant.~~
- ~~(3) Attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Rules of Civil Procedure or the Rules of Evidence.~~

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**§ 90-14.13. Reports of disciplinary action by health care institutions; reports of professional liability insurance awards or settlements; immunity from liability.**

(a) The chief administrative officer of every licensed hospital or other health care institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred providers, as defined in G.S. 58-50-56, and all other provider organizations that issue credentials to physicians who practice medicine in the State, shall, after consultation with the chief of staff of that institution, report to the Board the following actions involving a physician's privileges to practice in that institution within 30 days of the date that the action takes effect:

- (1) A summary revocation, summary suspension, or summary limitation of privileges, regardless of whether the action has been finally determined.
- (2) A revocation, suspension, or limitation of privileges that has been finally determined by the governing body of the institution.
- (3) A resignation from practice or voluntary reduction of privileges.
- (4) Any action reportable pursuant to Title IV of P.L. 99-660, the Health Care Quality Improvement Act of 1986, as amended, not otherwise reportable under subdivisions (1), (2), or (3) of this subsection.

(a1) A hospital is not required to report:

- (1) The suspension or limitation of a physician's privileges for failure to timely complete medical records. ~~records unless the suspension or limitation is the third within the calendar year for failure to timely complete medical records. Upon reporting the third suspension or limitation, the hospital shall also report the previous two suspensions or limitations.~~
- (2) A resignation from practice due solely to the physician's completion of a medical residency, internship, or fellowship.

(a2) The Board shall report all violations of subsection (a) of this section known to it to the licensing agency for the institution involved. The licensing agency for the institution involved is authorized to order the payment of a civil penalty of two hundred fifty dollars (\$250.00) for a first violation and five hundred dollars (\$500.00) for each subsequent violation if the institution fails to report as required under subsection (a) of this section.

(b) Any licensed physician who does not possess professional liability insurance shall report to the Board any award of damages or any settlement of any malpractice complaint affecting his or her practice within 30 days of the award or settlement.

(c) The chief administrative officer of each insurance company providing professional liability insurance for physicians who practice medicine in North Carolina, the administrative officer of the Liability Insurance Trust Fund Council created by G.S. 116-220, and the administrative officer of any trust fund or other fund operated or administered by a hospital authority, group, or provider shall report to the Board within 30 days any of the following:

- (1) Any award of damages or settlement of any claim or lawsuit affecting or involving a person licensed under this Article that it insures.
- (2) Any cancellation or nonrenewal of its professional liability coverage of a physician, if the cancellation or nonrenewal was for cause.
- (3) A malpractice payment that is reportable pursuant to Title IV of P.L. 99-660, the Health Care Quality Improvement Act of 1986, as amended, not otherwise reportable under subdivision (1) or (2) of this subsection.

(d) The Board shall report all violations of this section to the Commissioner of Insurance. The Commissioner of Insurance is authorized to order the payment of a civil penalty of two hundred fifty dollars (\$250.00) for a first violation and five hundred dollars (\$500.00) for each subsequent violation against an insurer for failure to report as required under this section.

(e) The Board may request details about any action covered by this section, and the licensees or officers shall promptly furnish the requested information. The reports required by this section are privileged, not open to the public, confidential and are not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the Board or its employees or agents involved in application for license or discipline, except as provided in G.S. 90-16. Any officer making a report required by this section, providing additional information required by the Board, or testifying in any proceeding as a result of the report or required information shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false.

Article 1D.  
Peer Review

**§ 90-21.22. Peer review agreements.**

(a) The North Carolina Medical Board (the "Board") may enter into an agreement with the North Carolina Medical Society (the "Society"), the North Carolina Academy of Physician Assistants (the "Academy") and the North Carolina Physicians Health Program (the "Program"). The agreement shall include guidelines for the assessment, referral, monitoring, support and education of licensees of the Board with physical or mental illness, chemical dependence, or professional sexual misconduct; procedures for referral by the Board; criteria for reporting licensees to the Board by the Program; periodic reporting of statistical information to the Board, the Society and the Academy; and assurance of confidentiality of nonpublic information. The purpose of the agreement herein provided for shall be to identify, review and evaluate the ability of licensees of the Board referred to the Program to function in their professional capacity and to coordinate regimens for treatment and rehabilitation.

(b) The Board, the Society and the Academy may provide funds for the administration of such health program for licensees of the Board.

(c) The Program shall report immediately to the Board detailed information about any licensee of the Board who:

- (1) Constitutes an imminent danger to patient care by reason of physical or mental illness, substance-related disorder, or professional sexual misconduct, or any other reason; or
- (2) Has entered into a monitoring contract and fails to comply with the terms of the Program's monitoring contract, refuses to submit to an assessment as ordered by the Board, or is still unsafe to practice medicine after treatment.

(d) Any information acquired, created, or used in good faith by the Program pursuant to this section is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the Board, Board employees or consultants used by the Board or the Program. No person participating in good faith in the Program shall be required in a civil case to disclose any information acquired or opinions, recommendations, or evaluations acquired or developed solely in the course of participating in the Program pursuant to this section.

(e) Upon written request by a participant, the Program shall provide the participant with a summary of the substantive information contained in the Program's assessment. Any information furnished to a participant pursuant to this subsection shall be inadmissible in evidence in any civil proceeding. However, information, documents, or records otherwise available are not immune from discovery or use in a civil action merely because they were included in the Program's assessment or were the subject of information furnished to the participant pursuant to this subsection.

(f) Health program activities conducted in good faith pursuant to the agreement under this section shall not be grounds for civil action under the laws of this State.

(g) The Board has authority to adopt, amend, or repeal rules as may be necessary to carry out and enforce the provisions of this section.

~~(a) The North Carolina Medical Board may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with the North Carolina Medical Society and its local medical society components, and with the North Carolina Academy of Physician Assistants for the purpose of conducting peer review activities. Peer review activities to be covered by such agreements shall include investigation, review, and evaluation of records, reports, complaints, litigation and other information about the practices and practice patterns of physicians licensed by the Board, and of physician assistants approved by the Board, and shall include programs for impaired physicians and impaired physician assistants. Agreements between the Academy and the Board shall be limited to programs for impaired physicians and physician assistants and shall not include any other peer review activities.~~

~~(b) Peer review agreements shall include provisions for the society and for the Academy to receive relevant information from the Board and other sources, conduct the investigation and review in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the review process, make reports of investigations and evaluations to the Board, and to do other related activities for promoting a coordinated and effective peer review process. Peer review agreements shall include provisions assuring due process.~~

~~(c) Each society which enters a peer review agreement with the Board shall establish and maintain a program for impaired physicians licensed by the Board. The Academy, after entering a peer review agreement with the Board, shall either enter an agreement with the North Carolina Medical Society for the inclusion of physician assistants in the Society's program for impaired physicians, or shall establish and maintain the Academy's own program for impaired physician assistants. The purpose of the programs shall be to identify, review, and evaluate the ability of those physicians and physician assistants to function in their professional capacity and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of impaired physician and impaired physician assistant programs and shall adopt rules with provisions for definitions of impairment; guidelines for program elements; procedures for receipt and use of information of suspected impairment; procedures for intervention and referral; monitoring treatment, rehabilitation, post-treatment support and performance; reports of individual cases to the Board; periodic reporting of statistical information; assurance of confidentiality of nonpublic information and of the review process.~~

~~(d) Upon investigation and review of a physician licensed by the Board, or a physician assistant approved by the Board, or upon receipt of a complaint or other information, a society which enters a peer review agreement with the Board, or the Academy if it has a peer review agreement with the Board, as appropriate, shall report immediately to the Board detailed information about any physician or physician assistant licensed or approved by the Board if:~~

~~(1) — The physician or physician assistant constitutes an imminent danger to the public or to himself by reason of impairment, mental illness, physical illness, the commission of professional sexual boundary violations, or any other reason;~~

~~(2) — The physician or physician assistant refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or~~

~~(3) — It reasonably appears that there are other grounds for disciplinary action.~~

~~(e) — Any confidential patient information and other nonpublic information acquired, created, or used in good faith by the Academy or a society pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. No person participating in good faith in the peer review or impaired physician or impaired physician assistant programs of this section shall be required in a civil case to disclose any information acquired or opinions, recommendations, or evaluations acquired or developed solely in the course of participating in any agreements pursuant to this section.~~

~~(f) — Peer review activities conducted in good faith pursuant to any agreement under this section shall not be grounds for civil action under the laws of this State and are deemed to be State directed and sanctioned and shall constitute State action for the purposes of application of antitrust laws. (1987, c. 859, s. 15; 1993, c. 176, s. 1; 1995, c. 94, s. 23; 2006-144, s. 8.)~~