

**NORTH CAROLINA MEDICAL BOARD ORDER REMOVING OSELTAMIVIR AND
AZITHROMYCIN FROM THE RESTRICTED DRUG LIST FROM TEMPORARY RULE 21
NCAC 32B .1708.**

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person-to-person; and

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on 30 January 2020; and

WHEREAS, on 31 January 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States for COVID-19 under Section 319 of the Public Health Service Act; and

WHEREAS, by Executive Order No. 116 on 10 March 2020, North Carolina Governor Roy Cooper declared a State of Emergency for the entire State of North Carolina based on the public health emergency posed by COVID-19; and

WHEREAS, the ongoing COVID-19 pandemic continues to significantly impact the health of North Carolinians and place strains on our healthcare institutions; and

WHEREAS, the North Carolina Medical Board (“Board”) is an agency of the State of North Carolina organized under Chapter 90 of the North Carolina General Statutes and is charged with the responsibility for licensing physicians, physician assistants, anesthesiologist assistants and perfusionists to practice in North Carolina and regulating such practice in the interest of the public health, safety and welfare; and

WHEREAS, on 24 March 2020, the Board received a letter signed by the Secretary of the North Carolina Department of Health and Human Services and the State Health Director and Chief Medical Officer, requesting the Board and the Board of Pharmacy take immediate action to adopt emergency and temporary rules to help prevent a shortage of certain drugs that may be used in treating COVID-19; and

WHEREAS, on 6 April 2020, the Board enacted emergency rule 21 NCAC 32B .1708 (also known as the “drug preservation rule”) in which conditions were placed on the prescribing of certain drugs, including oseltamivir and azithromycin, for COVID-19 in order to prevent a shortage of those medications; and

WHEREAS, on 15 July 2020 emergency rule 21 NCAC 32B .1708 became temporary rule 21 NCAC 32B .1708 when the temporary rule was published in the NC Register; and

WHEREAS, temporary rule 21 NCAC 32B .1708 remains in effect for 270 days, or until 11 April 2020, unless replaced by a permanent rule; and

WHEREAS, on 10 September 2020, the Board received a letter signed by the Secretary of the North Carolina Department of Health and Human Services and the State Health Director and Chief Medical Officer requesting the Board and the Board of Pharmacy proceed with permanent rule-making for the drug preservation rule, except for the drugs oseltamivir and azithromycin; and

WHEREAS, a permanent rule is not expected to go into effect until 1 April 2021; and

WHEREAS, the Board believes it is the public interest to remove oseltamivir and azithromycin from the temporary rule restricted list prior to 1 April 2021; and

WHEREAS, the Board has authority under N.C. Gen. Stat. § 90-12.5 to take this action in order to permit the provision of emergency health services to the public; and

WHEREAS, on 25 September 2020 the Board voted to take this action for the benefit and protection of the people of North Carolina and the United States of America.

NOW, THEREFORE, it is **ORDERED** that:

The drugs oseltamivir and azithromycin be removed from the restricted list in temporary rule 21 NCAC 32B .1708 effective 23 October 2020.

This the 25th day of September 2020.

NORTH CAROLINA MEDICAL BOARD

By: 

Bryant A. Murphy, M.D.
President