

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 543

Short Title: Amend Laws Pertaining to NC Medical Board. (Public)

Sponsors: Representatives Brawley and Jones (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health, if favorable, Finance.

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING LAWS PERTAINING TO THE NORTH CAROLINA MEDICAL
3 BOARD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 90-2(b) reads as rewritten:

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

8 **SECTION 2.** G.S. 90-3(b) reads as rewritten:

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

11 ...

12 (10) Have not served more than 72 months as a member of the Board."

13 **SECTION 3.** G.S. 90-3(c) reads as rewritten:

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

18 **SECTION 4.** G.S. 90-3 is amended by adding new subsections to read:

19 "(f) Notwithstanding any provision of G.S. 90-16, the Board may provide confidential
20 and nonpublic licensing and investigative information in its possession to the Review Panel.

21 (g) All applications, records, papers, files, reports, and all investigative and licensing
22 information received by the Review Panel from the Board and other documents received or
23 gathered by the Review Panel, its members, employees, agents, and consultants as a result of
24 soliciting, receiving, and reviewing applications and making recommendations as required in
25 this section shall not be considered public records within the meaning of Chapter 132 of the
26 General Statutes. All such information shall be privileged, confidential, and not subject to
27 discovery, subpoena, or other means of legal compulsion for release to any person other than to
28 the Review Panel, the Board, and their employees, agents, or consultants, except as provided in
29 this section. The Review Panel shall publish on its Internet Web site the names and practice
30 addresses of all applicants within 10 days after the application deadline. The Review Panel
31 shall publish on its Internet Web site the names and practice addresses of the nominees
32 recommended to the Governor within 10 days after notifying the Governor of those
33 recommendations and not less than 30 days prior to the expiration of the open position on the
34 Board.



* H 5 4 3 - V - 1 *

1 (h) The Review Panel is a public body within the meaning of Article 33C of Chapter
2 143 of the General Statutes. In addition to the provisions contained in Article 33C of Chapter
3 143 of the General Statutes permitting a public body to conduct business in a closed session,
4 the Review Panel shall meet in closed session to review applications; interview applicants;
5 review and discuss information received from the Board; and discuss, debate, and vote on
6 recommendations to the Governor."

7 **SECTION 5.** G.S. 90-5.2(7) reads as rewritten:

8 "~~(7) An A current, active e-mail address or facsimile number address, which shall~~
9 ~~not be made available to the public and shall considered a public record~~
10 ~~within the meaning of Chapter 132 of the General Statutes. This information~~
11 ~~may be used or made available by the Board for the purpose of expediting~~
12 ~~the dissemination of disseminating or soliciting information about affecting~~
13 ~~public health emergency or the practice of medicine."~~

14 **SECTION 6.** G.S. 90-5.2(a1) reads as rewritten:

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

19 **SECTION 7.** G.S. 90-8.1 reads as rewritten:

20 "**§ 90-8.1. Rules governing applicants for licensure.**

21 (a) The North Carolina Medical Board is empowered to adopt rules that prescribe
22 additional qualifications for an applicant, including education and examination requirements
23 and application procedures.

24 (b) The Board shall not deny an application for licensure based solely on the applicant's
25 failure to become board certified."

26 **SECTION 8.** G.S. 90-13.1(a) reads as rewritten:

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

30 **SECTION 9.** G.S. 90-13.2 reads as rewritten:

31 "**§ 90-13.2. Registration every year with Board.**

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

34 (b) A person who registers with the Board shall report to the Board the person's name
35 and office and residence address and any other information required by the Board, and shall
36 pay an annual registration fee of ~~one hundred seventy five~~ two hundred fifty dollars
37 ~~(\$175.00).~~ (\$250.00), except those who have a limited license to practice in a medical education
38 and training program approved by the Board for the purpose of education or training shall pay a
39 registration fee of one hundred twenty-five dollars ~~(\$125.00).~~ (\$125.00) and those who have a
40 retired limited volunteer license pursuant to G.S. 90-12.1B ~~shall pay an annual registration fee~~
41 ~~of twenty five dollars (\$25.00), and those who have or~~ a limited volunteer license pursuant to
42 G.S. 90-12.1A shall pay no annual registration fee. However, licensees who have a limited
43 license to practice for the purpose of education and training under G.S. 90-12.01 shall not be
44 required to pay more than one annual registration fee for each year of training.

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

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

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

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

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

12 (h) The Board shall not deny a licensee's annual registration based solely on the
13 licensee's failure to become board certified."

14 **SECTION 10.** G.S. 90-14(n) reads as rewritten:

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

21 **SECTION 11.** G.S. 90-14.2 is amended by adding a new subsection to read:

22 "(c) Once charges have been issued, the parties may engage in discovery as provided in
23 G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, the Board shall provide
24 the respondent or respondent's counsel with all exculpatory evidence in its possession, except
25 for the following:

26 (1) Information that is subject to attorney-client privilege.

27 (2) Information that would identify an anonymous complainant.

28 (3) Information related to advisory opinions, recommendations, or deliberations
29 by the Board, its staff, and its consultants that will not be entered into
30 evidence."

31 **SECTION 12.** G.S. 90-14.13(a1)(1) reads as rewritten:

32 "(a1) A hospital is not required to report:

33 (1) The suspension or limitation of a physician's privileges for failure to timely
34 complete medical ~~records unless the suspension or limitation is the third~~
35 ~~within the calendar year for failure to timely complete medical records.~~
36 ~~Upon reporting the third suspension or limitation, the hospital shall also~~
37 ~~report the previous two suspensions or limitations records."~~

38 **SECTION 13.** G.S. 90-21.22A is recodified as G.S. 90-21.22B under Article 1D of
39 Chapter 90 of the General Statutes.

40 **SECTION 14.** Article 1D of Chapter 90 of the General Statutes is renamed as
41 follows:

42 "Article 1D.

43 Peer Review Health Program for Medical Professionals."

44 **SECTION 15.** Article 1D of Chapter 90 of the General Statutes is amended by
45 adding a new section to read:

46 "**§ 90-21.22A. Health Program for Medical Professionals.**

47 (a) The Board may enter into an agreement with the North Carolina Medical Society,
48 the North Carolina Academy of Physician Assistants, and the North Carolina Physicians Health
49 Program for the purposes of identifying, reviewing, and evaluating the ability of licensees of
50 the Board who have been referred to the North Carolina Physicians Health Program to function

1 in their professional capacity; and coordinating regimens for treatment and rehabilitation. The
2 agreement shall include guidelines for all of the following:

- 3 (1) The assessment, referral, monitoring, support, and education of licensees of
4 the Board by reason of a physical or mental illness, a substance
5 abuse-related disorder, or professional sexual misconduct.
- 6 (2) Procedures for the Board to refer licensees to the North Carolina Physicians
7 Health Program.
- 8 (3) Criteria for the North Carolina Physicians Health Program to report licensees
9 to the Board.
- 10 (4) A procedure by which licensees may obtain review of recommendations for
11 assessment or treatment by the North Carolina Physicians Health Program.
- 12 (5) Periodic reporting of statistical information by the North Carolina Physicians
13 Health Program to the Board, the North Carolina Medical Society, and the
14 North Carolina Academy of Physician Assistants.
- 15 (6) Maintaining the confidentiality of nonpublic information.

16 (b) The Board, the North Carolina Medical Society, and the North Carolina Academy of
17 Physician Assistants may provide funds for the administration of the North Carolina Physicians
18 Health Program.

19 (c) The North Carolina Physicians Health Program shall report immediately to the
20 Board detailed information about any licensee of the Board who meets any of the following
21 criteria:

- 22 (1) Constitutes an imminent danger to patient care by reason of a physical or
23 mental illness, a substance abuse-related disorder, professional sexual
24 misconduct, or any other reason.
- 25 (2) Has entered into a monitoring contract with the health program and fails to
26 comply with the terms of the monitoring contract.
- 27 (3) Refuses to submit to an assessment as ordered by the Board.
- 28 (4) Is still unsafe to practice medicine after treatment.

29 (d) Any information acquired, created, or used in good faith by the North Carolina
30 Physicians Health Program pursuant to this section is privileged, confidential, and not subject
31 to discovery, subpoena, or other means of legal compulsion for release to any person other than
32 to the Board, the North Carolina Physicians Health Program, or their employees or consultants.
33 No person who participates in good faith in the North Carolina Physicians Health Program shall
34 be required to disclose in a civil case the fact of participation or any information acquired or
35 opinions, recommendations, or evaluations acquired or developed solely during the course of
36 participating in the program pursuant to this section.

37 (e) Upon the written request of a licensee, the North Carolina Physicians Health
38 Program shall provide the licensee or the licensee's legal counsel with a copy of a written
39 assessment of the licensee prepared as part of the licensee's participation in the program. In
40 addition, the licensee shall be entitled to a copy of any written assessment created by an alcohol
41 or chemical dependency treatment facility at the recommendation of the North Carolina
42 Physicians Health Program, to the extent permitted by State and federal laws and regulations.
43 Any information furnished to a licensee pursuant to this subsection shall be inadmissible in
44 evidence and shall not be subject to discovery in any civil proceeding. However, this subsection
45 shall not be construed to make information, documents, or records otherwise available for
46 discovery or use in a civil action immune from discovery or use in a civil action merely
47 because the information, documents, or records were included as part of the North Carolina
48 Physicians Health Program's assessment of the licensee or were the subject of information
49 furnished to the licensee pursuant to this subsection.

50 (f) Activities conducted in good faith pursuant to the agreement authorized by
51 subsection (a) of this section shall not be grounds for civil action under the laws of this State.

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

3 **SECTION 16.** G.S. 90-16(d) and G.S. 90-21.22 are repealed.

4 **SECTION 17.** This act becomes effective October 1, 2015.