



July 9, 2010

Donald E. Jablonski, DO, President
North Carolina Medical Board
1203 Front Street
Raleigh, NC 27609-7533

RE: Proposed 21 NCAC 32Y .0101 Advertising of Specialty and Board Certification

Dear Dr. Jablonski:

The purpose of this letter is to comment on the above-captioned proposal related to advertising of specialty and board certification by the Board's licensees.

We are grateful to the Board for extending its comment period so the NCMS could engage its members in a dialogue on this important topic. We held two meetings of a multi-specialty work group (see Attachment 1) to address which certifying entities should be recognized by the NCMB and to consider advertising standards for board certification and specialization. The work group also sought and received input from a large number of medical specialty organizations (see Attachment 2).

The NCMS believes there is strong precedent in health care for requiring minimum levels of accreditation or education when medical providers hold themselves out to the public as possessing certain qualifications or skills. Examples include TJC accreditation for hospitals, AAAASF (or equivalent) accreditation for ambulatory surgical facilities, AAMC for medical schools, and Board-recognized medical training programs for physicians. It is logical and appropriate to extend the use of minimum requirements to claims of board certification and specialization.

Our work group identified a broad consensus on the requirements of proposed 21 NCAC 32Y .0101(a)(1)-(4), which we believe is consistent with input received by the Board. The main concern was over 21 NCAC 32Y .0101(a)(5) and the standards by which the Board would recognize certifying entities ineligible under .0101(a)(1)-(4). We believe there are legitimate certifying entities that need an objective alternative pathway to recognition by the NCMB. The NCMS supports Board recognition of those certifying entities able to demonstrate to the NCMB that their educational prerequisites for the specialty or subspecialty in question meet the standards of the ACGME, even if they have not yet obtained ACGME approval. Additionally, any licensee claiming board certification by an entity approved under .0101(a)(5) should be required to have a current board certification from an ABMS-approved board in that field. For example, assuming the Board had recognized a particular board certification in otolaryngic

allergy, a licensee advertising that board certification should also be required to hold a current ABMS-approved board certification in otolaryngology. Suggested amendments to the rule are shown in Attachment 3.

The rationale for taking an ACGME-oriented approach is that the ACGME is not in the board certification field and has no proprietary interest in limiting competition from other certifying entities. They are interested primarily in defining acceptable, credible medical education programs. Further, the ACGME recognizes the expansion of medical specialization and provides pathways for new programs to be approved without artificial or political limitation. This is evidenced by the expansive list of ACGME-approved programs (see Attachment 4).

Finally, the discussion in our work group strongly suggests that the Board will need to provide detailed guidance to its licensees, preferably in the form of a position statement, about advertising practices that it finds unacceptable under the rule. We are most interested in ensuring that our members do not inadvertently violate the Board's regulations.

We appreciate the opportunity to comment on the proposal, and look forward to working with the Board to answer any questions you may have and resolve any new concerns that arise.

Sincerely,

A handwritten signature in cursive script that reads "Douglas Sheets, MD".

Douglas Sheets, MD
President

Copy: R. David Henderson, JD, Executive Director, NCMB
Christina C. Apperson, JD, NCMB
John A. Fagg, MD, Chair, NCMS Board Cert. and Advertising Stds. Work Group
Robert W. Seligson, Executive Vice President, CEO
Stephen W. Keene, Deputy EVP, General Counsel

Members of the NCMS Board Certification and Advertising Standards Work Group

| | |
|----------------------------|-------------------------|
| John A. Fagg, MD, Chair | Plastic Surgery |
| Craig N. Burkhart, MD, MS | Dermatology |
| Edward B. Ermini, MD | Otolaryngology |
| Wesley C. Fowler, Jr., MD | Gynecology |
| Stephen M. Herring, MD | Plastic Surgery |
| Shree K. Kurup, MD | Ophthalmology |
| David D. Meyer, MD, MBA | Neurology |
| Andrew B. Oliver, Jr., MD | Obstetrics & Gynecology |
| Warren J. Pendergast, MD | Psychiatry |
| William K. Poston, Jr., MD | Pathology |
| Elizabeth F. Rostan, MD | Dermatology |
| Jonathan D. Sherman, MD | Neurological Surgery |
| William Shockley, MD | Otolaryngology |
| Robert E. Taylor, MD | Otolaryngology |
| James Winslow, MD | Emergency Medicine |
| Robert A. Yapundich, MD | Neurology |

Input was specifically requested from the following specialty societies:

- North Carolina Society of Addiction Medicine
- North Carolina Dermatology Association
- Carolinas Chapter / American Association of Clinical Endocrinologists
- North Carolina Chapter/American College of Physicians
- North Carolina Neurological Society
- North Carolina Obstetrical & Gynecological Society
- North Carolina Society of Eye Physicians and Surgeons
- North Carolina Orthopaedic Association
- North Carolina Society of Otolaryngology and Head & Neck Surgery
- North Carolina Society of Pathologists
- North Carolina Spine Society
- North Carolina Academy of Family Physicians
- North Carolina Pediatric Society
- North Carolina College of Emergency Physicians

Recommendations of the North Carolina Medical Society

21 NCAC 32Y .0101 ADVERTISING OF SPECIALTY AND BOARD CERTIFICATION

(a) No physician shall advertise or otherwise hold himself or herself out to the public as being "Board Certified" without proof of current certification by a specialty board approved by (1) the American Board of Medical Specialties; (2) The Bureau of Osteopathic Specialists of American Osteopathic Association; (3) The Royal College of Physicians and Surgeons of Canada; (4) a board or association ~~with an~~ that requires Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty; or (5) a board or association with equivalent requirements approved by the North Carolina Medical Board. For purposes of subparagraph (5), "equivalent requirements" means the applicant for certification must have completed an educational program that meets the requirements of the ACGME for that specialty or subspecialty, as determined by the NCMB, and must possess a current ABMS-approved board certification in that field.

(b) Any physicians advertising or otherwise holding himself or herself out to the public as "Board Certified" as contemplated in paragraph (a) shall disclose in the advertisement the complete name of the specialty board by which the physician was certified.

(c) Physicians shall not list their names under a specific specialty in advertisements, including but not limited to, classified telephone directories and other directories unless: (1) they are board certified as defined in paragraph (a); or (1) they have successfully completed a training program in the advertised specialty that is accredited by the Accreditation Council for Graduate Medical Education or approved by the Council on Postdoctoral Training of the American Osteopathic Association.

Number of Accredited Programs for the Current Academic Year (2010 - 2011)

Report Date: 7/9/2010 - Totals are subject to change during current academic year.

| Alpha Code | Numeric Code | Name | Number of Programs | Number of On-Duty Residents |
|------------|--------------|--|--------------------|-----------------------------|
| AI | 020 | Allergy and immunology | 73 | 299 |
| AN | 040 | Anesthesiology | 131 | 5493 |
| ACA | 041 | Adult cardiothoracic anesthesiology | 50 | 128 |
| CCA | 045 | Critical care medicine | 49 | 92 |
| PMM | 530 | Pain medicine | 91 | 306 |
| PAN | 042 | Pediatric anesthesiology | 46 | 173 |
| CRS | 060 | Colon and rectal surgery | 50 | 84 |
| D | 080 | Dermatology | 113 | 1142 |
| DMP | 100 | Dermatopathology | 54 | 91 |
| PRD | 081 | Procedural dermatology | 44 | 41 |
| EM | 110 | Emergency medicine | 155 | 4949 |
| ETX | 118 | Medical toxicology | 24 | 53 |
| PE | 114 | Pediatric emergency medicine | 21 | 62 |
| ESM | 116 | Sports medicine | 5 | 8 |
| UME | 119 | Undersea and hyperbaric medicine | 6 | 7 |
| FM | 120 | Family medicine | 450 | 9574 |
| FPG | 125 | Geriatric medicine | 45 | 72 |
| HPM | 540 | Hospice and palliative medicine | 73 | 124 |
| FSM | 127 | Sports medicine | 108 | 163 |
| IM | 140 | Internal medicine | 380 | 22552 |
| CD | 141 | Cardiovascular disease | 180 | 2412 |
| ICE | 154 | Clinical cardiac electrophysiology | 98 | 177 |
| CCM | 142 | Critical care medicine | 33 | 172 |
| END | 143 | Endocrinology, diabetes, and metabolism | 125 | 545 |
| GE | 144 | Gastroenterology | 155 | 1356 |
| IMG | 151 | Geriatric medicine | 105 | 297 |
| HEM | 145 | Hematology | 7 | 35 |
| HO | 155 | Hematology and oncology | 131 | 1413 |
| ID | 146 | Infectious disease | 144 | 728 |
| IC | 152 | Interventional cardiology | 133 | 288 |
| NEP | 148 | Nephrology | 140 | 876 |
| ON | 147 | Oncology | 16 | 105 |
| PUD | 149 | Pulmonary disease | 21 | 77 |
| PCC | 156 | Pulmonary disease and critical care medicine | 133 | 1326 |

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|-----|-----|---|-----|------|
| RHU | 150 | Rheumatology | 108 | 402 |
| SLM | 520 | Sleep medicine | 73 | 150 |
| THP | 158 | Transplant hepatology | 29 | 22 |
| MG | 130 | Medical genetics | 51 | 84 |
| MGP | 190 | Molecular genetic pathology | 31 | 36 |
| MBG | 131 | Medical biochemical genetics | 6 | 1 |
| NS | 160 | Neurological surgery | 100 | 1040 |
| ESS | 163 | Endovascular surgical neuroradiology | 2 | 0 |
| N | 180 | Neurology | 125 | 1901 |
| CHN | 185 | Child neurology | 69 | 299 |
| CN | 187 | Clinical neurophysiology | 92 | 228 |
| ESS | 182 | Endovascular surgical neuroradiology | 2 | 2 |
| NM | 183 | Neuromuscular medicine | 26 | 31 |
| ND | 186 | Neurodevelopmental disabilities | 9 | 20 |
| VN | 188 | Vascular neurology | 68 | 67 |
| NM | 200 | Nuclear medicine | 54 | 165 |
| OBG | 220 | Obstetrics and gynecology | 243 | 4871 |
| OPH | 240 | Ophthalmology | 117 | 1407 |
| OPR | 241 | Ophthalmic Plastic and Reconstructive Surgery | 1 | 0 |
| ORS | 260 | Orthopaedic surgery | 152 | 3368 |
| OAR | 261 | Adult reconstructive orthopaedics | 21 | 43 |
| OFA | 262 | Foot and ankle orthopaedics | 10 | 20 |
| HSO | 263 | Hand surgery | 59 | 128 |
| OMO | 270 | Musculoskeletal oncology | 11 | 15 |
| OSM | 268 | Orthopaedic sports medicine | 98 | 204 |
| OSS | 267 | Orthopaedic surgery of the spine | 17 | 36 |
| OTR | 269 | Orthopaedic trauma | 11 | 18 |
| OP | 265 | Pediatric orthopaedics | 23 | 37 |
| OTO | 280 | Otolaryngology | 103 | 1424 |
| NO | 286 | Neurotology | 16 | 24 |
| PDO | 288 | Pediatric otolaryngology | 8 | 15 |
| PTH | 300 | Pathology-anatomic and clinical | 147 | 2384 |
| BBK | 305 | Blood banking/transfusion medicine | 47 | 48 |
| PCH | 306 | Chemical pathology | 2 | 0 |
| PCP | 307 | Cytopathology | 90 | 136 |
| FOP | 310 | Forensic pathology | 37 | 48 |
| HMP | 311 | Hematology | 81 | 126 |
| MM | 314 | Medical microbiology | 11 | 7 |
| NP | 315 | Neuropathology | 34 | 37 |
| PP | 316 | Pediatric pathology | 24 | 27 |
| SP | 301 | Selective pathology | 63 | 141 |
| PD | 320 | Pediatrics | 197 | 8209 |
| ADL | 321 | Adolescent medicine | 26 | 62 |
| NPM | 329 | Neonatal-perinatal medicine | 97 | 643 |
| PDC | 325 | Pediatric cardiology | 52 | 365 |

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|------|-----|---------------------------------------|-----|------|
| CCP | 323 | Pediatric critical care medicine | 62 | 374 |
| PEM | 324 | Pediatric emergency medicine | 49 | 283 |
| PDE | 326 | Pediatric endocrinology | 67 | 229 |
| PG | 332 | Pediatric gastroenterology | 55 | 234 |
| PHO | 327 | Pediatric hematology/oncology | 67 | 403 |
| PDI | 335 | Pediatric infectious diseases | 62 | 180 |
| PN | 328 | Pediatric nephrology | 39 | 120 |
| PDP | 330 | Pediatric pulmonology | 50 | 144 |
| PPR | 331 | Pediatric rheumatology | 30 | 74 |
| PSM | 333 | Pediatric sports medicine | 9 | 16 |
| PDB | 336 | Developmental-behavioral pediatrics | 36 | 71 |
| TPH | 338 | Pediatric transplant hepatology | 5 | 3 |
| PM | 340 | Physical medicine and rehabilitation | 77 | 1224 |
| PRM | 346 | Pediatric rehabilitation | 15 | 17 |
| SCI | 345 | Spinal cord injury medicine | 19 | 20 |
| PMRS | 342 | Sports medicine | 8 | 5 |
| PS | 360 | Plastic surgery | 71 | 344 |
| PSI | 362 | Plastic surgery - integrated | 31 | 335 |
| CFS | 361 | Craniofacial surgery | 5 | 5 |
| HSP | 363 | Hand surgery | 15 | 19 |
| GPM | 380 | Preventive medicine | 69 | 312 |
| PTX | 399 | Medical toxicology | 2 | 9 |
| UM | 398 | Undersea and hyperbaric medicine | 1 | 2 |
| P | 400 | Psychiatry | 183 | 4779 |
| ADP | 401 | Addiction psychiatry | 44 | 59 |
| CHP | 405 | Child and adolescent psychiatry | 122 | 819 |
| PFP | 406 | Forensic psychiatry | 41 | 82 |
| PYG | 407 | Geriatric psychiatry | 57 | 69 |
| PYM | 409 | Psychosomatic medicine | 50 | 67 |
| RO | 430 | Radiation oncology | 83 | 615 |
| DR | 420 | Radiology-diagnostic | 186 | 4545 |
| AR | 421 | Abdominal radiology | 10 | 45 |
| ESN | 422 | Endovascular surgical neuroradiology | 3 | 5 |
| MSR | 426 | Musculoskeletal radiology | 14 | 33 |
| RNR | 423 | Neuroradiology | 87 | 248 |
| NR | 425 | Nuclear radiology | 21 | 10 |
| PDR | 424 | Pediatric radiology | 46 | 75 |
| VIR | 427 | Vascular and interventional radiology | 91 | 188 |
| GS | 440 | Surgery | 246 | 7264 |
| HSS | 443 | Hand surgery | 1 | 8 |
| PDS | 445 | Pediatric surgery | 38 | 72 |
| CCS | 442 | Surgical critical care | 96 | 155 |
| VS | 450 | Vascular surgery | 101 | 246 |
| VSI | 451 | Vascular surgery - integrated | 25 | 41 |
| TS | 460 | Thoracic surgery | 69 | 220 |
| THS | 466 | Congenital cardiac surgery | 10 | 8 |

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|--------|-----|-------------------------------|------|--------|
| ED | 461 | Thoracic surgery - integrated | 9 | 11 |
| U | 480 | Urology | 122 | 1049 |
| UP | 485 | Pediatric urology | 26 | 25 |
| TY | 999 | Transitional year | 114 | 1203 |
| IP | 700 | Internal medicine/Pediatrics | 80 | 1405 |
| TOTALS | | | 8851 | 111280 |

Note: Highlighted specialties represent specialties that lead to initial board certification, classified as the GME pipeline.