

NORTH CAROLINA REGISTER MAY 1, 2008
PROPOSED RULES

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32X .0101 - .0105.

Proposed Effective Date: *September 1, 2008*

Public Hearing:

Date: *June 30, 2008*

Time: *10:00 a.m.*

Location: *NC Medical Board, 1203 Front Street, Raleigh, NC 27609*

Reason for Proposed Action: *To establish the rules implementing the requirements of NCGS 90-5.2 that the Medical Board collect and publish data regarding its licensees.*

Procedure by which a person can object to the agency on a

proposed rule: *Person may submit objections to these Rules by contacting Rules, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, fax (919) 326-1131, email rules@ncmedboard.org.*

Comments may be submitted to: *Katherine Carpenter, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email rules@ncmedboard.org*

Comment period ends: *June 30, 2008*

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

SUBCHAPTER 32X – PRACTITIONER PROFILE INFORMATION

21 NCAC 32X .0101 REQUIRED INFORMATION

(a) Pursuant to G.S. 90-5.2, all physicians and physician assistants licensed by the Board shall provide the following information on an application for licensure and annual registration. Additionally, all physicians and physician assistants shall provide the following information within 30 days of any change in the information on the profile:

- (1) The names of all medical, osteopathic, or physician assistant schools 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 or any graduate physician assistant training.
- (3) Any specialty board certification and whether that board is 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(s) of practice.
- (5) Current hospital affiliation(s).
- (6) Address and telephone number of the primary practice setting.
- (7) An e-mail address or facsimile number which shall not be made available to the public and shall be used for the purpose of expediting the dissemination of information about a public health emergency.
- (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, the North Carolina Medicaid program, or another state's Medicaid program.
- (10) Any felony convictions including the date of the conviction, the nature of the conviction, the jurisdiction in which the conviction occurred, and the sentence imposed.
- (11) Any misdemeanor convictions other than minor traffic offenses. The report must include the nature of the conviction, the jurisdiction in which the conviction occurred, and the punishment imposed. A person shall be considered convicted for purposes of this rule if they pled guilty, were found guilty by a court of competent jurisdiction, or entered a plea of nolo contendere. Certain convictions will be published pursuant to 21 NCAC 32W .0104.
- (12) Any medical license, active or inactive, granted by another state or country.
- (13) Malpractice payment information as described in 21 NCAC 32W .0103.

Authority G.S. 90-5.2.

21 NCAC 32X .0102 VOLUNTARY INFORMATION

Physicians and Physician Assistants may provide additional information on hours of continuing education earned, subspecialties obtained, academic appointments, volunteer work in indigent clinics, and honors or awards received.

Authority G.S. 90-5.2.

21 NCAC 32X .0103 REPORTING OF MEDICAL JUDGMENTS AND SETTLEMENTS

(a) Pursuant to G.S. 90-5.2 and 90-14.3, all physicians and physician assistants licensed by the Board shall report all medical malpractice judgments and settlements affecting or involving the physician or physician assistant on an application for licensure and annual registration. Additionally, all physicians and physician assistant licensed by the Board shall report all medical malpractice judgments and settlements affecting or involving the physician or physician assistant within 30 days of the initial payment or the date of the judgment. A judgment or settlement shall include a lump sum payment or the first payment of multiple payments, a payment made from personal funds, or payment made by a third party on behalf of a physician or physician assistant.

(b) Each report of a settlement or judgment shall indicate:

- (1) The date the judgment or settlement was paid.
- (2) The specialty in which the doctor was practicing at the time the incident occurred that resulted in the judgment or settlement.
- (3) The total amount of the judgment or settlement in United States dollars.
- (4) The city, state, and country in which the judgment or settlement occurred.
- (5) The date of the occurrence of the events leading to the judgment or settlement.

(c) For each physician or physician assistant, the Board shall publish all payments made or judgments entered within the past seven years along with the date of the occurrence associated with the payment or judgment and the date of the payment or judgment. Additionally, the Board shall publish whether public disciplinary action was taken based on the Board's review of the care that led to the malpractice payment. The Board shall not release or publish the individually identifiable numeric values of reported judgments or settlements or the identity of the patient associated with the judgment or settlement.

(d) For each malpractice payment or judgment that is published, the physician or physician assistant will be given the opportunity to provide a brief statement explaining the circumstances that led to the payment or judgment. The physician or physician assistant shall not publish identifiable numeric values of reported judgments or settlements or disclose the patient's identity, including information relating to dates and places of treatment or any other information that would tend to identify the patient. In the event the statement provided by the licensee does not conform to the requirements of this Rule, the Board will edit such statements to ensure conformity.

Authority G.S. 90-5.2.

21 NCAC 32X .0104 PUBLISHING MISDEMEANOR CONVICTIONS

The Board will only publish those misdemeanor convictions involving offenses against a person, offenses of moral turpitude, offenses involving the use of drugs or alcohol, and violations of public health and safety codes. The Board will publish such convictions for a period of ten years from the date of conviction.

Authority G.S. 90-5.2.

**21 NCAC 32X .0105 NONCOMPLIANCE OR
FALSIFICATION OF PROFILE INFORMATION**

(a) Pursuant to G.S. 90-5.2(d), failure to provide the information required by 21 NCAC 32W .0101 and 21 NCAC 32W .0103 within 30 days of the request for information by the Board or within 30 days of a change in the information on the profile may constitute unprofessional conduct and may subject the licensee to disciplinary action by the Board.

(b) Pursuant to G.S. 90-14(a)(3) and 90-5.2(d), providing false information to the Board for the physician profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the Board.

Authority G.S. 90-5.2.