

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32B .1361

DEADLINE FOR RECEIPT: May 9, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally, to the rule: The Board would benefit globally from a definitions rule defining "good standing." Consider that for future submissions.

The Form 0400 submitted with the rule misstates the Notice of Text date of publication. Please resubmit it with corrections.

Page 1, Line 11 and Page 2, Line 16: Does the Board have an application form, electronic or physical?

Page 1, Line 18: Change "must" to "shall."

Page 1, Line 27: Define "good standing."

Page 2, Line 1: Will any fingerprint "record" do?

Page 2, Lines 7-13: Is all of this not covered in G.S. 90-12.02? Why is this paragraph necessary?

Page 2, Line 14: Is this not covered in G.S. 90-12.02? Why is this paragraph necessary?

Page 2, Lines 15-20: Is all of this not covered in G.S. 90-12.02? Why is this paragraph necessary?

Page 2, Line 21: Change "must" to "shall."

Page 2, Line 24: Add the Board's general rulemaking authority.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: April 25, 2025

21 NCAC 32B .1361 is proposed for adoption as follows:

SECTION .1300 – GENERAL

21 NCAC 32B .1361 **MILITARY RELOCATION LICENSE FOR PHYSICIAN SERVICEMEMBERS AND SPOUSES**

(a) A physician who meets the qualifications listed in this Rule and G.S. § 90-12.02 may apply for a military relocation license for physician servicemembers and spouses.

(b) An applicant for a military relocation license for physician servicemembers and spouses shall:

- (1) complete the Board's application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph of the applicant that was taken in the last two years;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration status that the Board will use to verify applicant's eligibility for this license;
- (5) provide proof that applicant is a servicemember of the United States Armed Forces or a spouse of a servicemember of the United States Armed Forces;
- (6) provide a copy of military orders that indicates that the applicant is residing in this State pursuant to such military orders for military service relating to applicant or applicant's spouse;
- (7) provide proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent or otherwise exceed the requirements for licensure in this State;
- (8) provide proof that the applicant is in good standing in the jurisdiction of licensure, has not been disciplined in the last five years by any occupational licensing board, and has no pending investigations by any occupational licensing board;
- (9) provide proof that the applicant has actively practiced medicine an average of 20 hours per week during the 2 years immediately preceding relocation to this State;
- (10) if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS, the applicant shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);

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AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32N .0107

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In reviewing this Rule, the staff recommends the following changes be made:

The Form 0400 submitted with the rule misstates the Notice of Text date of publication. Please resubmit it with corrections.

Lines 4-6: G.S. 90-14(e1) requires that certain notices be sent to the licensee "at least five days prior to the informal nonpublic precharge conference." This rule appears to require the notices be sent contemporaneously with the first contact from the Board, Et. al. Then the Board creates an exception for Paragraph (e). However, Paragraph (e) does not appear to address the timing of any notice. Paragraph (e) addresses the licensees' right to counsel notice of which is already addressed G.S. 90-1(e1). It is unclear what the Board's intentions are. Is the Board requiring all notices required by G.S. 90-14(e1) be provided at the time for the first contact with the licensee except for the notice of counsel which would then only require five days prior to the informal nonpublic precharge conference?

Line 10 and 21: Define "complete" information?

Line 15: Is there a definition or rule that addresses "misuse"?

Line 29: G.S. 90-14(a) does not have an (i) or (l).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 32N .0107 is proposed for amendment as follows:

21 NCAC 32N .0107 INVESTIGATIONS AND COMPLAINTS

(a) At the time of first oral or written communication from the Board or staff or agent of the Board to a licensee regarding a complaint or investigation, the Board shall provide the notices set forth in G.S. 90-14(i), except as provided in Paragraph (e) of this Rule.

(b) A licensee shall submit a written response to a complaint received by the Board within 45 days from the date of a written request by Board staff. The Board shall grant up to an additional 30 days for the response where the licensee demonstrates good cause as defined in Rule 21 NCAC 32N .0106 for the extension of time. The response shall contain accurate and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may treat that as a failure to respond to a Board inquiry in a reasonable time and manner as required by G.S. 90-14(a)(14).

(c) The licensee's written response to a complaint submitted to the Board in accordance with Paragraph (b) of this Rule shall be provided to the complainant upon written request by the complainant as permitted in G.S. 90-16(e1), except that the response shall not be provided where the Board determines that the complainant has misused the Board's complaint process or that the release of the response would be harmful to the physical or mental health of the complainant who was a patient of the responding licensee.

(d) A licensee shall submit to an interview within 30 days from the date of an oral or written request from Board staff. The Board may grant up to an additional 15 days for the interview where the licensee demonstrates good cause for the extension of time. The responses to the questions and requests for information, including documents, during the interview shall be complete and accurate. Where the licensee fails to respond in the time and manner provided herein, the Board may treat that as a failure to respond to a Board inquiry in a reasonable time and manner as required by G.S. 90-14(a)(14).

(e) The licensee who is the subject of a Board inquiry may retain and consult with legal counsel of his or her choosing in responding to the inquiries as set out in G.S. 90-14(i).

(f) For purposes of G.S. 90-14(l) an investigation is complete when the Board's Chief Investigative Officer, or his or her designee, approves an investigative report for submission to the Board's Disciplinary Committee.

History Note: Authority G.S. 90-5.1(a)(3); 90-14(a)(14); ~~90-14(i); 90-14(a)(i) and (l); 90-16(e1);~~

Eff. February 1, 2012;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, ~~2016; 2016;~~

Amended Eff. April 1, 2025.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32B .1361

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William W. Peaslee
Commission Counsel

Date submitted to agency: April 25, 2025

21 NCAC 32B .1361 is proposed for adoption as follows:

SECTION .1300 – GENERAL

21 NCAC 32B .1361 **MILITARY RELOCATION LICENSE FOR PHYSICIAN SERVICEMEMBERS AND SPOUSES**

(a) A physician who meets the qualifications listed in this Rule and G.S. § 90-12.02 may apply for a military relocation license for physician servicemembers and spouses.

(b) An applicant for a military relocation license for physician servicemembers and spouses shall:

- (1) complete the Board's application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph of the applicant that was taken in the last two years;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration status that the Board will use to verify applicant's eligibility for this license;
- (5) provide proof that applicant is a servicemember of the United States Armed Forces or a spouse of a servicemember of the United States Armed Forces;
- (6) provide a copy of military orders that indicates that the applicant is residing in this State pursuant to such military orders for military service relating to applicant or applicant's spouse;
- (7) provide proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent or otherwise exceed the requirements for licensure in this State;
- (8) provide proof that the applicant is in good standing in the jurisdiction of licensure, has not been disciplined in the last five years by any occupational licensing board, and has no pending investigations by any occupational licensing board;
- (9) provide proof that the applicant has actively practiced medicine an average of 20 hours per week during the 2 years immediately preceding relocation to this State;
- (10) if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS, the applicant shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32S .0226

DEADLINE FOR RECEIPT: May 9, 2025

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In reviewing this Rule, the staff recommends the following changes be made:

The Form 0400 submitted with the rule misstates the Notice of Text date of publication. Please resubmit it with corrections.

Please see the request for changes to 21 NCAC 32B .1361 and make changes accordingly.

Page 2, Line 18: A rule cannot provide authority to an agency. Only the General Assembly can provide authority.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 32S .0226 is proposed for adoption as follows:

SECTION .0200 – PHYSICIAN ASSISTANT REGISTRATION

21 NCAC 32S .0226 MILITARY RELOCATION LICENSE FOR PHYSICIAN ASSISTANT SERVICEMEMBERS AND SPOUSES

(a) A physician assistant who meets the qualifications listed in this Rule and G.S. § 90-12.02 may apply for a military relocation license for physician assistant servicemembers and spouses.

(b) An applicant for a military relocation license for physician assistant servicemembers and spouses shall:

- (1) complete the Board's application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph of the applicant that was taken in the last two years;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration status that the Board will use to verify applicant's eligibility for this license;
- (5) provide proof that applicant is a servicemember of the United States Armed Forces or a spouse of a servicemember of the United States Armed Forces;
- (6) provide a copy of military orders that indicates that the applicant is residing in this State pursuant to such military orders for military service relating to applicant or applicant's spouse;
- (7) provide proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent or otherwise exceed the requirements for licensure in this State;
- (8) provide proof that the applicant is in good standing in the jurisdiction of licensure, has not been disciplined in the last five years by any occupational licensing board, and has no pending investigations by any occupational licensing board;
- (9) provide proof that the applicant has actively practiced medicine an average of 20 hours per week during the 2 years immediately preceding relocation to this State;
- (10) submit two completed fingerprint record cards to the Board;
- (11) submit a signed consent form allowing a search of local, state and national files to disclose any criminal record;
- (12) pay to the Board a non-refundable fee as required by 21 NCAC 32S .0202, plus the cost of a criminal background check;
- (13) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

1 (c) A military relocation license shall remain active for the duration of the military orders for military service in this
2 State and upon which the application was submitted. A military relocation license shall become inactive at the time
3 the license holder relocates pursuant to military orders to reside in another state, when the military orders for military
4 service in this State expire, or when the applicable servicemember separates from military service. All licensees with
5 military relocation licenses shall notify the Board within 15 days of the issuance of new military orders requiring
6 relocation to another state, within 15 days of the expiration of military orders, or within 15 days of separation from
7 military service.

8 (d) The Board shall retain jurisdiction over the holder of an inactive military relocation license.

9 (e) A military relocation license may be converted to a full North Carolina license by applying for a full license with
10 the Board via a separate application. The Board shall waive the application fee for a full license application if the
11 application is submitted within one year of the issuance of the military relocation license. If an application is made to
12 convert a military relocation license to a full license when the military relocation license is active, the military
13 relocation license shall remain active during the full license application process and until the Board has made a
14 licensing decision on the full license application.

15 (f) When possible, all reports and Orders must be submitted directly to the Board from the primary source.

16 (g) All information required by this Rule shall be provided within one year of submitting the application.

17
18 History Note: Authority G.S. 90-12.02; 21 NCAC 32S .0202(5);

19 Eff. April 1, 2025.