

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32B .1303

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a)(2), line 8, please replace "which" with "that"

And so that I'm clear – the photo is attached to the affirmation, not the application?

In (a)(4), line 14, replace "which" with "that"

In (a)(5), line 15, what are the contents of this form? G.S. 150B-2(8a)(d) states that while the forms themselves do not need to be in rule, the substantive requirements must be in Rule or law. Are the contents of the form what is listed in the Rule here? Where does one get a copy of it?

On line 17, I believe "130 week" should be hyphenated.

In (a)(5) and elsewhere abbreviations are used, I take it those are the abbreviations in Rule 32B .1301?

In (a)(8)(A) and (B), please use semicolons, rather than commas, at the end of the line.

In (a)(9)(A), line 33, and (B), line 35, what is "satisfactorily completed"?

In (a)(9)(C), Page 2, line 2, what is "current"? Does your regulated public know?

In (a)(11), line 10, what is "currently valid"? Does your regulated public know?

I am simply inquiring – do you still need the language in (a)(11)(B), as that would address individuals who were licensed 61 ago?

In (a)(12), line 16, please insert a "the" before "applicant"

In (a)(13)(B), line 23, and (a)(14)(B), line 30, what is "ABOMS"? I do not see that term defined in another Rule or law. I recommend you spell it out the first time you use it in the Rule.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

In (a)(16), just so I'm clear - the Board will send this to applicants?

In (a)(17), Page 3, will the contents of the form be what is set forth in the Subparagraph?

On line 1, what are "local" files for criminal records?

In (a)(18), line 3, so that I'm clear – will a "marital" relationship exclude the use of in-laws?

On line 4, consider replacing "must" with "shall"

In (a)(18)(B), line 7, how does the Board supply these?

In (a)(19), lines 10-11, how does the regulated public know the cost of the background check? And will this be remitted directly to DPS?

In (a)(20), when will this request be made? How does the Board determine it needs the additional information?

In (b), so that I'm clear – the applicant is only required to comply with (b)(1) or (2) or (3) or (4), but not all of them?

In (c), line 29, who will determine when this is "possible"? Is it entirely in the discretion of the applicant?

In (d), how will the Board decide this? While you do not need to detail the exact circumstances under which this decision is made, the Rule needs to provide some guidance on when this may occur.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32B .1303 is amended as published in 33:17 NCR 1770-1772 as follows:

21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE

(a) In order to obtain a ~~Physician License~~, physician license, an applicant shall:

- (1) submit a completed 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 a photograph, two inches by two inches, affixed to the oath or affirmation which has been attested to by a notary public;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education and received a medical degree. However, the Board shall waive the 130 week requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years;
- (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- (7) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (8) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE; FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX,
 - (B) NBOME, and
 - (C) MCCQE;
- (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
 - (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have satisfactorily completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
 - (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.

- (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (10) submit a FCVS profile:
- (A) If the applicant is a graduate of a medical school approved by LCME, CACMS or COCA, and the applicant previously has completed a FCVS profile; or
- (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA or CACMS;
- (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, 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:
- (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
- (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (12) submit an AMA Physician Profile and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
- (13) if applying on the basis of the USMLE, submit:
- (A) a transcript from the FSMB showing a score on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3; and
- (B) proof that the applicant has passed each step within three attempts. However, the Board shall waive the three attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, ~~FRCS~~ or FRCS, AOA or ABOMS approved specialty board within the past 10 years;
- (14) if applying on the basis of COMLEX, submit:
- (A) a transcript from the NBOME showing a score on COMLEX Level 1, both portions of Level 2 (cognitive evaluation and performance evaluation) and Level 3; and
- (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall waive the three attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, ~~FRCS~~ or FRCS, AOA or ABOMS approved specialty board within the past 10 years;
- (15) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
- ~~(16) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;~~
- ~~(17) submit a FSMB Board Action Data Report;~~
- ~~(18)~~(16) submit two completed fingerprint record cards supplied by the Board;

- (19)(17) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (20)(18) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
- (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the submission of the application; and
 - (D) bearing the original signature of the writer;
- (21)(19) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- (22)(20) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher);
 - (2) within the past 10 years:
 - (A) obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, ~~FRCS or AOA~~, FRCS, AOA or ABOMS; or
 - (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
 - (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
 - (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (c) All reports must be submitted directly to the Board from the primary source, when possible.
- (d) An applicant shall appear in person for an interview with the Board or its agent, if the Board needs more information to complete the application.
- (e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1;
Eff. August 1, 2010;
Amended Eff. December 1, 2013; January 1, 2012; November 1, 2011; October 1, 2011;

1 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
2 *2016.*
3 *Amended Eff. July 1, 2019.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32B .1350

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (b)(1), line 9, please insert a comma after "application"

In (b)(3), line 17, replace "which" with "that"

I do not understand the sentence on lines 18-19 – if the individual is not practicing in the State, how is the Board licensing them?

In (b)(4)(A), line 23, define "successfully" Does your regulated public know what this is?

I am simply inquiring – do you still need the language in (b)(4)(B), as that would address individuals who were licensed 61 ago?

In (b)(6), request by whom – the Board? And under what circumstances will this request be made?

In (b)(7), just so I'm clear - the Board will send this to applicants?

In (b)(8), line 34, will the contents of the form be what is set forth in the Subparagraph?

Also on line 34, what are "local" files for criminal records?

In (b)(9), line 36, what is "material" here? Should it be "marital" to mirror Rule .1303(a)(18)?

In (b)(9)(B), Page 2, line 3, line 7, how does the Board supply these?

In (b)(10), lines 6-7, how does the regulated public know the cost of the background check? And will this be remitted directly to DPS?

In (b)(11), when will this request be made? How does the Board determine it needs the additional information?

In (b), so that I'm clear – the applicant is only required to comply with (c)(1) or (2) or (3) or (4), but not all of them?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: May 29, 2019

In (c)(2)(A), line 19, what is “ABOMS”?

In (c)(2)(B), line 21, why is “Certification” capitalized? It is not in Rule .1303(b)(2)(B). Should these be the same in both Rules?

In (d), line 25, who will determine when this is “possible”? Is it entirely in the discretion of the applicant?

Should the language on lines 25-26 also be in Rule .1303(c)?

In (e), how will the Board decide this?

In (g), line 31, please delete “above”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32B .1350 is amended as published in 33:17 NCR 1772-1773 as follows:

21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE

(a) "Reinstatement" is for a physician who has held a North Carolina License, but whose license either has been inactive for more than one year, or whose license became inactive as a result of disciplinary action (revocation or suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being filed by the Board.

(b) All applicants for reinstatement shall:

- (1) submit a completed application which can be found on the Board's website in the application section at <http://www.ncmedboard.org/licensing>, attesting under oath or affirmation that 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) supply a certified copy of the applicant's birth certificate if the applicant was born in the United States 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 shall provide information about the applicant's immigration and work status which the Board shall use to verify the applicant's ability to work lawfully in the United States. Applicants who are not present in the U.S. and who do not plan to practice physically in the US shall submit a written statement to that effect.
- (4) furnish an original ECFMG certification status report of a currently valid certification of the ECFMG if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (5) submit the AMA Physician Profile; and, if the applicant is an osteopathic physician, also submit the AOA Physician Profile;
- ~~(6) submit a NPDB/HPDB report dated within 60 days of the application's submission;~~
- ~~(7) submit a FSMB Board Action Data Bank report;~~
- ~~(8)(6)~~ submit documentation of CME obtained in the last three years, upon request;
- ~~(9)(7)~~ submit two completed fingerprint cards supplied by the Board;
- ~~(10)(8)~~ submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- ~~(11)(9)~~ provide two original references from persons with no family or material relationship to the applicant. These references shall be:

- (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
- (B) on forms supplied by the Board;
- (C) dated within six months of submission of the application; and
- (D) bearing the original signature of the author;
- ~~(12)~~(10) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- ~~(13)~~(11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
- (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
- (B) SPEX (with a score of 75 or higher); or
- (C) COMVEX (with a score of 75 or higher);
- (2) within the past ten years:
- (A) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, ~~FRCS or AOA~~; FRCS, AOA or ABOMS; or
- (B) met requirements for ABMS MOC (maintenance or certification) or AOA OCC (Osteopathic continuous Certification);
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (d) All reports shall be submitted directly to the Board from the primary source, when possible. If a primary source verification is not possible, then a third party verification shall be submitted.
- (e) An applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character if the Board needs more information to complete the application.
- (f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee plus the cost of another criminal background check.
- (g) Notwithstanding the above provisions of this Rule, the licensure requirements established by rule at the time the applicant first received his or her equivalent North Carolina license shall apply. Information about these Rules is available from the Board.

History Note: Authority G.S. 90-8.1; 90-9.1; 90-10.1; 90-13.1;
Eff. August 1, 2010;
Amended Eff. September 1, 2014; November 1, 2013; November 1, 2011;

1 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
2 *2016.*
3 *Amended Eff. July 1, 2019.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32B .1502

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, replace "which" with "that"

On line 5, please insert a comma after "residents"

In (b)(2), line 11, what do you mean by "indicating" Do you mean "stating"?

In (b)(4), line 16, replace "which" with "that"

And so that I'm clear – the photo will be attached to the affirmation, not the application?

In (b)(5), line 19, please hyphenate "130-week"

On line 20, why are you inserting "AOA"? Isn't that addressed by line 21? If not, if it's a "AOA-approved specialty board" then please hyphenate "AOA-approved"

In (b)(7), lines 28-29, how will the Board make this determination of equivalency?

In (b)(8), line 31, what do you mean by "indicating"? Stating?

In (b)(9), line 33, why not follow the language in other Rules? "submit an AMA Physician Profile and, if the applicant is an osteopathic physician, also submit an AOA Physician Profile;"

In (b)(10) and (11), I take it your regulated public knows what these are?

In (b)(12), the Board will mail these to the applicant?

In (b)(13), what are the contents of the form and what are "local" criminal files?

In (b)(14)(B), line 7, what are the contents of these forms?

In (b)(16), under what circumstances will the Board ask for this? How will the Board determine it needs more information?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

In (c), line 14, who determines whether this is possible? Is it entirely up to the applicant?

In (d), under what circumstances does this occur?

In (f), do you mean the initial effective date of June 28, 2011, or do you mean the last change to the Rule?

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

21 NCAC 32B .1502 is amended as published in 33:17 NCR 1773-1774 as follows:

21 NCAC 32B .1502 APPLICATION FOR MEDICAL SCHOOL FACULTY LICENSE

(a) The Medical School Faculty License is limited to physicians who have expertise which can be used to help educate North Carolina medical students, post-graduate residents and fellows but who do not meet the requirements for Physician licensure.

(b) In order to obtain a Medical School Faculty License, an applicant shall:

- (1) submit a completed 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 the Board's form, signed by the Dean or ~~his~~ the Dean's appointed representative, indicating that the applicant has received a full-time paid appointment as either a an instructor, lecturer, assistant professor, associate professor, or full professor at a medical school in the state of North Carolina;
- (3) submit documentation of a legal name change, if applicable;
- (4) submit a photograph, two inches by two inches, affixed to the oath or affirmation which has been attested to by a notary public;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education. However, the Board shall waive the 130 week requirement if the applicant has been certified or recertified by an ABMS, ~~DDFP~~, AOA, FRCP, FRCS or AOA approved specialty board within the past 10 years;
- (6) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if the applicant was born in the United States. If the applicant does not possess proof of US citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ~~ability to work lawfully~~ lawful presence in the United States;
- (7) submit proof of satisfactory completion of at least one year of GME approved by ACGME, CFPC, RCPSC, or AOA; or evidence of other education, training or experience, determined by the Board to be equivalent;
- (8) submit reports from all medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;
- (9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA Physician Profile;
- (10) submit a NPDB ~~report, HIPDB report, report~~ dated within 60 days of applicant's oath;
- (11) submit a FSMB Board Action Data Bank report;
- (12) submit two completed fingerprint record cards supplied by the Board;

- 1 (13) submit a signed consent form allowing a search of local, state, and national files to disclose any
2 criminal record;
- 3 (14) provide two original ~~references~~ reference letters from persons with no family or marital
4 relationship to the applicant. These letters must be:
- 5 (A) from physicians who have observed the applicant's work in a clinical environment within
6 the past three years;
- 7 (B) on forms supplied by the Board;
- 8 (C) dated within six months of the applicant's oath; and
- 9 (D) bearing the original signature of the writer.
- 10 (15) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal
11 background check; and
- 12 (16) upon request, supply any additional information the Board deems necessary to evaluate the
13 applicant's competence and character.
- 14 (c) All reports must be submitted directly to the Board from the primary source, when possible.
- 15 (d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the
16 applicant's competence and character.
- 17 (e) An application must be completed within one year of the date of the applicant's oath.
- 18 (f) This Rule applies to licenses granted after the effective date of this Rule.

19
20 *History Note: Authority G.S. 90-12.3; 90-13.2;*

21 *Eff. June 28, 2011;*

22 *Amended Eff. November 1, 2013;*

23 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
24 *2016.*

25 *Amended Eff. July 1, 2019.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32B .1706

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

Please format the Rule as it was published in the NC Register. For example, "Rule" on line 10 was capitalized and (a)(1)(D) and (2)(E) were broken into further Parts. Everywhere that you revert to the text as it was published in the Register, do not show it as a change – simply do it.

Either delete the "(a)" on line 6, as you have no (b), or make the language on line 9, "There are two ways" into Paragraph (b).

On line 6, so that I'm clear – is the Board waiving all requirements except for those reserved below?

On lines 7-9, this recites G.S. 90-12.5. Do you need to do that here? Could you not state "The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5."?

In (1), line 11, and elsewhere the term is used, what is "full, unlimited and unrestricted"? Is this the term used for medical licenses?

Consider inserting a comma after "unlimited"

On lines 12 and 13, consider inserting a comma after "territory"

In (1)(B), lines 18 and 21, be sure to use what was published and simply state "10 days"

On lines 21 and 22, and elsewhere you use the term, what is "section"? Do you mean Rule or do you mean Item or Paragraph? Please state what you mean. You published "Rule" in the NC Register.

In (1)(C), line 23, what is the difference between "practice" and "authorized to practice"? Is the idea to state that the authorization here will be deemed licensure?

On line 24-25, "State of North Carolina" is redundant. I suggest you just say "State"

On lines 27-28, what authority are you relying upon to continue the Board's jurisdiction over these individuals after they stop practicing? Is the intent to be able to discipline the individual if that

Amanda J. Reeder
Commission Counsel

Date submitted to agency: May 29, 2019

individual did something during the emergency practice that is punishable by the Board? If so, I suggest you make that clear within the Rule.

In (1)(D), please note earlier concerns regarding “section” and using the number for days and address the same here.

On line 31, what is the “appropriate” authority?

On line 33, end the sentence with a semicolon before the “and” not a comma, as it was published in the Register.

In (1)(E), line 34, what is “section”?

And on line 35, define “usual” compensation.

In (2), Page 2, line 1, and (2)(B), line 5, consider inserting a comma after “unlimited” if you need to retain the full phrase.

On lines 2 and 6, consider inserting a comma after “territory”

In (2)(A), line 4, what are the contents of this application? And to whom is it submitted – the Board?

In (2)(C), line 7, what are “specific circumstances”? How will the Board make this determination? What factors will be considered?

On line 8, when you say the Board “may” limit the scope of practice, is this based upon the language on lines 7-9? Will the Board make this determination on a case-by-case basis?

In (2)(D), line 10, what do you mean by “section”?

On lines 12-14, what is the authority to continue jurisdiction? If it’s to address disciplinary actions, I suggest you state that.

In (2)(E), please format this as it was published in the Register and state “30”

On line 16, what is the “appropriate” authority?

In (2)(F), line 20, what is “usual compensation”?

In the History Note, please use what was published and only state “G.S.” before the first citation.

In the History Note, why are you citing to G.S. 90-13.2(e)?

Also, why are you citing to G.S. 166A-45? I suggest deleting it, as I think G.S. 90-12.5 confers sufficient rulemaking authority here.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32B .1706 is adopted as published in 33:17 NCR 1774-1775 as follows:

21 NCAC 32B .1706 PHYSICIAN PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set forth below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes. There are two ways for physicians to practice under this rule:

(1) Hospital to Hospital Credentialing: A physician who holds a full, unlimited and unrestricted license to practice medicine in another U.S. state, territory or district and has unrestricted hospital credentials and privileges in any U.S. state, territory or district may come to North Carolina and practice medicine at a hospital that is licensed by the North Carolina Department of Health and Human Services upon the following terms and conditions:

(A) the licensed North Carolina hospital shall verify all physician credentials and privileges;

(B) the licensed North Carolina hospital shall keep a list of all physicians coming to practice and shall provide this list to the Board within ten (10) days of each physician practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each physician has stopped practicing medicine in North Carolina under this section within ten (10) days after each physician has stopped practicing medicine under this section;

(C) all physicians practicing under this section shall be authorized to practice medicine in North Carolina and shall be deemed to be licensed to practice medicine in the State of North Carolina and the Board shall have jurisdiction over all physicians practicing under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction shall continue in effect even after any and all physicians have stopped practicing medicine under this section;

(D) a physician may practice under this section for the shorter of (a) thirty (30) days from the date the physician has started practicing under this section or (b) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive, and

(E) physicians practicing under this section shall not receive any compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.

1 (2) Limited Emergency License: A physician who holds a full, unlimited and unrestricted license to
2 practice medicine in another U.S. state, territory or district may apply for a limited emergency
3 license on the following conditions:

4 (A) the applicant must complete a limited emergency license application;

5 (B) the Board shall verify that the physician holds a full, unlimited and unrestricted license to
6 practice medicine in another U.S. state, territory or district;

7 (C) in response to the specific circumstances presented by a declared disaster or state of
8 emergency and in order to best serve the public interest, the Board may limit the
9 physician's scope of practice;

10 (D) the Board shall have jurisdiction over all physicians practicing under this section for all
11 purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General
12 Statutes, and such jurisdiction shall continue in effect even after such physician has
13 stopped practicing medicine under this section or the Limited Emergency License has
14 expired;

15 (E) this license shall be in effect for the shorter of (a) thirty (30) days from the date it is
16 issued or (b) a statement by an appropriate authority is made that the emergency or
17 disaster declaration has been withdrawn or ended and, at such time, the license issued
18 shall become inactive; and

19 (F) physicians holding limited emergency licenses shall not receive any compensation
20 outside of their usual compensation for the provision of medical services during a disaster
21 or emergency.

22
23 History Note: Authority G.S. 90-12.5; G.S. 90-13.2(e); G.S. 90-14(a); GS 166A-45
24 Eff. July 1, 2019.
25

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32B .2001

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 7, please capitalize "Rule" As it was published correctly in the Register, you do not need to show it as a change; simply do it.

What does the "expedited basis" mean here? Will the Board act on this application more quickly? What is the timeframe here?

In (b), line 8, why is "Physician License" capitalized here? It is not in Rule .1303(a).

In (b)(1), what are the contents of this form? Is it what is set forth in Rule .1303? How does an applicant obtain a copy?

In (b)(3), I note this is the first time you've required the photo be taken within the past year. Is there a reason for this difference?

Also in (b)(3), in other rules I'd asked about the photo being attached to the affirmation, rather than the application. If you are trying to say in the other rules what you're saying here, I suggest using this language in the other rules.

On line 14, I take it "true likeness" is known to your regulated public?

In (b)(4), line 18, replace "which" with "that"

On lines 19-20, if the applicant does not intend to practice in the US, what is the Board's authority to regulate them?

In (b)(5), line 24, what is "continuously"? Without interruption?

In (b)(7)(A), line 30, what is "ABOMS"?

Also on line 30, delete the "or" at the end of the line.

In (b)(8), Page 2, line 1, what is the "ECH+FMG" examination?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

In (b)(9), lines 4-5, why not follow the language in other Rules? “submit an AMA Physician Profile and, if the applicant is an osteopathic physician, also submit an AOA Physician Profile;”

In (b)(10), the Board will mail the cards to the applicant?

In (b)(11), what are the contents of this form? And what are “local” files for a criminal record?

In (b)(12), line 12, what is this cost? Will this be remitted directly to DPS?

In (b)(13), line 13, how will the Board determine this is necessary?

In (c)(3), line 20, replace “which” with “that”

On line 20, who determines what “could” affect this?

Also on line 20, what is “safely”?

In (c)(6), line 26, as you are deleting “associations” please insert an “or” before “medical societies” and delete the “or” after the phrase.

In (c)(7), line 33, replace the period after “successors)” with a comma and state “the Board”

In (d), who determines if this is possible? Is it solely up to the applicant?

In the History Note, delete G.S. 90-5.

And will this not apply to graduates of foreign schools, such that G.S. 90-9.2 should not be cited as it is in the other rules?

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

21 NCAC 32B .2001 is amended as published in 33:17 NCR 1775-1776 as follows:

21 NCAC 32B .2001 EXPEDITED APPLICATION FOR PHYSICIAN LICENSE

~~(a) A specialty board certified physician who has been licensed in at least one other state, the District of Columbia, U.S. territory or Canadian province for at least five years, has been in active clinical practice the past two years; and who has a clean license application, as defined in Paragraph (c) of this Rule may apply for a license on an expedited basis. A physician who meets the qualifications listed in this rule may apply for a license on an expedited basis.~~

(b) An applicant for an expedited Physician License shall:

- (1) complete the Board's application form, 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) on the Board's form, submit a photograph taken within the past year, two inches by two inches, attested to or affirmed by the applicant as a true likeness of the applicant before a notary public;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States; States. Applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. shall submit a statement to that effect;
~~(Note: there may be some applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. Those applicants shall submit a statement to that effect);~~
- (5) provide proof that applicant has held an active unrestricted license to practice medicine in at least one other state, the District of Columbia, U.S. Territory or Canadian province continuously for ~~at least~~ a minimum of five years immediately preceding this application;
- (6) provide proof of clinical practice providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (7) provide proof of:
 - (A) current certification or current recertification by an ABMS, CCFP, FRCP, FRCS, ~~or AOA-AOA, or ABOMS~~ approved specialty board obtained within the past 10 years; or
 - (B) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (C) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous ~~Certification~~); certification;
- (8) 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 ECH+FMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required).
- (8)(9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician submit an AOA Physician Profile;
- (9) ~~submit a NPDB/HPDB report dated within 60 days of the applicant's oath;~~
- (10) ~~submit a FSMB Board Action Data Bank report;~~
- (11)(10) submit two completed fingerprint record cards supplied by the Board;
- (12)(11) submit a signed consent form allowing a search of local, state and national files to disclose any criminal record;
- (13)(12) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a) ~~of three hundred fifty dollars (\$350.00);~~ plus the cost of a criminal background check; and
- (14)(13) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) A ~~clean~~ physician applying for an expedited license application means that the physician has none of the following: must:
- (1) not have any professional liability insurance claim(s) or payment(s); payments(s) within the past 10 years;
 - (2) not have any criminal record; conviction;
 - (3) not have any medical condition(s) which could affect the physician's ability to practice safely;
 - (4) not have any regulatory board complaint(s), investigation(s), or action(s) (including applicant's withdrawal of a license application); application) within the past 10 years;
 - (5) not have any adverse action action(s) taken by a health care institution; institution within the past 10 years;
 - (6) not have any adverse investigation(s) or action(s) taken by a federal agency, the U.S. military, medical societies or associations; within the past 10 years;
 - (7) ~~suspension or expulsion from any school, including medical school.~~
 - (8) ~~graduation from any United States or Canadian medical school that is not LCME or CACMS approved; or~~
 - (9) ~~has passed no licensing examination other than Puerto Rico Written Examination/Revalida.~~
 - (7) have passed an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination: NBME; USMLE; FLEX or their successors). The Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX;
 - (B) NBOME; and
 - (C) MCCQE.
- (d) All reports must be submitted directly to the Board from the primary source, when possible.

1 ~~(e) The application process must be completed within one year of the date on which the application fee is paid. If~~
2 ~~not, the applicant shall be charged a new applicant fee.~~

3
4 *History Note: Authority G.S. 90-9.1; 90-5; 90-11; 90-13.1;*

5 *Eff. August 1, 2010;*

6 *Amended Eff. November 1, 2013;*

7 *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*
8 *2016.*

9 *Amended Eff. July 1, 2019.*
10

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32N .0110

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, I take it "Notice of Charges and Allegations" is the formal title of this, and that is why it's capitalized?

In (c), line 10, and elsewhere this is used, who is the "designated" presiding officer? Is this individual designated pursuant to G.S. 150B-40(b)?

On line 11, what does "simplify the issues" mean? Is this a known term to your regulated public?

On line 14, what is "necessary or advisable"? Will the parties determine this or the presiding officer?

Also on line 14, what is "efficient and expeditious"? Does your regulated public know?

In (d), line 16, I suggest ending the sentence after "parties." Then state "When a face-to-face..."

On line 16, who will determine if it is impractical? The presiding officer?

In (f), line 22, I suggest inserting a comma after "respondent's counsel"

In (g), lines 25-26, please incorporate this document by reference as required by G.S. 150B-21.6. In so doing, please state whether this includes any amendments or editions and where it can be obtained (a website is fine) and at what cost, if any.

In (i), lines 3-5, what is the purpose of this sentence, "Nothing herein... rule." Why do you need it? Is to address such situations as when an attorney can issue subpoenas without Board approval?

Please properly indent (i)(1) through (4). As this was published correctly in the Register, you do not need to show it as a change.

In (i)(2)(B), line 12, who determines "specificity"? Will this be determined solely by the Respondent?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

In (i)(3), line 14, define “promptly”

In (j), line 21, please state “Procedure”

In (k), lines 31-32, what is the intent of this final sentence? It seems to read as internal management. Do you feel it is necessary to let the regulated public know about the independent counsel?

Why are you citing to G.S. 90-14.3 in the History Note?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32N .0110 is amended as published in 33:17 NCR 1776-1777 as follows:

21 NCAC 32N .0110 INITIATION OF DISCIPLINARY HEARINGS

(a) The Board shall issue a Notice of Charges and Allegations only upon completion of an investigation, a finding by the Board or a committee of the Board that there exists a factual and legal basis for an action pursuant to any subsection of G.S. 90-14(a), and a pre-charge conference, if one was requested by the licensee.

(b) Disciplinary proceedings shall be initiated and conducted pursuant to G.S. 90-14 through G.S. 90-14.7 and G.S. 150B-38 through G.S. 150B-42.

(c) A pre-hearing conference shall be held not less than seven days before the hearing date unless waived by the Board President or designated presiding officer upon written request by either party. The purpose of the conference will be to simplify the issues to be determined, obtain stipulations in regards to testimony or exhibits, obtain stipulations of agreement on undisputed facts or the application of particular laws, consider the proposed witnesses for each party, identify and exchange documentary evidence intended to be introduced at the hearing, and consider such other matters that may be necessary or advisable for the efficient and expeditious conduct of the hearing.

(d) The pre-hearing conference shall be conducted in the offices of the Medical Board, unless another site is designated by mutual agreement of all parties; however, when a face-to-face conference is impractical, the Board President or designated presiding officer may order the pre-hearing conference be conducted by telephone conference.

(e) The pre-hearing conference shall be an informal proceeding and shall be conducted by the Board President or designated presiding officer.

(f) All agreements, stipulations, amendments, or other matters resulting from the pre-hearing conference shall be in writing, signed by the presiding officer, respondent or respondent's counsel and Board counsel, and introduced into the record at the beginning of the disciplinary hearing.

(g) Motions for a continuance of a hearing shall be granted upon a showing of good cause. In determining whether to grant such motions, the Board shall consider the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina. Motions for a continuance must be in writing and received in the office of the Medical Board no less than 14 calendar days before the hearing date. A motion for a continuance filed less than 14 calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance shall be ruled on by the President of the Board or designated presiding officer.

(h) The Respondent may challenge on the basis of personal bias or other reason for disqualification the fitness and competency of any Board member to hear and weigh evidence concerning the Respondent. Challenges must be in writing accompanied by affidavit setting forth with specificity the grounds for such challenge and must be filed with the President of the Board or designated presiding officer at least 14 days before the hearing except for good cause shown. Nothing contained in this Rule shall prevent a Respondent appearing before the Board at a formal hearing from making inquiry of Board members as to their knowledge of and personal bias concerning that person's case and making a motion based upon the responses to those inquiries that a Board member recuse himself or herself of be removed by the Board President or presiding officer.

(i) In any formal proceeding pursuant to G.S. 90-14.1 and G.S. 90-14.2, discovery may be obtained as provided in G.S. 90-8 and 150B-39 by either the Board or the Respondent. Any discovery request by a Respondent to the Board shall be filed with the Executive Director of the Board. Nothing herein is intended to prohibit a Respondent or counsel for Respondent from issuing subpoenas to the extent that such subpoenas are otherwise permitted by law or rule. The Medical Board may issue subpoenas for the Board or a Respondent in preparation for or in the conduct of a contested case as follows:

(1) Subpoenas may be issued for the appearance of witnesses or the production of documents or information, either at the hearing or for the purposes of discovery;

(2) Requests by a Respondent for subpoenas shall be made in writing to the Executive Director and shall include the following:

(A) the full name and home or business address of all persons to be subpoenaed; and

(B) the identification, with specificity, of any documents or information being sought;

(3) Where Respondent makes a request for subpoenas and complies with the requirements in Subparagraph (2) of this Paragraph, the Board shall provide subpoenas promptly;

(4) Subpoenas shall include the date, time, and place of the hearing and the name and address of the party requesting the subpoena. In the case of subpoenas for the purpose of discovery, the subpoena shall include the date, time, and place for responding to the subpoena; and

(5) Subpoenas shall be served as provided by the Rules of Civil Procedure, G.S. 1A-1. The cost of service, fees, and expenses of any witnesses or documents subpoenaed shall be paid by the party requesting the witnesses.

(j) ~~All motions~~ motions, other than motions pursuant to Rules 12(b) and 56 of the North Carolina Rules of Civil Procedures, related to a contested case shall be in writing and submitted to the Medical Board at least 14 calendar days before the hearing. Pre-hearing motions shall be heard at the pre-hearing conference described in Paragraph (c) of this Rule. Motions filed fewer than 14 days before the hearing shall be considered untimely and shall not be considered unless the reason for the motion could not have been ascertained earlier. In such case, the motion shall be considered at the hearing prior to the commencement of testimony. The Board President or designated presiding officer shall hear the motions and any response from the non-moving party and rule on such motions. If the pre-hearing motions are heard by an Administrative Law Judge from Office of Administrative Hearings the provisions of G.S. 150B-40(e) shall govern the proceedings.

(k) Dispositive motions made pursuant to Rules 12(b) and 56 of the North Carolina Rules of Civil Procedure shall be filed no later than 14 calendar days before the hearing. Dispositive motions shall be heard, and decided upon, by a quorum of the Board. The Board shall receive the assistance of independent counsel when deciding a dispositive motion.

History Note: Authority G.S. 90-5.1(a)(3); 90-8; 90-14.1; 90-14.2; 90-14.3; 150B-38; 150B-39(c);

Eff. February 1, 2012;

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

Amendment Eff. July 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32N .0114

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

In (b), line 7, what is "competent" evidence?

It seems to me that Paragraph (c) is internal management. Why do you need it in the Rule?

If you do need to retain it, on line 10, what is "reliability and competency"?

In (d), line 15, do you mean the dictionary definition of "immediately" of "at once; instantly"?

In (e), line 17, "practicable" to whom – both parties, or just the respondent?

What is your authority for Paragraph (g)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32N .0114 is adopted as published in 33:17 NCR 1777 as follows:

21 NCAC 32N .0114 SUMMARY SUSPENSION

(a) If the Board finds that the public health, safety, or welfare requires emergency action, it may, pursuant to G.S. 150B-3(c), summarily suspend a license without a hearing or opportunity for the licensee to be heard.

(b) A motion to summarily suspend a license pursuant to this Rule shall be supported by competent evidence of the facts alleged requiring emergency action.

(c) The Board shall consult with independent counsel prior to issuing an order of summary suspension. The role of independent counsel shall be to advise the Board on the reliability and competency of the evidence presented in support of the motion for summary suspension.

(d) An order of summary suspension shall make preliminary findings of facts indicating why the public health, safety, or welfare requires emergency action. An order of summary suspension shall be accompanied by a notice of charges setting out the licensee's alleged violations of G.S. 90-14(a). Upon service of the order of summary suspension, the licensee to whom the order is directed shall immediately cease practicing in North Carolina.

(e) The Board shall, when it summarily suspends a license, schedule a hearing to occur at the earliest practicable date, but no later than 30 days from the date of service of the order of summary suspension. The purpose of the hearing will be to determine whether there is a preponderance of competent evidence supporting the order of summary suspension. A hearing on the order of summary suspension may be combined with a hearing on the merits of the notice of charges on a date mutually agreed upon by the parties.

(f) The order of summary suspension shall remain in effect until the Board vacates it.

(g) Neither an order of summary suspension nor a decision upholding an order of summary suspension is a final agency decision.

History Note: Authority G.S. 90-5.1(a)(3); 150B-3(c);
Eff. July 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32S .0219

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

Please format the Rule as it was published in the NC Register. For example, "Rule" on line 37 was capitalized and (a)(1)(E) and (2)(G) were broken into further Parts. Everywhere that you revert to the text as it was published in the Register, do not show it as a change – simply do it.

Either delete the "(a)" on line 33, as you have no (b), or make the language on line 36, "There are two ways" into Paragraph (b).

On line 33, so that I'm clear – is the Board waiving all requirements except for those reserved below?

On lines 34-36, this recites G.S. 90-12.5. Do you need to do that here? Could you not state "The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5."?

On line 37, delete "assistant"

In (1), Page 2, lines 1-2, and elsewhere the term is used, what is "full, unlimited and unrestricted"? Is this the term used for medical licenses?

Consider inserting a comma after "unlimited"

On lines 2 and 3, consider inserting a comma after "territory"

In (1)(B), lines 10 and 13, be sure to use what was published and simply state "10 days"

On lines 13 and 14, and elsewhere you use the term, what is "section"? Do you mean Rule or do you mean Item or Paragraph? Please state what you mean. You published "Rule" in the NC Register.

In (1)(C), line 15, what is the difference between "practice" and "authorized to practice"? Is the idea to state that the authorization here will be deemed licensure?

On line 16-17, "State of North Carolina" is redundant. I suggest you just say "State"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

On lines 19-20, what authority are you relying upon to continue the Board's jurisdiction over these individuals after they stop practicing? Is the intent to be able to discipline the individual if that individual did something during the emergency practice that is punishable by the Board? If so, I suggest you make that clear within the Rule.

In (1)(E), please note earlier concerns regarding "section" and using the number for days and address the same here.

On line 26, what is the "appropriate" authority?

In (1)(F), line 30, define "usual" compensation.

In (2), line 32, and (2)(B), line 36, consider inserting a comma after "unlimited" if you need to retain the full phrase.

On lines 33 and 37, consider inserting a comma after "territory"

In (2)(A), line 35, what are the contents of this application? And to whom is it submitted – the Board?

In (2)(C), Page 3, line 1, what are "specific circumstances"? How will the Board make this determination? What factors will be considered?

On line 2, when you say the Board "may" limit the scope of practice, is this based upon the language on lines 1-2? Will the Board make this determination on a case-by-case basis?

On line 3, delete "assistant"

In (2)(E), just so I'm clear – this is only being waived for applicants under (2) and not (1)?

In (2)(F), line 10, what do you mean by "section"?

On lines 12-14, what is the authority to continue jurisdiction? If it's to address disciplinary actions, I suggest you state that.

In (2)(G), please format this as it was published in the Register and state "30" on line 15.

On line 16, what is the "appropriate" authority?

In (2)(H), line 20, what is "usual compensation"?

Please bring (3) to the left, in line with (2).

On line 26, what is "State Active Duty status" and why is it capitalized?

In the History Note, please use what was published and only state "G.S." before the first citation.

In the History Note, why are you citing to G.S. 90-13.2(e)?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

Also, why are you citing to G.S. 166A-45? I suggest deleting it, as I think G.S. 90-12.5 confers sufficient rulemaking authority here.

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

21 NCAC 32S .0219 is amended as published in 33:17 NCR 1777-1779 as follows:

21 NCAC 32S .0219 PHYSICIAN ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

~~(a) The Board shall, pursuant to G.S. 90-12.5, issue a limited physician assistant license under the following conditions:~~

- ~~(1) the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a);~~
- ~~(2) the applicant provides government issued photo identification;~~
- ~~(3) the applicant provides proof of licensure, certification or authorization to practice as a physician assistant in another state, the District of Columbia, US Territory or Canadian province;~~
- ~~(4) applicant affirms under oath that such license is in good standing; and~~
- ~~(5) no grounds exist pursuant to G.S. 90-14(a) for the Board to deny a license.~~

~~(b) In response to the specific circumstances presented by a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the physician assistant's scope of practice including, but not limited to, the following: geography; term; type of practice; prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs; supervision; and practice setting.~~

~~(c) The physician assistant must practice under the direct supervision of an on site physician. The supervising physician must be licensed in this State or approved to practice in this State during a disaster or state of emergency pursuant to G.S. 90-12.5 and 21 NCAC 32B .1705. The physician assistant may perform only those medical acts, tasks, and functions delegated by the supervising physician and not limited by the physician assistant's scope of practice as set out in Paragraph (b) of this Rule.~~

~~(d) A team of physician(s) and physician assistant(s) practicing pursuant to this Rule is not required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0213.~~

~~(e) A physician assistant holding a Limited Physician Assistant License for Disasters and Emergencies shall not receive any other or additional compensation outside his or her usual compensation, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services during a disaster or emergency.~~

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set forth below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes. There are two ways for physician assistant assistants to practice under this rule:

- 1 (1) Hospital to Hospital Credentialing: A physician assistant who holds a full, unlimited and
2 unrestricted license to practice medicine in another U.S. state, territory or district and has
3 unrestricted hospital credentials and privileges in any U.S. state, territory or district may come to
4 North Carolina and practice medicine at a North Carolina hospital that is licensed by the North
5 Carolina Department of Health and Human Services upon the following terms and conditions:
- 6 (A) the licensed North Carolina hospital shall verify all physician assistant credentials and
7 privileges;
- 8 (B) the licensed North Carolina hospital shall keep a list of all physician assistants coming to
9 practice and their respective supervising physicians and shall provide this list to the Board
10 within ten (10) days of each physician assistant practicing at the licensed North Carolina
11 hospital. The licensed North Carolina hospital shall also provide the Board a list of when
12 each physician assistant has stopped practicing medicine in North Carolina under this
13 section within ten (10) days after each physician assistant has stopped practicing medicine
14 under this section;
- 15 (C) all physician assistants practicing under this section shall be authorized to practice
16 medicine in North Carolina and deemed to be licensed to practice medicine in the State of
17 North Carolina and the Board shall have jurisdiction over all physician assistants practicing
18 under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the
19 North Carolina General Statutes, and such jurisdiction shall continue in effect even after
20 any and all physician assistants have stopped practicing medicine under this section;
- 21 (D) the physician assistant must practice under the direct supervision of an on-site physician
22 and the supervising physician must be licensed in this State or approved to practice in this
23 State during a disaster or state of emergency pursuant to G.S. 90-12.5;
- 24 (E) a physician assistant may practice under this section for the shorter of (a) thirty (30) days
25 from the date the physician assistant has started practicing under this section or (b) a
26 statement by an appropriate authority is made that the emergency or disaster declaration
27 has been withdrawn or ended and, at such time, the license deemed to be issued shall
28 become inactive; and
- 29 (F) physician assistants practicing under this section shall not receive any compensation
30 outside of their usual compensation for the provision of medical services during a disaster
31 or emergency.
- 32 (2) Limited Emergency License: A physician assistant who holds a full, unlimited and unrestricted
33 license to practice medicine in another U.S. state, territory or district may apply for a limited
34 emergency license on the following conditions:
- 35 (A) the applicant must complete a limited emergency license application;
- 36 (B) the Board shall verify that the physician assistant holds a full, unlimited and unrestricted
37 license to practice medicine in another U.S. state, territory or district;

- (C) in response to the specific circumstances presented by a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the physician assistant's scope of practice;
- (D) the physician assistant must practice under the direct supervision of an on-site physician and the supervising physician must be licensed in this State or approved to practice in this State during a disaster or state of emergency pursuant to G.S. 90-12.5;
- (E) physician assistants and physicians practicing pursuant to this Rule are not required to maintain onsite documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0213;
- (F) the Board shall have jurisdiction over all physician assistants practicing under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction shall continue in effect even after such physician assistant has stopped practicing medicine under this section or the Limited Emergency License has expired;
- (G) this license shall be in effect for the shorter of (a) thirty (30) days from the date it is issued or (b) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license issued shall become inactive; and
- (H) physician assistants holding limited emergency licenses shall not receive any compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.
- (3) National Guard supervision waiver. The rules of this Subchapter are waived during a declared state of emergency by the Governor of the State of North Carolina or by a resolution of the North Carolina General Assembly for members of the North Carolina National Guard who are actively licensed as physician assistants in the State of North Carolina and are serving in a State Active Duty status.

History Note: Authority G.S. 90-12.5; G.S. 90-18(c)(13); G.S. 90-13.2(e); G.S. 90-14(a); G.S. 166A-45
Eff. September 1, 2009;
Amended Eff. November 1, 2010;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016
Amended Eff. July 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Board

RULE CITATION: 21 NCAC 32W .0116

DEADLINE FOR RECEIPT: Wednesday, May 12, 2019

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 call our office to inquire concerning the staff recommendation.

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

Please format the Rule as it was published in the NC Register. For example, "Rule" on line 10 was capitalized and (a)(1)(D) and (2)(E) were broken into further Parts. Everywhere that you revert to the text as it was published in the Register, do not show it as a change – simply do it.

Either delete the "(a)" on line 6, as you have no (b), or make the language on line 39, "There are two ways" into Paragraph (b).

On line 6, so that I'm clear – is the Board waiving all requirements except for those reserved below?

On lines 7-9, this recites G.S. 90-12.5. Do you need to do that here? Could you not state "The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5."?

In (1), lines 12 and 13, consider inserting a comma after "territory"

In (1)(B), lines 19 and 22, be sure to use what was published and simply state "10 days"

On lines 22 and 23, and elsewhere you use the term, what is "section"? Do you mean Rule or do you mean Item or Paragraph? Please state what you mean. You published "Rule" in the NC Register.

In (1)(C), line 24, what is the difference between "practice" and "authorized to practice"? Is the idea to state that the authorization here will be deemed licensure?

On lines 28-29, what authority are you relying upon to continue the Board's jurisdiction over these individuals after they stop practicing? Is the intent to be able to discipline the individual if that individual did something during the emergency practice that is punishable by the Board? If so, I suggest you make that clear within the Rule.

In (1)(D), please note earlier concerns regarding "section" and using the number for days and address the same here.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

On line 32, "Governor's designee" is a clearer term than "appropriate authority." Is that the term you want to use in other Rules instead?

In (1)(E), line 36, define "usual" compensation.

In (2), Page 2, line 3, and (2)(B), line 7, consider inserting a comma after "territory"

In (2)(A), line 5, what are the contents of this application? And to whom is it submitted – the Board?

In (2)(C), line 8, what are "specific circumstances"? How will the Board make this determination? What factors will be considered?

On line 9, when you say the Board "may" limit the scope of practice, is this based upon the language on lines 8-9? Will the Board make this determination on a case-by-case basis?

In (2)(D), line 12, what do you mean by "section"?

On lines 13-14, what is the authority to continue jurisdiction? If it's to address disciplinary actions, I suggest you state that.

In (2)(E), please format this as it was published in the Register and state "30" on line 15.

In (2)(F), line 21, what is "usual compensation"?

In the History Note, please use what was published and only state "G.S." before the first citation.

In the History Note, why are you citing to G.S. 90-13.2(e)?

Also, why are you citing to G.S. 166A-45? I suggest deleting it, as I think G.S. 90-12.5 confers sufficient rulemaking authority here.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: May 29, 2019

21 NCAC 32W .0116 is adopted as published in 33:17 NCR 1779-1780 as follows:

**21 NCAC 32W .0116 ANESTHESIOLOGIST ASSISTANT PRACTICE AND LIMITED LICENSE FOR
DISASTERS AND EMERGENCIES**

(a) The Board shall, pursuant to G.S. 90-12.5, waive requirements for licensure except to the extent set for below and after the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes. There are two ways for anesthesiologist assistants to practice under this rule:

(1) Hospital to Hospital Credentialing: A anesthesiologist assistant who holds an unrestricted license in good standing to practice as an anesthesiologist assistant in another U.S. state, territory or district and has unrestricted hospital credentials and privileges in any U.S. state, territory or district may practice at a licensed North Carolina hospital upon the following terms and conditions:

(A) the licensed North Carolina hospital shall verify all anesthesiologist assistant credentials and privileges;

(B) the licensed North Carolina hospital shall keep a list of all anesthesiologist assistants coming to practice and shall provide this list to the Board within ten (10) days of each anesthesiologist assistant practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each anesthesiologist assistant has stopped practicing at the hospital under this section within ten (10) days after each anesthesiologist assistant has ceased practicing under this section;

(C) all anesthesiologist assistants practicing under this section shall be authorized to practice in North Carolina and deemed to be licensed in North Carolina and the Board shall have jurisdiction over all anesthesiologist assistants practicing under this section for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and the Board shall retain jurisdiction over any and all anesthesiologist assistants after they have stopped practicing under this section;

(D) anesthesiologist assistants may practice under this section for the shorter of (a) thirty (30) days from the date the anesthesiologist assistant has started practicing under this section or (b) a statement is made by the Governor or the Governor's designee that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive; and

(E) anesthesiologist assistants practicing under this section shall not receive any compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.

- 1
2 (2) Limited Emergency License: An anesthesiologist assistant who holds an unrestricted license in
3 good standing to practice as an anesthesiologist assistant in another U.S. state, territory or district
4 may apply for a limited emergency license on the following conditions:
- 5 (A) the applicant must complete an application;
6 (B) the Board shall verify that the anesthesiologist assistant holds an unrestricted license in
7 good standing to practice in another U.S. state, territory or district;
8 (C) in response to the specific circumstances presented by a declared disaster or state of
9 emergency and in order to best serve the public interest, the Board may limit the
10 anesthesiologist assistant's scope of practice;
11 (D) the Board shall have jurisdiction over all anesthesiologist assistants practicing under this
12 section for all purposes set forth in or related to Article 1 of Chapter 90 of the North
13 Carolina General Statutes, and the Board shall retain jurisdiction over any and all
14 anesthesiologist assistants after they have stopped practicing under this section;
15 (E) this license shall be in effect for the shorter of (a) thirty (30) days from the date the
16 anesthesiologist assistant has started practicing under this section or (b) a statement is
17 made by the Governor or the Governor's designee that the emergency or disaster
18 declaration has been withdrawn or ended and, at such time the license issued shall
19 become inactive; and
20 (F) anesthesiologist assistants holding limited emergency licenses shall not receive any
21 compensation outside of their usual compensation for the provision of medical services
22 during a disaster or emergency.

23
24 History Note: Authority G.S. 90-12.5; G.S. 90-13.2(e); G.S. 90-14(a); G.S. 166A-45
25 Eff. July 1, 2019.