

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

S

1

SENATE BILL 864\*

Short Title: Amend Practice of Medicine Laws.-AB (Public)

---

Sponsors: Senator Purcell.

---

Referred to: Health Care.

---

March 19, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS PERTAINING TO THE PRACTICE OF  
3 MEDICINE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 1 of Chapter 90 of the General Statutes is amended by  
6 adding a new section to read:

7 "**§ 90-1A. Definitions.**

8 The following definitions apply in this Article:

9 (1) Board. – The North Carolina Medical Board.

10 (2) Hearing officer. – Any current or past member of the Board who is a  
11 physician, physician assistant, or nurse practitioner and has an active  
12 license or approval to practice medical acts, tasks, or functions issued  
13 by the Board, or any current or retired judge of the Office of  
14 Administrative Hearings, a State district court, a State superior court,  
15 the North Carolina Court of Appeals, the North Carolina Supreme  
16 Court, or of the federal judiciary who has an active license to practice  
17 law in North Carolina and who is a member in good standing of the  
18 North Carolina State Bar.

19 (3) Integrative medicine. – A diagnostic or therapeutic treatment that may  
20 not be considered a conventionally accepted medical treatment and  
21 that a licensed physician in the physician's professional opinion  
22 believes may be of potential benefit to the patient, so long as the  
23 treatment poses no greater risk of harm to the patient than the  
24 comparable conventional treatments.

25 (4) License. – An authorization issued by the Board to a physician or  
26 physician assistant to practice medical acts, tasks, or functions.

27 (5) The practice of medicine or surgery. – The practice of medicine or  
28 surgery includes any of the following acts:

- 1           a.    Advertising, holding out to the public, or representing in any  
2                   manner that the individual is authorized to practice medicine in  
3                   this State.
- 4           b.    Offering or undertaking to prescribe, order, give, or administer  
5                   any drug or medicine for the use of any other individual.
- 6           c.    Offering or undertaking to prevent or diagnose, correct, or treat  
7                   in any manner or by any means, methods, or devices any  
8                   disease, illness, pain, wound, fracture, infirmity, defect, or  
9                   abnormal physical or mental condition of any individual,  
10                  including the management of pregnancy or parturition.
- 11          d.    Offering or undertaking to perform any surgical operation on  
12                  any individual.
- 13          e.    Rendering a determination of medical necessity or a decision  
14                  affecting the diagnosis or treatment of a patient.
- 15          f.    Using the designation 'Doctor,' 'Doctor of Medicine,' 'Doctor of  
16                  Osteopathy,' 'Doctor of Osteopathic Medicine,' 'Physician,'  
17                  'Surgeon,' 'Physician and Surgeon,' 'Dr.,' 'M.D.,' 'D.O.,' or any  
18                  combination thereof in the conduct of any occupation or  
19                  profession pertaining to the prevention, diagnosis, or treatment  
20                  of human disease or condition, unless the designation  
21                  additionally contains the description of another branch of the  
22                  healing arts for which the individual holds a valid license in this  
23                  State.
- 24          g.    Cosmetic procedures employing lasers or other means that  
25                  involve the revision, destruction, incision, or structural  
26                  alteration of human tissue, unless otherwise permitted by law.
- 27          h.    Rendering a written or otherwise documented medical opinion  
28                  concerning the diagnosis or treatment of a patient or the actual  
29                  rendering of treatment to a patient in this State by a physician  
30                  located outside this State as a result of transmission of  
31                  individual patient data by electronic or other means from within  
32                  a state to the physician or the physician's agent.
- 33          i.    The performance of any act described in this subdivision by use  
34                  of any electronic means, including the Internet or a toll-free  
35                  telephone number."

36           **SECTION 2.** G.S. 90-2.1 is repealed.

37           **SECTION 3.** Article 1 of Chapter 90 of the General Statutes is amended by  
38 adding a new section to read:

39           **§ 90-5.1. Powers and duties of the Board.**

40           (a)    The Board shall have the power and duty to:

41                   (1)   Administer this Article.

42                   (2)   Issue interpretations of this Article.

43                   (3)   Adopt, amend, or repeal rules as may be necessary to carry out and  
44                   enforce the provisions of this Article.

- 1           (4)    Require an applicant or licensee to submit to the Board evidence of the  
2           applicant's or licensee's continuing competence in the practice of  
3           medicine.
- 4           (5)    Regulate the retention and disposition of medical records, whether in  
5           the possession of a licensee or non-licensee, and, in the case of the  
6           death of a licensee, provide for the disposition of the medical records  
7           by the estate of the licensee.
- 8           (6)    Appoint a temporary or permanent custodian for medical records  
9           abandoned by a licensee.
- 10          (7)    Develop educational programs to facilitate licensee awareness of  
11          provisions contained in this Article and public awareness of the role  
12          and function of the Board.
- 13          (8)    Develop and implement methods to identify dyscompetent physicians  
14          and physicians who fail to meet acceptable standards of care.
- 15          (9)    Develop and implement methods to assess and improve physician  
16          practice.
- 17          (10) Develop and implement methods to ensure the ongoing competence of  
18          licensees.

19          (b)    Nothing in subsection (a) of this section shall restrict or otherwise limit  
20          powers and duties conferred on the Board in other sections of this Article."

21           **SECTION 4.** G.S. 90-6(a) is recodified as G.S. 90-8.1; G.S. 90-6(b) and (c),  
22           respectively, are recodified as G.S. 90-8.2(a) and (b), respectively; G.S. 90-12.1 is  
23           recodified as G.S. 90-12.4; G.S. 90-12.2 is recodified as G.S. 90-12.5; G.S. 90-15 is  
24           recodified as G.S. 90-13.1; and G.S. 90-15.1 is recodified as G.S. 90-13.2.

25           **SECTION 5.** G.S. 90-8.1, as recodified in Section 4 of this act, reads as  
26           rewritten:

27           "**§ 90-8.1. Rules governing applicants for license, examinations, etc.; appointment**  
28           **of subcommittees.licensure.**

29           (a)    The North Carolina Medical Board is empowered to ~~prescribe such~~adopt  
30           rules as it may deem proper, governing applicants for license, admission to  
31           examinations, the conduct of applicants during examinations, and the conduct of  
32           examinations proper.that prescribe additional qualifications for an applicant, including  
33           education and examination requirements and application procedures."

34           **SECTION 6.** G.S. 90-8.2, as recodified in Section 4 of this act, reads as  
35           rewritten:

36           "**§ 90-8.2. Appointment of subcommittees.**

37           (a)    The North Carolina Medical Board shall appoint and maintain a  
38           subcommittee to work jointly with a subcommittee of the Board of Nursing to develop  
39           rules to govern the performance of medical acts by registered nurses, including the  
40           determination of reasonable fees to accompany an application for approval not to  
41           exceed one hundred dollars (\$100.00) and for renewal of approval not to exceed fifty  
42           dollars (\$50.00). ~~The fee for reactivation of an inactive incomplete application shall be~~  
43           ~~five dollars (\$5.00).~~ Rules developed by this subcommittee from time to time shall  
44           govern the performance of medical acts by registered nurses and shall become effective

1 when adopted by both the North Carolina Medical Board and the Board of Nursing. The  
2 North Carolina Medical Board shall have responsibility for securing compliance with  
3 these rules.

4 (b) The North Carolina Medical Board shall appoint and maintain a  
5 subcommittee of four licensed physicians to work jointly with a subcommittee of the  
6 North Carolina Board of Pharmacy to develop rules to govern the performance of  
7 medical acts by clinical pharmacist practitioners, including the determination of  
8 reasonable fees to accompany an application for approval not to exceed one hundred  
9 dollars (\$100.00) and for renewal of approval not to exceed fifty dollars (\$50.00). The  
10 fee for reactivation of an inactive incomplete application shall be five dollars (\$5.00).  
11 Rules recommended by the subcommittee shall be adopted in accordance with Chapter  
12 150B of the General Statutes by both the North Carolina Medical Board and the North  
13 Carolina Board of Pharmacy and shall not become effective until adopted by both  
14 Boards. The North Carolina Medical Board shall have responsibility for ensuring  
15 compliance with these rules."

16 **SECTION 7.** G.S. 90-9 and G.S. 90-10 are repealed.

17 **SECTION 8.** Article 1 of Chapter 90 of the General Statutes is amended by  
18 adding the following new sections to read:

19 **§ 90-9.1. Requirements for licensure as a physician.**

20 (a) Except as provided in G.S. 90-9.2, to be eligible for licensure as a physician,  
21 an applicant shall submit proof satisfactory to the Board that the applicant:

22 (1) Has passed each part of an examination described in G.S. 90-10.1;

23 (2) Is a graduate of:

24 a. A medical college approved by the Liaison Commission on  
25 Medical Education, the Committee for the Accreditation of  
26 Canadian Medical Schools, or an osteopathic college approved  
27 by the American Osteopathic Association and has successfully  
28 completed one year of training in a medical education program  
29 approved by the Board after graduation from medical school; or

30 b. A medical college approved by the Liaison Commission on  
31 Medical Education, the Committee for the Accreditation of  
32 Canadian Medical Schools, or an osteopathic college approved  
33 by the American Osteopathic Association, is a dentist licensed  
34 to practice dentistry under Article 2 of Chapter 90 of the  
35 General Statutes, and has been certified by the American Board  
36 of Oral and Maxillofacial Surgery after having completed a  
37 residency in an Oral and Maxillofacial Surgery Residency  
38 program approved by the Board before completion of medical  
39 school; and

40 (3) Is of good moral character.

41 (b) No license may be granted to any applicant who graduated from a medical or  
42 osteopathic college that has been disapproved by the Board pursuant to rules adopted by  
43 the Board.

1 (c) The Board may, by rule, require an applicant to comply with other  
2 requirements or submit additional information the Board deems appropriate.

3 **"§ 90-9.2. Requirements for graduates of foreign medical schools.**

4 (a) To be eligible for licensure under this section, an applicant who is a graduate  
5 of a medical school not approved by the Liaison Commission on Medical Education, the  
6 Committee for the Accreditation of Canadian Medical Schools, or the American  
7 Osteopathic Association shall submit proof satisfactory to the Board that the applicant:

8 (1) Has successfully completed three years of training in a medical  
9 education program approved by the Board after graduation from  
10 medical school;

11 (2) Is of good moral character;

12 (3) Has a currently valid standard certificate of Educational Commission for  
13 Foreign Medical Graduates (ECFMG); and

14 (4) Is able to communicate in English.

15 (b) The Board may waive ECFMG certification if the applicant:

16 (1) Has passed the ECFMG examination and successfully completed an  
17 approved Fifth Pathway Program. The applicant is required to provide  
18 the original ECFMG Certification Status Report from the ECFMG; or

19 (2) Has been licensed in another state on the basis of written examination  
20 before the establishment of ECFMG in 1958.

21 (c) The Board may, by rule, require an applicant to comply with other  
22 requirements or submit additional information the Board deems appropriate.

23 **"§ 90-9.3. Requirements for licensure as a physician assistant.**

24 (a) To be eligible for licensure as a physician assistant, an applicant shall submit  
25 proof satisfactory to the Board that the applicant:

26 (1) Has successfully completed an educational program for physician  
27 assistants or surgeon assistants accredited by the Committee on Allied  
28 Health Education and Accreditation or by the Committee's predecessor  
29 or successor entities;

30 (2) Holds or previously held a certificate issued by the National  
31 Commission on Certification of Physician Assistants; and

32 (3) Is of good moral character.

33 (b) Before initiating practice of medical acts, tasks, or functions as a physician  
34 assistant, the physician assistant shall provide the Board the name, address, and  
35 telephone number of the physician who will supervise the physician assistant in the  
36 relevant medical setting.

37 (c) The Board may, by rule, require an applicant to comply with other  
38 requirements or submit additional information the Board deems appropriate. The Board  
39 may set fees for physician assistants pursuant to rules adopted by the Board.

40 **"§ 90-10.1. Examinations accepted by the Board.**

41 The Board may administer or accept the following examinations for licensure:

42 (1) A State Board licensing examination.

43 (2) The National Board of Medical Examiners (NBME) examination or its  
44 successor.

- 1           (3)    The United States Medical Licensing Examination (USMLE) of this  
2           section or its successor.  
3           (4)    The Federation Licensing Examination (FLEX) or its successor.  
4           (5)    Other examinations the Board deems equivalent to the examinations  
5           described in subdivisions (1) through (3) of this section pursuant to  
6           rules adopted by the Board."

7           **SECTION 9.** G.S. 90-11 reads as rewritten:

8           "**§ 90-11. Qualifications of applicant for license. Criminal background checks.**

9           (a)    ~~Every applicant for a license to practice medicine or to perform medical acts,~~  
10          ~~tasks, and functions as a physician assistant in the State shall satisfy the North Carolina~~  
11          ~~Medical Board that the applicant is of good moral character and meets the other~~  
12          ~~qualifications for the issuance of a license before any such license is granted by the~~  
13          ~~Board to the applicant.~~

14          (b)    The Department of Justice may provide a criminal record check to the Board  
15          for a person who has applied for a license through the Board. The Board shall provide to  
16          the Department of Justice, along with the request, the fingerprints of the applicant, any  
17          additional information required by the Department of Justice, and a form signed by the  
18          applicant consenting to the check of the criminal record and to the use of the  
19          fingerprints and other identifying information required by the State or national  
20          repositories. The applicant's fingerprints shall be forwarded to the State Bureau of  
21          Investigation for a search of the State's criminal history record file, and the State Bureau  
22          of Investigation shall forward a set of the fingerprints to the Federal Bureau of  
23          Investigation for a national criminal history check. The Board shall keep all information  
24          pursuant to this subsection privileged, in accordance with applicable State law and  
25          federal guidelines, and the information shall be confidential and shall not be a public  
26          record under Chapter 132 of the General Statutes.

27          The Department of Justice may charge each applicant a fee for conducting the  
28          checks of criminal history records authorized by this subsection."

29          **SECTION 10.** G.S. 90-12 and G.S. 90-13 are repealed.

30          **SECTION 11.** Article 1 of Chapter 90 of the General Statutes is amended by  
31          adding the following new sections to read:

32          "**§ 90-12A. Limited license to practice in a medical education and training**  
33          **program.**

34          (a)    As provided in rules adopted by the Board, the Board may issue a limited  
35          license known as a 'resident's training license' to a physician not otherwise licensed by  
36          the Board who is participating in a graduate medical education training program.

37          (b)    A resident's training license shall become inactive at the time its holder ceases  
38          to be a resident in a training program or obtains any other license to practice medicine  
39          issued by the Board. The Board shall retain jurisdiction over the holder of the inactive  
40          license.

41          "**§ 90-12.1A. Limited volunteer license.**

42          (a)    The Board may issue a 'military limited volunteer license' to an applicant  
43          who:

- 44               (1)    Has a license to practice medicine and surgery in another state;

1           (2) Produces a letter from the state of licensure indicating the applicant is  
2           in good standing; and

3           (3) Is authorized to treat personnel enlisted in a branch of the United  
4           States armed services or veterans.

5       (b) The Board may issue a 'retired limited volunteer license' to an applicant who  
6 is a retired physician and has allowed his or her license to practice medicine and surgery  
7 in this State or another state to become inactive.

8       (c) A physician holding a limited license under this section shall comply with the  
9 continuing medical education requirements pursuant to rules adopted by the Board.

10       (d) The Board shall issue a limited license under this section within 30 days after  
11 an applicant provides the Board with information satisfying the requirements of this  
12 section.

13       (e) The holder of a limited license under this section may practice medicine and  
14 surgery only at clinics that specialize in the treatment of indigent patients. The holder of  
15 the limited license may not receive compensation for services rendered at clinics  
16 specializing in the care of indigent patients.

17       (f) The holder of a limited license issued pursuant to this section who practices  
18 medicine or surgery at places other than clinics that specialize in the treatment of  
19 indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be  
20 fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for  
21 each offense. The Board, in its discretion, may revoke the limited license after due  
22 notice is given to the holder of the limited license.

23       (g) The Board may, by rule, require an applicant for a limited license under this  
24 section to comply with other requirements or submit additional information the Board  
25 deems appropriate.

26 **"§ 90-12.2A. Special purpose license.**

27       (a) The Board may issue a special purpose license to practice medicine to an  
28 applicant who:

29           (1) Holds a full and unrestricted license to practice in at least one other  
30           jurisdiction; and

31           (2) Does not have any current or pending disciplinary or other action  
32           against him or her by any medical licensing agency in any state or  
33           other jurisdiction.

34       (b) The holder of the special purpose license practicing medicine or surgery  
35 beyond the limitations of the license shall be guilty of a Class 3 misdemeanor and, upon  
36 conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty  
37 dollars (\$50.00) for each offense. The Board, at its discretion, may revoke the special  
38 license after due notice is given to the holder of the special purpose license.

39 **"§ 90-12.3. Medical school faculty license.**

40       (a) The Board may issue a medical school faculty license to practice medicine  
41 and surgery to a physician who:

42           (1) Holds a full-time appointment as either a lecturer, assistant professor,  
43           associate professor, or full professor at one of the following medical  
44           schools:

- 1 a. Duke University School of Medicine;
- 2 b. The University of North Carolina at Chapel Hill School of
- 3 Medicine;
- 4 c. Wake Forest University School of Medicine; or
- 5 d. East Carolina University School of Medicine; and

6 (2) Is not subject to disciplinary order or other action by any medical  
7 licensing agency in any state or other jurisdiction.

8 (b) The holder of the medical school faculty license issued under this section  
9 shall not practice medicine or surgery outside the confines of the medical school or an  
10 affiliate of the medical school. The holder of the medical school faculty license  
11 practicing medicine or surgery beyond the limitations of the license shall be guilty of a  
12 Class 3 misdemeanor and, upon conviction, shall be fined not less than twenty-five  
13 dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. The Board, at its  
14 discretion, may revoke the special license after due notice is given to the holder of the  
15 medical school faculty license.

16 (c) The Board may adopt rules and set fees related to issuing medical school  
17 faculty licenses. The Board may, by rule, set a time limit for the term of a medical  
18 school facility license."

19 **SECTION 12.** G.S. 90-13.1, as recodified in Section 4 of this act, reads as  
20 rewritten:

21 "**§ 90-13.1. License fee; ~~salaries, fees, and expenses of Board fees.~~**

22 (a) Each applicant for a license to practice medicine and surgery in this State  
23 under either G.S. ~~90-9, 90-10, or 90-13~~90-9.1, 90-9.2, or 90-9.3 shall pay to the North  
24 Carolina Medical Board an application fee of three hundred fifty dollars (\$350.00).

25 (b) ~~Whenever Each applicant for a limited license is granted as provided into~~  
26 ~~practice in a medical education and training program under G.S. 90-12, the~~  
27 ~~applicant~~90-12A shall pay to the Board a fee ~~not to exceed~~of one hundred fifty dollars  
28 (\$150.00), except where a limited license to practice in a medical education and training  
29 program approved by the Board for the purpose of education or training is granted, the  
30 applicant shall pay a fee of one hundred dollars ~~(\$100.00), and (\$100.00).~~

31 (c) ~~where An applicant for a limited volunteer license to practice medicine and~~  
32 ~~surgery only at clinics that specialize in the treatment of indigent patients is granted, the~~  
33 ~~applicant~~under G.S. 90-12.1A shall not pay a fee.

34 (d) A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a  
35 duplicate license.

36 (e) All fees shall be paid in advance to the North Carolina Medical Board, to be  
37 held in a fund for the use of the Board. ~~The compensation and expenses of the members~~  
38 ~~and officers of the Board and all expenses proper and necessary in the opinion of the~~  
39 ~~Board to the discharge of its duties under and to enforce the laws regulating the practice~~  
40 ~~of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The~~  
41 ~~per diem compensation of Board members shall not exceed two hundred dollars~~  
42 ~~(\$200.00) per day per member for time spent in the performance and discharge of duties~~  
43 ~~as a member. Any unexpended sum or sums of money remaining in the treasury of the~~



1 Board at the expiration of the terms of office of the members of the Board shall be paid  
2 over to their successors in office.

3 For the initial and annual registration of an assistant to a physician, the Board may  
4 require the payment of a fee not to exceed a reasonable amount."

5 SECTION 13. G.S. 90-13.2, as recodified in Section 4 of this act, reads as  
6 rewritten:

7 "**§ 90-13.2. Registration every year with Board.**

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

10 (b) A person who registers with the Board shall report to the Board the person's  
11 name and office and residence address and any other information required by the Board,  
12 and shall pay ~~a~~ an annual registration fee of one hundred seventy-five dollars (\$175.00),  
13 except those who have a limited license to practice in a medical education and training  
14 program approved by the Board for the purpose of education or training shall pay a  
15 registration fee of one hundred twenty-five dollars (\$125.00) and those who have a  
16 limited volunteer license shall pay an annual registration fee of twenty-five dollars  
17 (\$25.00). However, licensees who have a limited license to practice for the purpose of  
18 education and training under G.S. 90-21A shall not be required to pay more than one  
19 annual registration fee for each year of training.

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

23 (d) For purposes of annual registration, the Board shall use a simplified  
24 registration form which allows registrants to confirm information on file with the Board.

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

30 (f) Except as provided in G.S. ~~90-12(d)~~, 90-12.1A, a person whose license is  
31 inactive shall not practice medicine in North Carolina nor be required to pay the annual  
32 registration fee.

33 (g) Upon payment of all accumulated fees and penalties, the license of the  
34 physician may be reinstated, subject to the Board requiring the physician to appear  
35 before the Board for an interview and to comply with other licensing requirements. The  
36 penalty may not exceed the maximum fee for a license under G.S. ~~90-13.90-13.1~~."

37 SECTION 14. Article 1 of Chapter 90 of the General Statutes is amended by  
38 adding a new section to read:

39 "**§ 90-13.3. Salaries, fees, expenses of the Board.**

40 (a) The compensation and expenses of the members and officers of the Board  
41 and all expenses proper and necessary in the opinion of the Board to the discharge of its  
42 duties under and to enforce the laws regulating the practice of medicine or surgery shall  
43 be paid out of the fund, upon the warrant of the Board.

1       (b) The per diem compensation of Board members shall not exceed two hundred  
2 dollars (\$200.00) per day per member for time spent in the performance and discharge  
3 of duties as a member. Any unexpended sum of money remaining in the treasury of the  
4 Board at the expiration of the terms of office of the members of the Board shall be paid  
5 over to their successors in office."

6           **SECTION 15.** G.S. 90-14(11) reads as rewritten:

7 **"§ 90-14. Revocation, suspension, annulment or denial of license.**

8       (a) The Board shall have the power to place on probation with or without  
9 conditions, impose limitations and conditions on, publicly reprimand, assess monetary  
10 redress, issue public letters of concern, mandate free medical services, require  
11 satisfactory completion of treatment programs or remedial or educational training, fine,  
12 deny, annul, suspend, or revoke a license, or other authority to practice medicine in this  
13 State, issued by the Board to any person who has been found by the Board to have  
14 committed any of the following acts or conduct, or for any of the following reasons:

15           ...

16       (11) Lack of professional competence to practice medicine with a  
17 reasonable degree of skill and safety for ~~patients~~-patients or failing to  
18 maintain acceptable standards of one or more areas of professional  
19 physician practice. In this connection the Board may consider repeated  
20 acts of a physician indicating the physician's failure to properly treat a  
21 patient. The Board may, upon reasonable grounds, require a physician  
22 to submit to inquiries or examinations, written or oral, as the Board  
23 deems necessary to determine the professional qualifications of such  
24 licensee. In order to annul, suspend, deny, or revoke a license of an  
25 accused person, the Board shall find by the greater weight of the  
26 evidence that the care provided was not in accordance with the  
27 standards of practice for the procedures or treatments administered.

28           ...."

29           **SECTION 16.** G.S. 90-14.5 reads as rewritten:

30 **"§ 90-14.5. Use of hearing committee and ~~depositions~~.depositions; appointment of**  
31 **hearing officers.**

32       (a) The Board, in its discretion, may designate in writing three or more ~~of its~~  
33 ~~members~~hearing officers to conduct hearings as a hearing committee to take evidence.

34       (b) Evidence and testimony may be presented at hearings before the Board or a  
35 hearing committee in the form of depositions before any person authorized to administer  
36 oaths in accordance with the procedure for the taking of depositions in civil actions in  
37 the superior court.

38       (c) The hearing committee shall submit a recommended decision that contains  
39 findings of fact and conclusions of law to the Board. Before the Board makes a final  
40 decision, it shall give each party an opportunity to file written exceptions to the  
41 recommended decision made by the hearing committee and to present oral arguments to  
42 the Board. A quorum of the Board will issue a final decision.

43       (d) Hearing officers are entitled to receive compensation and reimbursement as  
44 authorized by this Article."

1           **SECTION 17.** G.S. 90-14.6(b) reads as rewritten:

2           "(b) Subject to the North Carolina Rules of Civil Procedure and Rules of  
3 Evidence, in proceedings held pursuant to this Article, the ~~licensee~~individual under  
4 investigation may call witnesses, including medical practitioners licensed in the United  
5 States, ~~with expertise in the same field of practice as the licensee under investigation,~~  
6 ~~and the Board shall consider this testimony.~~States with training and experience in the  
7 same field of practice as the individual under investigation and familiar with the  
8 standard of care among members of the same health care profession in North Carolina.  
9 Witnesses shall not be restricted to experts certified by the American Board of Medical  
10 Specialties."

11           **SECTION 18.** G.S. 90-16 reads as rewritten:

12           "**§ 90-16. Self-reporting requirements; confidentiality of Board investigative**  
13 **information; cooperation with law enforcement; patient protection;**  
14 **Board to keep public records.**

15           (a) The North Carolina Medical Board shall keep a regular record of its  
16 proceedings ~~in a book kept for that purpose, together~~ with the names of the members of  
17 the Board present, the names of the applicants for license, and other information as to its  
18 actions. ~~The North Carolina Medical Board shall cause to be entered in a separate book~~  
19 ~~the name of each applicant to whom a license is issued to practice medicine or surgery,~~  
20 ~~along with any information pertinent to such issuance.~~ The North Carolina Medical  
21 Board shall publish the names of those licensed ~~in three daily newspapers published in~~  
22 ~~the State of North Carolina,~~ within 30 days after granting the same. ~~A transcript of any~~  
23 ~~such entry in the record books, or certificate that there is not entered therein the name~~  
24 ~~and proficiency or date of granting such license of a person charged with the violation~~  
25 ~~of the provisions of this Article, certified under the hand of the secretary and the seals of~~  
26 ~~the North Carolina Medical Board, shall be admitted as evidence in any court of this~~  
27 ~~State when it is otherwise competent.~~license.

28           (b) The Board may in a closed session receive evidence involving or concerning  
29 the treatment of a patient who has not expressly or impliedly consented to the public  
30 disclosure of such treatment as may be necessary for the protection of the rights of such  
31 patient or of the accused physician and the full presentation of relevant evidence.

32           (c) All records, papers, investigative files, investigative reports, other  
33 investigative information and other documents containing information in the possession  
34 of or received or gathered by the Board, or its members or employees as a result of  
35 investigations, inquiries or interviews conducted in connection with a licensing,  
36 complaint or, disciplinary matter, or report of professional liability insurance awards or  
37 settlements pursuant to G.S. 90-14.13, shall not be considered public records within the  
38 meaning of Chapter 132 of the General Statutes and are privileged, confidential, and not  
39 subject to discovery, subpoena, or other means of legal compulsion for release to any  
40 person other than the Board, its employees or agents involved in the application for  
41 license or discipline of a license holder, except as provided in subsection (d) of this  
42 section. For purposes of this subsection, investigative information includes information  
43 relating to the identity of, and a report made by, a physician or other person performing  
44 an expert review for the ~~Board.~~Board and transcripts of any deposition taken by Board

1 counsel in preparation for or anticipation of a hearing held pursuant to this Article but  
2 not admitted into evidence at the hearing.

3 (d) The Board shall provide the licensee or applicant with access to all  
4 information in its possession that the Board intends to offer into evidence in presenting  
5 its case in chief at the contested hearing on the matter, subject to any privilege or  
6 restriction set forth by rule, statute, or legal precedent, upon written request from a  
7 licensee or applicant who is the subject of a complaint or investigation, or from the  
8 licensee's or applicant's counsel, unless good cause is shown for delay. The Board is not  
9 required to provide any of the following:

10 (1) A Board investigative report.

11 (2) The identity of a non-testifying complainant.

12 (3) Attorney-client communications, attorney work product, or other  
13 materials covered by a privilege recognized by the Rules of Civil  
14 Procedure or the Rules of Evidence.

15 (e) Information furnished to a licensee or applicant, or counsel for a licensee or  
16 applicant, under subsection (d) of this section shall be subject to discovery or subpoena  
17 between and among the parties in a civil case in which the licensee is a party.

18 (f) Any notice or statement of charges against any licensee, or any notice to any  
19 licensee of a hearing in any proceeding shall be a public record within the meaning of  
20 Chapter 132 of the General Statutes, notwithstanding that it may contain information  
21 collected and compiled as a result of any such investigation, inquiry or interview; and  
22 provided, further, that if any such record, paper or other document containing  
23 information theretofore collected and compiled by the Board, as hereinbefore provided,  
24 is received and admitted in evidence in any hearing before the Board, it shall thereupon  
25 be a public record within the meaning of Chapter 132 of the General Statutes.

26 (g) In any proceeding before the Board, in any record of any hearing before the  
27 Board, and in the notice of the charges against any licensee (notwithstanding any  
28 provision herein to the contrary) the Board may withhold from public disclosure the  
29 identity of a patient who has not expressly or impliedly consented to the public  
30 disclosure of treatment by the accused physician.

31 (h) If investigative information in the possession of the Board, its employees, or  
32 agents indicates that a crime may have been committed, the Board ~~shall~~ may report the  
33 information to the appropriate law enforcement ~~agency~~ agency or district attorney of the  
34 district in which the offense was committed.

35 (i) The Board shall cooperate with and assist a law enforcement agency or  
36 district attorney conducting a criminal investigation or prosecution of a licensee by  
37 providing information that is relevant to the criminal investigation or prosecution to the  
38 investigating ~~agency~~ agency or district attorney. Information disclosed by the Board to  
39 an investigative agency or district attorney remains confidential and may not be  
40 disclosed by the investigating agency except as necessary to further the investigation.

41 (j) All persons licensed under this Article shall self-report to the Board within 30  
42 days of arrest or indictment any of the following:

43 (1) Any felony arrest or indictment.

44 (2) Any arrest for driving while impaired or driving under the influence.

1 (3) Any arrest or indictment for the possession, use, or sale of any  
2 controlled substance.

3 (k) The Board, its members and staff, may release confidential or nonpublic  
4 information to any health care licensure board in this State or another state or authorized  
5 Department of Health and Human Services personnel with enforcement or investigative  
6 responsibilities about the issuance, denial, annulment, suspension, or revocation of a  
7 license, or the voluntary surrender of a license by a licensee of the Board, including the  
8 reasons for the action, or an investigative report made by the Board. The Board shall  
9 notify the licensee within 60 days after the information is transmitted. A summary of the  
10 information that is being transmitted shall be furnished to the licensee. If the licensee  
11 requests in writing within 30 days after being notified that the information has been  
12 transmitted, the licensee shall be furnished a copy of all information so transmitted. The  
13 notice or copies of the information shall not be provided if the information relates to an  
14 ongoing criminal investigation by any law enforcement agency or authorized  
15 Department of Health and Human Services personnel with enforcement or investigative  
16 responsibilities."

17 **SECTION 19.** G.S. 90-18 reads as rewritten:

18 "**§ 90-18. Practicing without license; ~~practicing defined~~; penalties.**

19 (a) No person shall perform any act constituting the practice of medicine or  
20 surgery, as defined in this Article, or any of the branches thereof, ~~nor in any case~~  
21 ~~prescribe for the cure of diseases~~ unless the person shall have been first licensed and  
22 registered so to do in the manner provided in this Article, and if any person shall  
23 practice medicine or surgery without being duly licensed and registered, as provided in  
24 this Article, the person shall not be allowed to maintain any action to collect any fee for  
25 such services. The person so practicing without license shall be guilty of a Class 1  
26 misdemeanor, except that if the person so practicing without a license is an out-of-state  
27 practitioner who has not been licensed and registered to practice medicine or surgery in  
28 this State, the person shall be guilty of a Class I felony.

29 ~~(b) Any person shall be regarded as practicing medicine or surgery within the~~  
30 ~~meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to~~  
31 ~~treat, operate or attempt to operate on, or prescribe for or administer to, or profess to~~  
32 ~~treat any human ailment, physical or mental, or any physical injury to or deformity of~~  
33 ~~another person. A person who resides in any state or foreign country and who, by use of~~  
34 ~~any electronic or other mediums, performs any of the acts described in this subsection,~~  
35 ~~including prescribing medication by use of the Internet or a toll free telephone number,~~  
36 ~~shall be regarded as practicing medicine or surgery and shall be subject to the provisions~~  
37 ~~of this Article and appropriate regulation by the North Carolina Medical Board.~~

38 (c) The following shall not constitute practicing medicine or surgery as defined  
39 in ~~subsection (b) of this section:~~ this Article:

40 (1) The administration of domestic or family ~~remedies in cases of~~  
41 emergency remedies.

42 (2) The practice of dentistry by any legally licensed dentist engaged in the  
43 practice of dentistry and dental surgery.

- 1 (3) The practice of pharmacy by any legally licensed pharmacist engaged  
2 in the practice of pharmacy.
- 3 (3a) The provision of drug therapy management by a licensed pharmacist  
4 engaged in the practice of pharmacy pursuant to an agreement that is  
5 physician, pharmacist, patient, and disease specific when performed in  
6 accordance with rules and rules developed by a joint subcommittee of  
7 the North Carolina Medical Board and the North Carolina Board of  
8 Pharmacy and approved by both Boards. Drug therapy management  
9 shall be defined as: (i) the implementation of predetermined drug  
10 therapy which includes diagnosis and product selection by the patient's  
11 physician; (ii) modification of prescribed drug dosages, dosage forms,  
12 and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be  
13 pursuant to an agreement that is physician, pharmacist, patient, and  
14 disease specific.
- 15 (4) The practice of medicine and surgery by any surgeon or physician of  
16 the United States army, navy, or public health service in the discharge  
17 of his official duties.
- 18 (5) The treatment of the sick or suffering by mental or spiritual means  
19 without the use of any drugs or other material means.
- 20 (6) The practice of optometry by any legally licensed optometrist engaged  
21 in the practice of optometry.
- 22 (7) The practice of midwifery as defined in G.S. 90-178.2.
- 23 (8) The practice of chiropody by any legally licensed chiropodist when  
24 engaged in the practice of chiropody, and without the use of any drug.
- 25 (9) The practice of osteopathy by any legally licensed osteopath when  
26 engaged in the practice of osteopathy as defined by law, and especially  
27 G.S. 90-129.
- 28 (10) The practice of chiropractic by any legally licensed chiropractor when  
29 engaged in the practice of chiropractic as defined by law, and without  
30 the use of any drug or surgery.
- 31 (11) The practice of medicine or surgery by any nonregistered reputable  
32 physician or surgeon who comes into this State, either in person or by  
33 use of any electronic or other mediums, on an irregular basis, to  
34 consult with a resident registered physician or to consult with  
35 personnel at a medical school about educational or medical training.  
36 This proviso shall not apply to physicians resident in a neighboring  
37 state and regularly practicing in this State.
- 38 (11a) The practice of medicine or surgery by any physician who comes into  
39 this State to practice medicine or surgery so long as:
- 40 a. The physician or surgeon has an oral or written agreement with  
41 a sports team to provide general or emergency medical care to  
42 the team members, coaching staff, or families traveling with the  
43 team for a specific sporting event taking place in this State; and

1           b.     The physician or surgeon does not provide care or consultation  
2                 to any person residing in this State other than an individual  
3                 described in sub-subdivision a. of this subdivision.

4           The exemption shall remain in force while the physician or surgeon is  
5           traveling with the team. The exemption shall not exceed 10 days per  
6           individual sporting event. However, the executive director of the  
7           Board may grant a physician or surgeon additional time for exemption  
8           of up to 20 additional days per individual sporting event.

9           (12) Any person practicing radiology as hereinafter defined shall be  
10           deemed to be engaged in the practice of medicine within the meaning  
11           of this Article. "Radiology" shall be defined as, that method of medical  
12           practice in which demonstration and examination of the normal and  
13           abnormal structures, parts or functions of the human body are made by  
14           use of X ray. Any person shall be regarded as engaged in the practice  
15           of radiology who makes or offers to make, for a consideration, a  
16           demonstration or examination of a human being or a part or parts of a  
17           human body by means of fluoroscopic exhibition or by the shadow  
18           imagery registered with photographic materials and the use of X rays;  
19           or holds himself out to diagnose or able to make or makes any  
20           interpretation or explanation by word of mouth, writing or otherwise of  
21           the meaning of such fluoroscopic or registered shadow imagery of any  
22           part of the human body by use of X rays; or who treats any disease or  
23           condition of the human body by the application of X rays or radium.  
24           Nothing in this subdivision shall prevent the practice of radiology by  
25           any person licensed under the provisions of Articles 2, 7, 8, and 12A  
26           of this Chapter.

27           (13) The performance of any medical acts, tasks, and functions by a  
28           licensed physician assistant at the direction or under the supervision of  
29           a physician in accordance with rules adopted by the Board. This  
30           subdivision shall not limit or prevent any physician from delegating to  
31           a qualified person any acts, tasks, and functions that are otherwise  
32           permitted by law or established by custom. The Board shall authorize  
33           physician assistants licensed in this State or another state to perform  
34           specific medical acts, tasks, and functions during a disaster.

35           (14) The practice of nursing by a registered nurse engaged in the practice of  
36           nursing and the performance of acts otherwise constituting medical  
37           practice by a registered nurse when performed in accordance with  
38           rules and regulations developed by a joint subcommittee of the North  
39           Carolina Medical Board and the Board of Nursing and adopted by both  
40           boards.

41           (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist  
42           under the provisions of Article 25 of this Chapter.

43           (16) The practice of acupuncture by a licensed acupuncturist in accordance  
44           with the provisions of Article 30 of this Chapter.

- 1 (17) The use of an automated external defibrillator as provided in  
2 G.S. 90-21.15.
- 3 (18) The practice of medicine by any nonregistered physician residing in  
4 another state or foreign country who is contacted by one of the  
5 physician's regular patients for treatment by use of the Internet or a  
6 toll-free telephone number while the physician's patient is temporarily  
7 in this State.
- 8 (19) The practice of medicine or surgery by any physician who comes into  
9 this State to practice medicine or surgery at a camp that specializes in  
10 providing therapeutic recreation for individuals with chronic illnesses,  
11 as long as all the following conditions are satisfied:
- 12 a. The physician provides documentation to the medical director  
13 of the camp that the physician is licensed and in good standing  
14 to practice medicine in another state.
- 15 b. The physician provides services only at the camp or in  
16 connection with camp events or camp activities that occur off  
17 the grounds of the camp.
- 18 c. The physician receives no compensation for the services.
- 19 d. The physician provides those services within this State for no  
20 more than 30 days per calendar year.
- 21 e. The camp has a medical director who holds an unrestricted  
22 license to practice medicine and surgery issued under this  
23 Article."

24 **SECTION 20.** G.S. 90-18.1(a) reads as rewritten:

25 "(a) Any person who is licensed under the provisions of G.S. ~~90-1190-9.3~~  
26 perform medical acts, tasks, and functions as an assistant to a physician may use the title  
27 "physician assistant". Any other person who uses the title in any form or holds out to be  
28 a physician assistant or to be so licensed, shall be deemed to be in violation of this  
29 Article."

30 **SECTION 21.** G.S. 90-18.1 is amended by adding the following new  
31 subsections to read:

32 "(g) Any person who is licensed under G.S. 90-9.3 to perform medical acts, tasks,  
33 and functions as an assistant to a physician shall comply with each of the following:

- 34 (1) Maintain a current and active license to practice in this State.  
35 (2) Maintain an active registration with the Board.  
36 (3) Have a current Intent to Practice form filed with the Board.

37 (h) A physician assistant serving active duty in the United States military is  
38 exempt from the requirements of subdivision 9 (g)(3) of this section.

39 (i) A physician assistant's license shall become inactive any time the holder fails  
40 to comply with the requirements of subsection (g) of this section. A physician assistant  
41 with an inactive license shall not practice medical acts, tasks, or functions. The Board  
42 shall retain jurisdiction over the holder of the inactive license."

43 **SECTION 22.** G.S. 90-21 is repealed.

44 **SECTION 23.** This act is effective when it becomes law.