

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 228*

Short Title: Modernize Laws Pertaining to NC Medical Board.-AB (Public)

Sponsors: Representative Murphy.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Judiciary, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

March 4, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE LAWS PERTAINING TO THE NORTH CAROLINA MEDICAL
3 BOARD AND THE PRACTICE OF MEDICINE.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. PRACTICE OF MEDICINE**

7 **SECTION 1.** G.S. 90-1.1 reads as rewritten:

8 "**§ 90-1.1. Definitions.**

9 The following definitions apply in this Article:

10 ...

11 (4) License. – An authorization issued by the Board to a ~~physician or physician,~~
12 ~~physician assistant–assistant, or anesthesiologist assistant to practice–perform~~
13 medical acts, tasks, or functions.

14 (4a) Licensee. – Any person issued a license by the Board, whether the license is
15 active or inactive, including an inactive license by means of surrender.

16 (4b) Inactive license. – A license that no longer grants the authorization to perform
17 medical acts, tasks, or functions. A license can become inactive upon a
18 licensee's request, a licensee's failure to annually register, a licensee's
19 voluntary surrender, or based on any disciplinary order issued by the Board.

20 (4c) Modality. – A method of medical treatment.

21 (5) The practice of medicine or surgery. – Except as otherwise provided by this
22 subdivision, the practice of medicine or surgery, for purposes of this Article,
23 includes any of the following acts:

24 ...

25 d. Offering or undertaking to perform any surgical ~~operation–procedure~~
26 on any individual.

27"

28 **SECTION 2.(a)** G.S. 90-2 reads as rewritten:

29 "**§ 90-2. Medical Board.**

30 (a) There is established the North Carolina Medical Board to regulate the practice of
31 medicine and surgery for the benefit and protection of the people of North Carolina. The Board
32 shall consist of 13 members:

33 ...

34 (2) Five members shall all be appointed by the Governor as follows:



* H 2 2 8 - V - 1 *

1 The North Carolina Medical Board shall assemble ~~once in every year in the City of Raleigh,~~
2 ~~and shall remain in session from day to day until all applicants who may present themselves for~~
3 ~~examination within the first two days of this meeting have been examined and disposed of; other~~
4 ~~meetings in each year may be held at some suitable point in the State if deemed advisable.~~ meet
5 at least once quarterly within the State of North Carolina and may hold any other meetings
6 necessary to conduct the business of the Board."

7 **SECTION 5.** G.S. 90-5.1(a) reads as rewritten:

8 "(a) The Board ~~shall~~ shall have the following powers and duties:

9 ...

10 (8) Develop and implement methods to identify dyscompetent ~~physicians~~
11 licensees and ~~physicians~~ licensees who fail to meet acceptable standards of
12 care.

13 (9) Develop and implement methods to assess and improve ~~physician~~ licensee
14 practice.

15"

16 **SECTION 6.** G.S. 90-5.2(a) reads as rewritten:

17 "(a) The Board shall require all ~~physicians and physician assistants~~ licensees to report to
18 the Board certain information, including, but not limited to, the following:

19 (1) The names of any schools of medicine or osteopathy attended and the year of
20 graduation.

21 (2) Any graduate medical or osteopathic ~~education at any institution approved by~~
22 ~~the Accreditation Council of Graduate Medical Education, the Committee for~~
23 ~~the Accreditation of Canadian Medical Schools, the American Osteopathic~~
24 ~~Association, or the Royal College of Physicians and Surgeons of~~
25 ~~Canada.~~ education.

26"

27 **SECTION 7.** G.S. 90-5.3 reads as rewritten:

28 "**§ 90-5.3. Reporting and publication of medical judgments, awards, payments, and**
29 **settlements.**

30 (a) All ~~physicians and physician assistants licensed or applying for licensure by the Board~~
31 applicants and licensees shall report the following to the Board:

32 (1) All medical malpractice judgments or awards affecting or involving the
33 ~~physician or physician assistant~~ applicant or licensee.

34 (2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or
35 more related to an incident of alleged medical malpractice affecting or
36 involving the ~~physician or physician assistant~~ applicant or licensee where the
37 settlement occurred on or after May 1, 2008.

38 (3) All settlements in the aggregate amount of seventy-five thousand dollars
39 (\$75,000) or more related to any one incident of alleged medical malpractice
40 affecting or involving the ~~physician or physician assistant~~ applicant or
41 licensee not already reported pursuant to subdivision (2) of this subsection
42 where, instead of a single payment of seventy-five thousand dollars (\$75,000)
43 or more occurring on or after May 1, 2008, there is a series of payments made
44 to the same claimant which, in the aggregate, equal or exceed seventy-five
45 thousand dollars (\$75,000).

46 (b) The report required under subsection (a) of this section shall contain the following
47 information:

48 (1) The date of the judgment, award, payment, or settlement.

49 (2) The specialty in which the ~~physician or physician assistant~~ applicant or
50 licensee was practicing at the time the incident occurred that resulted in the
51 judgment, award, payment, or settlement.

- 1 (3) The city, state, and country in which the incident occurred that resulted in the
2 judgment, award, payment, or settlement.
3 (4) The date the incident occurred that resulted in the judgment, award, payment,
4 or settlement.

5 (c) The Board shall publish on the Board's Web site or other publication information
6 collected under this section. The Board shall publish this information for seven years from the
7 date of the judgment, award, payment, or settlement. The Board shall not release or publish
8 individually identifiable numeric values of the reported judgment, award, payment, or settlement.
9 The Board shall not release or publish the identity of the patient associated with the judgment,
10 award, payment, or settlement. The Board shall allow the ~~physician or physician assistant~~
11 applicant or licensee to publish a statement explaining the circumstances that led to the judgment,
12 award, payment, or settlement, and whether the case is under appeal. The Board shall ensure
13 these statements:

- 14 (1) Conform to the ethics of the medical profession.
15 (2) Not contain individually identifiable numeric values of the judgment, award,
16 payment, or settlement.
17 (3) Not contain information that would disclose the patient's identity.

18 (d) The term "settlement" for the purpose of this section includes a payment made from
19 personal funds, a payment by a third party on behalf of the ~~physician or physician assistant,~~
20 applicant or licensee, or a payment from any other source of funds.

21 (e) Nothing in this section shall limit the Board from collecting information needed to
22 administer this Article."

23 **SECTION 8.** Article 1 of Chapter 90 of the General Statutes is amended by adding
24 a new section to read:

25 **"§ 90-5.4. Duty to report.**

26 (a) Every licensee has a duty to report in writing to the Board within 30 days any incidents
27 that licensee reasonably believes to have occurred involving any of the following:

- 28 (1) Sexual misconduct of any person licensed by the Board under this Article with
29 a patient. Patient consent or initiation of acts or contact by a patient shall not
30 constitute affirmative defenses to sexual misconduct. For purposes of this
31 section, the term "sexual misconduct" means vaginal intercourse, or any
32 sexual act or sexual contact or touching as described in G.S. 14-27.20. Sexual
33 misconduct shall not include any act or contact that is for an accepted medical
34 purpose.
- 35 (2) Fraudulent prescribing, drug diversion, misuse, or theft of any controlled
36 substances by another person licensed by the Board under this Article. For
37 purposes of this section, "drug diversion" means transferring controlled
38 substances or prescriptions for controlled substances to (i) the licensee for
39 personal use; (ii) a licensee's immediate family member; (iii) any other person
40 living in the same residence as the licensee; (iv) any person with whom the
41 licensee is having a sexual relationship; or (v) any individual unless for a
42 legitimate medical purpose by an individual practitioner acting in the usual
43 course of his professional practice. For the purposes of this section, the term
44 "immediate family member" means a spouse, parent, child, sibling, and any
45 step-family member or in-law coextensive with the preceding identified
46 relatives.

47 (b) For persons issued a license to practice by the Board under this Article, failure to
48 report under this section shall constitute unprofessional conduct and shall be grounds for
49 discipline under G.S. 90-14(a)(6).

1 (c) Any person who reports under this section in good faith and without fraud or malice
 2 shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall
 3 constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-14(a)(6).

4 (d) The Board may adopt rules to implement this section."

5 **SECTION 9.** G.S. 90-7 is repealed.

6 **SECTION 10.** G.S. 90-8.1 is amended by adding a new subsection to read:

7 "(c) By submitting an application for licensure, the applicant submits to the jurisdiction of
 8 the Board."

9 **SECTION 11.** G.S. 90-9.1(a) reads as rewritten:

10 "(a) Except as provided in G.S. 90-9.2, to be eligible for licensure as a physician under
 11 this Article, an applicant shall submit proof satisfactory to the Board that the ~~applicant~~applicant
 12 meets all of the following criteria:

13 (1) ~~Has~~The applicant has passed each part of an examination described in
 14 ~~G.S. 90-10.1;~~G.S. 90-10.1.

15 (2) ~~Is a graduate of:~~The applicant has completed at least 130 weeks of medical
 16 education and satisfies any of the following:

17 a. ~~A~~The applicant is a graduate of a medical college approved by the
 18 Liaison Commission on Medical Education, the Committee for the
 19 Accreditation of Canadian Medical Schools, or an osteopathic college
 20 approved by the American Osteopathic Association and has
 21 successfully completed one year of training in a medical education
 22 program approved by the Board after graduation from medical school;
 23 or

24 b. ~~A~~The applicant is a graduate of a medical college approved or
 25 accredited by the Liaison Commission~~Committee~~ on Medical
 26 Education, the Committee for the~~on~~ Accreditation of Canadian
 27 Medical Schools, or an osteopathic college approved by the American
 28 Osteopathic Association, is a dentist licensed to practice dentistry
 29 under Article 2 of Chapter 90 of the General Statutes, and has been
 30 certified by the American Board of Oral and Maxillofacial Surgery
 31 after having completed a residency in an Oral and Maxillofacial
 32 Surgery Residency program approved by the Board before completion
 33 of medical school;~~and school.~~

34 c. The applicant provides proof of current certification by a specialty
 35 board recognized by the American Board of Medical Specialties,
 36 Certificant of the College of Family Physicians, Fellowship of the
 37 Royal College of Physicians of Canada, Fellowship of the Royal
 38 College of Surgeons of Canada, American Osteopathic Association,
 39 the American Board of Oral and Maxillofacial Surgery, or any other
 40 specialty board the Board recognizes pursuant to rules.

41 (3) ~~Is~~The applicant is of good moral character."

42 **SECTION 12.** G.S. 90-9.2 reads as rewritten:

43 **"§ 90-9.2. Requirements for graduates of ~~foreign~~international medical schools.**

44 (a) To be eligible for licensure under this section, an applicant who is a graduate of a
 45 medical school not approved by the Liaison Commission on Medical Education, the Committee
 46 for the Accreditation of Canadian Medical Schools, or the American Osteopathic Association
 47 shall submit proof satisfactory to the Board that the ~~applicant~~applicant has met all of the
 48 following:

49 (1) ~~Has successfully~~The applicant has successfully completed three~~two~~ years of
 50 training in a medical education program approved by the Board after
 51 graduation from medical school;~~school,~~ or provides proof of current

1 certification by a specialty board recognized by the American Board of
 2 Medical Specialties, Certificant of the College of Family Physicians,
 3 Fellowship of the Royal College of Physicians of Canada, Fellowship of the
 4 Royal College of Surgeons of Canada, American Osteopathic Association, the
 5 American Board of Oral and Maxillofacial Surgery, or any specialty board the
 6 Board recognizes pursuant to rules.

7 (2) ~~Is of good~~ The applicant has good moral character;~~character.~~

8 (3) ~~Has a~~ The applicant has a currently valid standard certificate of Educational
 9 Commission for Foreign Medical Graduates (ECFMG); and Graduates.

10 (4) ~~Is able~~ The applicant has the ability to communicate in English.

11 (5) The applicant has successfully passed each part of an examination described
 12 in G.S. 90-10.1.

13"

14 **SECTION 13.** G.S. 90-9.3 reads as rewritten:

15 **"§ 90-9.3. Requirements for licensure as a physician assistant.**

16 (a) To be eligible for licensure as a physician assistant, an applicant shall submit proof
 17 satisfactory to the Board that the ~~applicant;~~ applicant has met all of the following:

18 (1) ~~Has successfully~~ The applicant has successfully completed an educational
 19 program for physician assistants or surgeon assistants accredited by the
 20 Committee on Allied Health Education and Accreditation Accreditation
 21 Review Commission on Education for the Physician Assistant or by the
 22 Committee's its predecessor or successor entities;~~entities.~~

23 (2) ~~Holds or previously held a certificate~~ The applicant has a current or previous
 24 certification issued by the National Commission on Certification of Physician
 25 Assistants; and Assistants or its successor.

26 (3) ~~Is~~ The applicant is of good moral character.

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

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

33 **SECTION 14.** G.S. 90-9.4 reads as rewritten:

34 **"§ 90-9.4. Requirements for licensure as an anesthesiologist assistant.**

35 Every applicant for licensure as an anesthesiologist assistant in the State shall meet the
 36 following criteria:

37 ...

38 (3) Submit to the Board proof of current certification from the National
 39 Commission of Certification of Anesthesiologist Assistants (NCCAA) or its
 40 successor ~~organization, including passage of a certification examination~~
 41 ~~administered by the NCCAA.~~ organization. The applicant shall take the
 42 certification exam within 12 months after completing training.

43 (4) Meet any additional qualifications for licensure pursuant to rules adopted by
 44 the Board."

45 **SECTION 15.** Article 1 of Chapter 90 of the General Statutes is amended by adding
 46 a new section to read:

47 **"§ 90-9.5. Inactive Licenses.**

48 The Board retains jurisdiction over an inactive license, regardless of how it became inactive,
 49 including a request for inactivation, surrender of a license, or by operation of an order entered by
 50 the Board. The Board's jurisdiction over the licensee extends for all matters, known and unknown
 51 to the Board, at the time of the inactivation or surrender of the license."

1 **SECTION 16.** G.S. 90-10.1(1) is repealed.

2 **SECTION 17.** G.S. 90-11(b) reads as rewritten:

3 "(b) The Department of Public Safety may provide a criminal record check to the Board
4 for a person who has applied for a license through the Board. The Board shall provide to the
5 Department of Public Safety, along with the request, the fingerprints of the applicant, any
6 additional information required by the Department of Public Safety, and a form signed by the
7 applicant consenting to the check of the criminal record and to the use of the fingerprints and
8 other identifying information required by the State or national repositories. The applicant's
9 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's
10 criminal history record file, and the State Bureau of Investigation shall forward a set of the
11 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The
12 Board shall keep all information pursuant to this subsection privileged, in accordance with
13 applicable State law and federal guidelines, and the information shall be confidential and shall
14 not be a public record under Chapter 132 of the General Statutes.

15 The Department of Public Safety may charge each applicant a fee for conducting the checks
16 of criminal history records authorized by this subsection. The Board has the authority to collect
17 this fee from each applicant and remit it to the Department of Public Safety."

18 **SECTION 18.** G.S. 90-12.01 reads as rewritten:

19 "**§ 90-12.01. Limited license to practice in a medical education and training program.**

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

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

26 (c) The program director of every graduate medical education program shall report to the
27 Board the following actions involving a physician participating in a graduate medical education
28 training program within 30 days of the date that the action takes effect:

29 (1) Any adverse action, including but not limited to, revocation, suspension,
30 termination, nonrenewal, non-promotion, dismissal, or leave of absence not in
31 good standing of a physician from a graduate medical education training
32 program.

33 (2) A resignation from a graduate medical education training program, including,
34 but not limited to, the completion of a medical residency, internship, or
35 fellowship, leaves of absence in good standing, and transfers to other graduate
36 medical programs."

37 **SECTION 19.** G.S. 90-12.1A reads as rewritten:

38 "**§ 90-12.1A. Limited volunteer license.**

39 (a) The Board may issue a "limited volunteer license" to an applicant ~~who~~who does all
40 of the following:

41 (1) Has a license to practice medicine and surgery in another ~~state;~~and state.

42 (2) Produces a ~~letter~~verification from the state of licensure indicating the
43 applicant's license is active and in good standing.

44 (3) Repealed by Session Laws 2011-355, s. 1, effective June 27, 2011.

45 ...

46 (e) The holder of a limited license under this section may practice medicine and surgery
47 only ~~at~~in association with clinics that specialize in the treatment of indigent patients. The holder
48 of the limited license may not receive compensation for services rendered at clinics specializing
49 in the care of indigent patients.

50 ...

1 (f) The holder of a limited license issued pursuant to this section who practices medicine
2 or surgery ~~at places other than~~ outside of an association with clinics that specialize in the
3 treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction,
4 shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not
5 more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may
6 revoke the limited license after due notice is given to the holder of the limited license.

7"

8 **SECTION 20.** G.S. 90-12.1B reads as rewritten:

9 **"§ 90-12.1B. Retired limited volunteer license.**

10 ...

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

15 ...

16 (e) The holder of a limited license issued pursuant to this section who practices medicine
17 or surgery ~~at places other than~~ outside of an association with clinics that specialize in the
18 treatment of indigent patients shall be guilty of a Class 3 misdemeanor and, upon conviction,
19 shall be fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not
20 more than five hundred dollars (\$500.00) for each offense. The Board, in its discretion, may
21 revoke the limited license after due notice is given to the holder of the limited license.

22"

23 **SECTION 21.** G.S. 90-12.2A reads as rewritten:

24 **"§ 90-12.2A. Special purpose license.**

25 (a) The Board may issue a special purpose license to practice medicine to an applicant
26 ~~who;~~ who does all of the following:

- 27 (1) Holds a full and unrestricted license to practice in at least one other
28 ~~jurisdiction; and~~ jurisdiction.
29 (2) Does not have any current or pending disciplinary or other action against him
30 or her by any medical licensing agency in any state or other jurisdiction.

31 (b) The holder of the special purpose license practicing medicine or surgery beyond the
32 limitations of the license shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be
33 fined ~~not less than twenty five dollars (\$25.00) nor more than fifty dollars (\$50.00)~~ not more than
34 five hundred dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the
35 special license after due notice is given to the holder of the special purpose license.

36"

37 **SECTION 22.** G.S. 90-12.3 reads as rewritten:

38 **"§ 90-12.3. Medical school faculty license.**

39 (a) The Board may issue a medical school faculty license to practice medicine and
40 surgery to a physician ~~who;~~ who has met all of the following:

- 41 (1) ~~Holds~~ The applicant holds a full-time faculty appointment as either a ~~an~~ an
42 instructor, lecturer, assistant professor, associate professor, or full professor at
43 one of the following medical schools: a North Carolina medical school that is
44 certified by the Liaison Committee on Medical Education or the Commission
45 of Osteopathic College Accreditation of the American Osteopathic
46 Association.
47 a. ~~Duke University School of Medicine;~~
48 b. ~~The University of North Carolina at Chapel Hill School of Medicine;~~
49 c. ~~Wake Forest University School of Medicine; or~~
50 d. ~~East Carolina University School of Medicine; and~~

1 discretion, may revoke the limited license after due notice is given to the holder of the limited
2 license.

3"

4 **SECTION 25.** G.S. 90-13.1 reads as rewritten:

5 **"§ 90-13.1. License fees.**

6 (a) Each applicant for a license to practice medicine and surgery in this State under either
7 G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of
8 four hundred dollars (\$400.00).

9 (b) Each applicant for a limited license to practice in a medical education and training
10 program under G.S. 90-12.01 shall pay to the Board a fee of one hundred dollars (\$100.00).

11 (c) An applicant for a limited volunteer license under G.S. 90-12.1A or G.S. 90-12.1B
12 shall not pay a fee.

13 (d) A fee of ~~twenty-five dollars (\$25.00)~~ seventy-five dollars (\$75.00) shall be paid for
14 the issuance of a duplicate license.

15 (e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in
16 a fund for the use of the Board.

17 (f) For the initial ~~and annual~~ licensure of an anesthesiologist assistant, the Board may
18 require the payment of a fee ~~not to exceed one hundred fifty dollars (\$150.00)~~, two hundred thirty
19 dollars (\$230.00).

20 (g) For the initial licensure of a physician assistant, the Board may require the payment
21 of two hundred thirty dollars (\$230.00)."

22 **SECTION 26.** G.S. 90-13.2 reads as rewritten:

23 **"§ 90-13.2. Registration every year with Board.**

24 (a) Every ~~person licensed to practice medicine by the North Carolina Medical Board~~
25 licensee shall register annually with the Board ~~within no later than 30 days of~~ after the person's
26 birthday.

27 (b) A person who registers with the Board shall report to the Board the person's name and
28 office and residence address and any other information required by the ~~Board, and Board.~~

29 (b1) Physicians shall pay an annual registration fee of two hundred fifty dollars (\$250.00),
30 except those who have a limited license to practice in a medical education and training program
31 approved by the Board for the purpose of education or training shall pay a registration fee of one
32 hundred twenty-five dollars (\$125.00), and those who have a retired limited volunteer license
33 pursuant to G.S. 90-12.1B or a limited volunteer license pursuant to G.S. 90-12.1A shall pay no
34 annual registration fee. However, licensees who have a limited license to practice for the purpose
35 of education and training under G.S. 90-12.01 shall not be required to pay more than one annual
36 registration fee for each year of training.

37 (b2) Physician assistants shall pay an annual registration of one hundred forty dollars
38 (\$140.00). A physician assistant who fails to register as required by this section shall pay an
39 additional fee of twenty-five dollars (\$25.00) to the Board.

40 (b3) Anesthesiologist assistants shall pay an annual registration of one hundred forty
41 dollars (\$140.00). An anesthesiologist assistant who fails to register as required by this section
42 shall pay an additional fee of twenty-five dollars (\$25.00) to the Board.

43 (c) Repealed by Session Laws 2016-117, s. 2(i), effective October 1, 2016.

44 (d) A ~~physician licensee~~ who is not actively engaged in the ~~practice of medicine~~
45 performance of medical acts, tasks, or functions in North Carolina and who does not wish to
46 register the license may direct the Board to place the license on inactive status.

47 (e) A physician who fails to register as required by this section shall pay an additional
48 fee of ~~fifty dollars (\$50.00)~~ seventy-five dollars (\$75.00) to the Board.

49 (e1) The license of any ~~physician licensee~~ who fails to register and who remains
50 unregistered for a period of 30 days after certified notice of the failure is automatically inactive.
51 The Board shall retain jurisdiction over the holder of the inactive license.

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

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

(h) The Board shall not deny a licensee's annual registration based solely on the licensee's failure to become board certified."

SECTION 27. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-13.2A. Fees for Professional Corporations.

(a) The Board shall charge and collect the following certification to practice medicine in North Carolina for each professional corporation practicing medicine pursuant to Chapters 55B and 57D of the General Statutes:

- (1) Initial corporate certificate..... \$200.00
- (2) Annual renewal of corporate certificate \$100.00
- (3) Reinstatement of corporate certificate \$100.00

(b) The Board shall charge a twenty-five dollar (\$25.00) late fee for the late renewal of a corporate certificate.

(c) The Board shall charge a twenty-five dollar (\$25.00) late fee for each year a corporate certificate was suspended or held inactive if a professional corporation applies for reinstatement of its corporate certificate.

(d) The Board shall charge a twenty-five dollar (\$25.00) fee for any other administrative filing, including amendments to articles of incorporation, name changes, shareholder or membership information changes, articles of conversion, letters of non-objection, or articles of merger."

SECTION 28. G.S. 90-13.3 reads as rewritten:

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

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

(b) The per diem compensation of Board members shall not exceed ~~two~~ three hundred dollars ~~(\$200.00)~~ (\$300.00) per member for time spent in the performance and discharge of duties as a member. Any unexpended sum of money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office."

SECTION 29. G.S. 90-14 reads as rewritten:

"§ 90-14. Disciplinary Authority.

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

...

- (5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a ~~physician~~

~~licensed by it an applicant or licensee to submit to a mental or physical examination by physicians or physician assistants, or mental examinations by other licensed health care providers acting within the scope of their practice as allowed by law designated by the Board during the pendency of a license application and before or after charges may be presented against the physician, applicant or licensee, and the results of the examination shall be admissible in evidence in a hearing before the Board. Failure to comply with an order pursuant to this subsection may be considered unprofessional conduct as defined in 90-14(a)(6).~~

(6) Unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within or without North Carolina. ~~The Board shall not revoke the license of or deny a license to a person, or discipline a licensee in any manner, solely because of that person's practice of a therapy that is experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.~~

...
(11) Lack of professional competence to practice medicine with a reasonable degree of skill and safety for patients or failing to maintain acceptable standards of ~~one or more areas of professional physician practice care.~~ In this connection the Board may consider repeated acts of ~~a physician indicating the physician's~~ an applicant or licensee's failure to properly treat a patient. The Board may, upon reasonable grounds, require ~~a physician an applicant or licensee~~ to submit to inquiries or examinations, written or oral, as the Board deems necessary to determine the professional qualifications of ~~such that applicant or licensee.~~ Failure to comply with an order pursuant to this subsection may be considered unprofessional conduct as defined in G.S. 90-14(a)(6). In order to annul, suspend, deny, or revoke a license of an accused person, the Board shall find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered.

(11a) Not actively practiced ~~medicine or practiced as a physician assistant, as a licensee,~~ or having not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for an initial license from the Board or the filing of a request, petition, motion, or application to reactivate or reinstate an inactive, suspended, or revoked license previously issued by the Board. The Board is authorized to adopt any rules or regulations it deems necessary to carry out the provisions of this subdivision.

(12) Promotion of the sale of drugs, devices, appliances or goods for a patient, or providing services to a patient, in such a manner as to exploit the patient, and upon a finding of the exploitation, the Board may order the licensee pay restitution ~~be made~~ to the payer of the bill, whether the patient or the insurer, ~~by the physician;~~ provided that a determination of the amount of restitution shall be based on credible testimony in the record.

- 1 (13) ~~Having a license to practice medicine or the authority to practice medicine~~
 2 ~~revoked, suspended, restricted, or acted against or having a license to practice~~
 3 ~~medicine denied by the licensing authority of any jurisdiction.~~ jurisdiction,
 4 including Canada, United Kingdom, and Australia. For purposes of this
 5 subdivision, the licensing authority's acceptance of a license to practice
 6 ~~medicine~~ voluntarily relinquished by a ~~physician~~ licensee or relinquished by
 7 stipulation, consent order, or other settlement in response to or in anticipation
 8 of the filing of administrative charges against the ~~physician's license's~~
 9 license, or an inactivation or voluntary surrender of a license while under
 10 investigation is an action against a license to ~~practice medicine.~~ practice.
- 11 (14) The failure to comply with an order issued under this Article or the failure to
 12 respond, within a reasonable period of time and in a reasonable manner as
 13 determined by the Board, to inquiries from the Board concerning any matter
 14 affecting the license to practice medicine.
- 15 (15) The failure to complete an amount not to exceed 150 hours of continuing
 16 medical education during any three consecutive calendar years pursuant to
 17 rules adopted by the Board.
- 18 (16) A violation of any provision of this Article.
- 19 (17) Failure to make reports as required by this Article.

20 ~~The Board may, in its discretion and upon such terms and conditions and for such period of~~
 21 ~~time as it may prescribe, restore a license so revoked or otherwise acted upon, except that no~~
 22 ~~license that has been revoked shall be restored for a period of two years following the date of~~
 23 ~~revocation.~~

24 ...

25 (c) ~~A~~ Except as provided in subsection (c1) of this section, a felony conviction shall result
 26 in the automatic revocation of a license issued by the Board, unless the Board orders otherwise
 27 or receives a request for a hearing from the person within 60 days of receiving notice from the
 28 Board, after the conviction, of the provisions of this subsection. If the Board receives a timely
 29 request for a hearing in such a case, the provisions of G.S. 90-14.2 shall be followed.

30 (c1) A felony conviction under Article 7B of Chapter 14 of the General Statutes shall result
 31 in the automatic denial or revocation of a license issued by the Board, and that denial or
 32 revocation shall be permanent, and the applicant or licensee shall be ineligible for reapplication,
 33 relicensure, reinstatement, or restoration under subsection (c2) of this section.

34 (c2) Except as provided in subsection (c1) of this section, where the Board has exercised
 35 its authority pursuant to this section to revoke a license, the holder of the revoked license will
 36 not be eligible to make an application for reinstatement before two years from the effective date
 37 of the revocation.

38 ...

39 (g) Prior to taking action against any licensee for providing care not in accordance with
 40 the standards ~~of practice of care~~ for the procedures or treatments administered, the Board shall
 41 whenever practical consult with a licensee who routinely utilizes or is familiar with the same
 42 modalities and who has an understanding of the standards of practice for the modality
 43 administered. Information obtained as result of the consultation shall be available to the licensee
 44 at the informal nonpublic precharge conference.

45 ...

46 (i) At the time of first communication from the Board or agent of the Board to a licensee
 47 regarding a complaint or investigation, the Board shall provide notice in writing to the licensee
 48 that informs the licensee: (i) of the existence of any complaint or other information forming the
 49 basis for the initiation of an investigation; (ii) that the licensee may retain counsel; (iii) how the
 50 Board will communicate with the licensee regarding the investigation or disciplinary proceeding
 51 in accordance with subsections (m) and (n) of this ~~section;~~ section; (iv) that the licensee has

1 a duty to respond to inquiries from the Board concerning any matter affecting the license, and all
 2 information supplied to the Board and its staff will be considered by the Board in making a
 3 determination with regard to the matter under investigation; (v) that the Board will complete its
 4 investigation within six months or provide an explanation as to why it must be extended; and (vi)
 5 that if the Board makes a decision to initiate public disciplinary proceedings, the licensee may
 6 request in writing an informal nonpublic precharge conference.

7 (j) After the Board has made a nonpublic determination to initiate disciplinary
 8 proceedings, but before public charges have been issued, the licensee requesting so in writing,
 9 shall be entitled to an informal nonpublic precharge conference. At least five days prior to the
 10 informal nonpublic precharge conference, the Board will provide to the licensee the following:
 11 (i) all relevant information obtained during an investigation, including exculpatory evidence
 12 except for information that would identify an anonymous complainant; (ii) the substance of any
 13 written expert opinion that the Board relied upon, not including information that would identify
 14 an anonymous complainant or expert reviewer; (iii) notice that the licensee may retain counsel,
 15 and if the licensee retains counsel all communications from the Board or agent of the Board
 16 regarding the disciplinary proceeding will be made through the licensee's counsel; (iv) notice that
 17 if a Board member initiated the investigation then that Board member will not participate in the
 18 adjudication of the matter before the Board or hearing committee; (v) notice that the Board may
 19 use an administrative law judge or designate hearing officers to conduct hearings as a hearing
 20 committee to take evidence; (vi) notice that the hearing shall proceed in the manner prescribed
 21 in Article 3A of Chapter 150B of the General Statutes and as otherwise provided in this Article;
 22 and (vii) any Board member who serves as a hearing officer in this capacity shall not serve as
 23 part of the quorum that determines the final agency decision. The provisions of this section do
 24 not apply where the Board has exercised its authority under G.S. 150B-3(c) and issued an order
 25 of summary suspension.

26 (k) ~~Unless the conditions specified in G.S. 150B-3(e) exist, the Board shall not~~ When the
 27 Board has made a determination that the public health, safety, or welfare requires emergency
 28 action, the Board may seek to require of a licensee the taking of any action adversely impacting
 29 the licensee's medical practice or license without first giving notice of the proposed action, the
 30 basis for the proposed action, and information required under subsection (i) of this section.

31"

32 **SECTION 30.** G.S. 90-14.1 reads as rewritten:

33 "**§ 90-14.1. Judicial review of Board's decision denying issuance of a license.**

34 ~~Whenever the North Carolina Medical Board has determined that a person who has duly~~
 35 ~~made application to take an examination to be given by the Board showing his education, training~~
 36 ~~and other qualifications required by said Board, or that a person who has taken and passed an~~
 37 ~~examination given by the Board, has failed to satisfy the Board of his qualifications to be~~
 38 ~~examined or an applicant fails to satisfy the Board of the applicant's qualifications to be issued a~~
 39 ~~license, for any cause other than failure to pass an examination, the Board shall immediately~~
 40 ~~notify such person of its decision, and indicate in what respect the applicant has so failed to~~
 41 ~~satisfy the Board. Such applicant shall be given a formal hearing before the Board upon request~~
 42 ~~of such applicant filed with or mailed by registered mail to the secretary of the Board at Raleigh,~~
 43 ~~North Carolina, within 10 days after receipt of the Board's decision, stating the reasons for such~~
 44 ~~request. The Board shall within 20 days of receipt of such request notify such applicant of the~~
 45 ~~time and place of a public hearing, which shall be held within a reasonable time. The burden of~~
 46 ~~satisfying the Board of his the applicant's qualifications for licensure shall be upon the applicant.~~
 47 ~~Following such hearing, the Board shall determine whether the applicant is qualified to be~~
 48 ~~examined or is entitled to be licensed as the case may be. licensed. Any such decision of the~~
 49 ~~Board shall be subject to judicial review upon appeal to the Superior Court of Wake County~~
 50 superior court of the county where the Board is located upon the filing with the Board of a written
 51 notice of appeal with exceptions taken to the decision of the Board within 20 days after service

1 of notice of the Board's final decision. Within 30 days after receipt of notice of appeal, the
2 secretary of the Board shall certify to the clerk of the ~~Superior Court of Wake County~~ superior
3 court of the county where the Board is located the record of the case which shall include a copy
4 of the notice of hearing, a transcript of the testimony and evidence received at the hearing, a copy
5 of the decision of the Board, and a copy of the notice of appeal and exceptions. Upon appeal the
6 case shall be heard by the judge without a jury, upon the record, except that in cases of alleged
7 omissions or errors in the record, testimony may be taken by the court. The decision of the Board
8 shall be upheld unless the substantial rights of the applicant have been prejudiced because the
9 decision of the Board is in violation of law or is not supported by any evidence admissible under
10 this Article, or is arbitrary or capricious. ~~Each party to the review proceeding may appeal to the~~
11 ~~Supreme Court as hereinafter provided in G.S. 90-14.11."~~

12 **SECTION 31.** G.S. 90-14.2(a) reads as rewritten:

13 "(a) Before the Board shall take disciplinary action against any license granted by it, the
14 licensee shall be given a written notice indicating the charges made against the licensee, ~~which~~
15 ~~notice may be prepared by a committee or one or more members of the Board designated by the~~
16 ~~Board,~~ licensee and stating that the licensee will be given an opportunity to be heard concerning
17 the charges at a time and place stated in the notice, or at a time and place to be thereafter
18 designated by the Board, and the Board shall hold a public hearing not less than 30 days from the
19 date of the service of notice upon the licensee, at which the licensee may appear personally and
20 through counsel, may cross examine witnesses and present evidence in the licensee's own behalf.
21 A licensee who is mentally incompetent shall be represented at such hearing and shall be served
22 with notice as herein provided by and through a guardian ad litem appointed by the clerk of the
23 court of the county in which the licensee resides. The licensee may file written answers to the
24 charges within 30 days after the service of the notice, which answer shall become a part of the
25 record but shall not constitute evidence in the case."

26 **SECTION 32.** G.S. 90-14.5 reads as rewritten:

27 "**§ 90-14.5. Use of ~~hearing committee and depositions; recommended decisions;~~**
28 **appointment of hearing officers.**

29 ...

30 (a1) The Board may use an administrative law judge consistent with Article 3A of Chapter
31 150B of the General Statutes in lieu of a hearing committee so long as the Board has not solely
32 alleged that the licensee failed to meet an applicable standard of medical care. Notwithstanding
33 this subsection, the Board may use an administrative law judge consistent with Article 3A of
34 Chapter 150B of the General Statutes if the licensee is a current or former Board member.

35 (b) ~~Evidence and testimony may be presented at hearings before the Board or a hearing~~
36 ~~committee in the form of depositions before any person authorized to administer oaths in~~
37 ~~accordance with the procedure for the taking of depositions in civil actions in the superior court.~~
38 ..."

39 **SECTION 33.** G.S. 90-14.6 reads as rewritten:

40 "**§ 90-14.6. Evidence admissible.**

41 ...

42 (c1) Evidence and testimony may be presented at hearings before the Board or a hearing
43 committee in the form of depositions before any person authorized to administer oaths in
44 accordance with the procedure for the taking of depositions in civil actions in the superior court.

45 (d) When evidence is not reasonably available under the Rules of Civil Procedure and
46 Rules of Evidence to show relevant facts, then the most reliable and substantial evidence
47 available shall be admitted. At the discretion of the presiding officer of the hearing, the Board
48 may receive witness testimony at a hearing by means of telephone or videoconferencing."

49 **SECTION 34.** G.S. 90-14.8(b) reads as written:

50 "(b) A licensee against whom any public disciplinary sanction is imposed by the Board
51 may obtain a review of the decision of the Board in the ~~Superior Court of Wake County,~~ superior

1 court of the county where the Board is located or the county in which the licensee resides, upon
 2 filing with the secretary of the Board a written notice of appeal within 30 days after the date of
 3 the service of the decision of the Board, stating all exceptions taken to the decision of the Board
 4 and indicating the court in which the appeal is to be heard. The court shall schedule and hear the
 5 case within six months of the filing of the appeal."

6 **SECTION 35.** G.S. 90-14.13 reads as rewritten:

7 "**§ 90-14.13. Reports of disciplinary action by health care institutions; reports of**
 8 **professional liability insurance awards or settlements; immunity from liability.**

9 (a) The chief administrative officer of every licensed hospital or other health care
 10 institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5, preferred
 11 providers, as defined in G.S. 58-50-56, and all other provider organizations that issue credentials
 12 to ~~physicians who practice medicine in the State,~~ persons licensed under this Article shall, after
 13 consultation with the chief of staff of that institution, report to the Board the following actions
 14 involving a physician's privileges to practice in that institution within 30 days of the date that the
 15 action takes effect:

- 16 (1) A summary revocation, summary suspension, or summary limitation of
 17 privileges, regardless of whether the action has been finally determined.
- 18 (2) A revocation, suspension, or limitation of privileges that has been finally
 19 determined by the governing body of the institution.
- 20 (3) A resignation from practice or voluntary reduction of ~~privileges-privileges~~
 21 while under investigation or threat of investigation.
- 22 (4) Any action reportable pursuant to Title IV of P.L. 99-660, the Health Care
 23 Quality Improvement Act of 1986, as amended, not otherwise reportable
 24 under subdivisions (1), (2), or (3) of this subsection.

25 (a1) A hospital is not required to ~~report; report~~ any of the following:

- 26 (1) The suspension or limitation of a ~~physician's-licensure's~~ physician's-licensure's privileges for failure
 27 to timely complete medical records.
- 28 (2) A resignation from practice due solely to the ~~physician's-licensure's~~ physician's-licensure's completion
 29 of a medical residency, internship, or fellowship.

30 The Board is authorized to adopt rules limiting the reporting requirements of subsection (a)
 31 of this section.

32 ...

33 (b) Any ~~licensed physician-licensure~~ licensed physician-licensure who does not possess professional liability ~~insurance~~
 34 insurance, or possess professional liability insurance from entities not owned and operated within
 35 this State, shall report to the Board any award of damages or any settlement of any malpractice
 36 complaint affecting his or her practice within 30 days of the award or settlement.

37 (c) The chief administrative officer of each insurance company providing professional
 38 liability insurance for ~~physicians who practice medicine in North Carolina,~~ persons licensed
 39 under this Article, the administrative officer of the Liability Insurance Trust Fund Council created
 40 by G.S. 116-220, and the administrative officer of any trust fund or other fund operated or
 41 administered by a hospital authority, group, or provider shall report to the Board within 30 days
 42 any of the following:

- 43 (1) Any award of damages or settlement of any claim or lawsuit affecting or
 44 involving a ~~person licensed under this Article-licensure~~ person licensed under this Article-licensure that it insures.
- 45 (2) Any cancellation or nonrenewal of its professional liability coverage of a
 46 ~~physician, licensee,~~ physician, licensee, if the cancellation or nonrenewal was for cause.
- 47 (3) A malpractice payment that is reportable pursuant to Title IV of P.L. 99-660,
 48 the Health Care Quality Improvement Act of 1986, as amended, not otherwise
 49 reportable under subdivision (1) or (2) of this subsection.

50 For the purposes of this subsection, a "claim" means an oral or written request for
 51 compensation made by a patient or a patient's representative, or an offer of compensation to a

1 patient or a patient's representative, based on a belief that the patient was injured due to care
2 affecting or involving a licensee. The Board shall determine whether the patient's care affected
3 or involved a licensee under this Article.

4"

5 **SECTION 36.** G.S. 90-16 reads as rewritten:

6 "**§ 90-16. Self-reporting requirements; confidentiality of Board investigative information;**
7 **cooperation with law enforcement; patient protection; Board to keep public**
8 **records.**

9 (a) The North Carolina Medical Board shall keep a regular record of its proceedings with
10 the names of the members of the Board present, ~~the names of the applicants for license,~~ and other
11 information as to its actions. The North Carolina Medical Board shall publish the names of those
12 licensed within 30 days after granting the license.

13 ...

14 (c) All records, papers, investigative files, investigative reports, other investigative
15 information and other documents containing information in the possession of or received or
16 gathered by the Board, or its members or employees or consultants as a result of investigations,
17 inquiries, assessments, or interviews conducted in connection with a licensing, complaint,
18 assessment, potential impairment matter, disciplinary matter, or report of professional liability
19 insurance awards or settlements pursuant to G.S. 90-14.13, shall not be considered public records
20 within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, and
21 not subject to discovery, subpoena, or other means of legal compulsion for release to any person
22 other than the Board, its employees or consultants involved in the application for license,
23 impairment assessment, or discipline of a license holder, except as provided in ~~subsections (d)~~
24 ~~and subsection~~ (e1) of this section. For purposes of this subsection, investigative information
25 includes information relating to the identity of, and a report made by, a physician or other person
26 performing an expert review for the Board and transcripts of any deposition taken by Board
27 counsel in preparation for or anticipation of a hearing held pursuant to this Article but not
28 admitted into evidence at the hearing.

29 (d) Repealed by Session Laws 2016-117, s. 2(o), effective October 1, 2016.

30 (e) Information furnished to a licensee or applicant, or counsel for a licensee or applicant,
31 under ~~subsection (d) of this section~~ G.S. 90-14(j) shall be subject to discovery or subpoena
32 between and among the parties in a civil case in which the licensee is a party.

33 ...

34 (k) The Board, its members and staff, may release confidential or nonpublic information
35 to any health care licensure board in this State or another state or ~~authorized Department of Health~~
36 ~~and Human Services personnel with enforcement or investigative responsibilities about the~~
37 ~~issuance, denial, annulment, suspension, or revocation of a license, or the voluntary surrender of~~
38 ~~a license by a licensee of the Board, including the reasons for the action, or an investigative report~~
39 ~~made by the Board.~~ any state or federal agency with investigative or enforcement responsibilities
40 about any investigation conducted or any action taken by the Board. For the purposes of this
41 section, the state or federal agencies receiving the information may not delegate their
42 responsibilities to a nongovernmental organization. The Board shall notify the licensee within 60
43 days after the information is transmitted. A summary of the information that is being transmitted
44 shall be furnished to the licensee. If the licensee requests in writing within 30 days after being
45 notified that the information has been transmitted, the licensee shall be furnished a copy of all
46 information so transmitted. The notice or copies of the information shall not be provided if the
47 information relates to an ongoing criminal investigation by any law enforcement agency or
48 authorized Department of Health and Human Services personnel with enforcement or
49 investigative responsibilities."

50 **SECTION 37.** G.S. 90-18(c) reads as rewritten:

1 "(c) The following shall not constitute practicing medicine or surgery as defined in this
2 Article:

3 ...

4 (9) ~~The practice of osteopathy by any legally licensed osteopath when engaged in
5 the practice of osteopathy as defined by law, and especially G.S. 90-129.~~

6 ...

7 (12) Any person practicing radiology as hereinafter defined shall be deemed to be
8 engaged in the practice of medicine within the meaning of this Article.
9 "Radiology" ~~shall be defined as, that method of medical practice in which
10 demonstration and examination of the normal and abnormal structures, parts
11 or functions of the human body are made by use of X ray. Any person shall
12 be regarded as engaged in the practice of radiology who makes or offers to
13 make, for a consideration, a demonstration or examination of a human being
14 or a part or parts of a human body by means of fluoroscopic exhibition or by
15 the shadow imagery registered with photographic materials and the use of X
16 rays; or holds himself out to diagnose or able to make or makes any
17 interpretation or explanation by word of mouth, writing or otherwise of the
18 meaning of such fluoroscopic or registered shadow imagery of any part of the
19 human body by use of X rays; or who treats any disease or condition of the
20 human body by the application of X rays or radium. Nothing in this
21 subdivision shall prevent the practice of radiology by any person licensed
22 under the provisions of Articles 2, 7, 8, and 12A of this Chapter. "Radiology"
23 is a specialty branch of the practice of medicine in which illness or disease is
24 diagnosed or treated using various techniques or modalities, including radiant
25 energy or ionizing radiation, and ultrasound and magnetic resonance. The
26 education and training for the practice of radiology includes extensive study
27 in the physics of radiant energy and medical imaging, radiation protection,
28 and the application of ionizing radiation in the diagnosis and treatment of
29 disease.~~

30 ...

31 (18) The practice of medicine by any nonregistered physician residing in another
32 state or foreign country who is contacted by one of the physician's regular
33 patients for treatment by use of ~~the Internet or a toll free telephone number~~
34 any method of communication while the physician's patient is temporarily in
35 this State.

36"

37 **SECTION 38.** G.S. 90-18.1 reads as rewritten:

38 **"§ 90-18.1. Limitations on physician assistants.**

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

43 (b) Physician assistants are authorized to write prescriptions for drugs under the
44 following conditions:

45 ...

46 (3) ~~The North Carolina Medical Board has assigned an identification number to
47 the physician assistant which is shown on the written prescription.~~

48 ...

49 (d) Physician assistants are authorized to order medications, tests and treatments in
50 hospitals, clinics, nursing homes, and other health facilities under the following conditions:

51 ...

(4) The hospital or other health facility has adopted a written ~~policy, approved by the medical staff after consultation with the nursing administration,~~ policy about ordering medications, tests, and treatments, including procedures for verification of the physician assistants' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

...

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

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

...."

SECTION 39. G.S. 90-18.2 reads as rewritten:

"§ 90-18.2. Limitations on nurse practitioners.

(a) Any nurse approved under the provisions of ~~G.S. 90-18(14)~~ G.S. 90-18(c)(14) to perform medical acts, tasks or functions may use the title "nurse practitioner." Any other person who uses the title in any form or holds out to be a nurse practitioner or to be so approved, shall be deemed to be in violation of this Article.

(b) Nurse practitioners are authorized to write prescriptions for drugs under all of the following conditions:

- (1) The North Carolina Medical Board and Board of Nursing have adopted regulations developed by a joint subcommittee governing the approval of individual nurse practitioners to write prescriptions with such limitations as the boards may determine to be in the best interest of patient health and ~~safety;~~ safety.
- (2) The nurse practitioner has current approval from the ~~boards;~~ boards.
- ~~(3) The North Carolina Medical Board has assigned an identification number to the nurse practitioner which is shown on the written prescription; and~~
- (4) The supervising physician has provided to the nurse practitioner written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.
- (5) A nurse practitioner shall personally consult with the supervising physician prior to prescribing a targeted controlled substance as defined in Article 5 of this Chapter when all of the following conditions apply:
 - a. The patient is being treated by a facility that primarily engages in the treatment of pain by prescribing narcotic medications or advertises in any medium for any type of pain management services.
 - b. The therapeutic use of the targeted controlled substance will or is expected to exceed a period of 30 days.

When a targeted controlled substance prescribed in accordance with this subdivision is continuously prescribed to the same patient, the nurse practitioner shall consult with the supervising physician at least once every 90 days to verify that the prescription remains medically appropriate for the patient.

(c) Nurse practitioners are authorized to compound and dispense drugs under the following conditions:

- (1) The function is performed under the supervision of a licensed pharmacist; and
- (2) Rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.

- 1 (d) Nurse practitioners are authorized to order medications, tests and treatments in
 2 hospitals, clinics, nursing homes and other health facilities under all of the following conditions:
 3 (1) The North Carolina Medical Board and Board of Nursing have adopted
 4 regulations developed by a joint subcommittee governing the approval of
 5 individual nurse practitioners to order medications, tests and treatments with
 6 such limitations as the boards may determine to be in the best interest of
 7 patient health and ~~safety~~; safety.
 8 (2) The nurse practitioner has current approval from the ~~boards~~; boards.
 9 (3) The supervising physician has provided to the nurse practitioner written
 10 instructions about ordering medications, tests and treatments, and when
 11 appropriate, specific oral or written instructions for an individual patient, with
 12 provision for review by the physician of the order within a reasonable time, as
 13 determined by the Board, after the medication, test or treatment is ~~ordered~~;
 14 and ordered.
 15 (4) The hospital or other health facility has adopted a written policy, approved by
 16 the medical staff after consultation with the nursing administration, about
 17 ordering medications, tests and treatments, including procedures for
 18 verification of the nurse practitioners' orders by nurses and other facility
 19 employees and such other procedures as are in the interest of patient health
 20 and safety.

21"

22 **SECTION 40.** G.S. 90-18.3 reads as rewritten:

23 "**§ 90-18.3. Physical-Medical or physical examination by nurse practitioners and physician**
 24 **assistants.**

25 (a) Whenever a statute or State agency rule requires that a medical or physical
 26 examination shall be conducted by a physician, the examination may be conducted and the form
 27 signed by a nurse practitioner or a ~~physician's-physician~~ assistant, and a physician need not be
 28 present. Nothing in this section shall otherwise change the scope of practice of a nurse
 29 practitioner or a ~~physician's-physician~~ assistant, as defined by G.S. 90-18.1 and G.S. 90-18.2,
 30 respectively.

31"

32 **SECTION 41.** G.S. 90-18.7 is repealed.

33
 34 **PART II. PROFESSIONAL CORPORATION ACT.**

35 **SECTION 42.** G.S. 55B-14(c) reads as rewritten:

36 "(c) A professional corporation may also be formed by and between or among:

37 ...

- 38 (6) A physician practicing anesthesiology and any combination of a physician
 39 assistant, an anesthesiology assistant, or a certified nurse anesthetist to render
 40 anesthesia and related medical services that the respective stockholders are
 41 licensed, certified, or otherwise approved to provide.

42"

43
 44 **PART III. EMERGENCY MEDICAL SERVICES ACT.**

45 **SECTION 43.** G.S. 143-519(b) reads as rewritten:

46 "(b) The Emergency Medical Services Disciplinary Committee shall consist of seven
 47 members appointed by the Secretary of the Department of Health and Human Services to serve
 48 four-year terms. Two of the members shall be currently practicing local EMS physician medical
 49 directors. One member each shall be a current or former physician member of the North Carolina
 50 Medical Board, a current EMS administrator, a current EMS educator, and two currently

1 practicing and credentialed EMS personnel, one of whom shall be an emergency medical
2 technician-paramedic."
3

4 **PART IV. COMPETENCY OF WITNESSES.**

5 **SECTION 44.** G.S. 8-53 reads as rewritten:

6 "**§ 8-53. Communications between physician health care provider and patient.**

7 No person, duly authorized to practice ~~physic or surgery,~~ under Article 1 of Chapter 90 of the
8 General Statutes, shall be required to disclose any information which he may have acquired in
9 attending a patient in a professional character, and which information was necessary to enable
10 him to prescribe for such patient as a physician, or to do any act for him as a surgeon, and no
11 such information shall be considered public records under G.S. 132-1. Confidential information
12 obtained in medical records shall be furnished only on the authorization of the patient, or if
13 deceased, the executor, administrator, or, in the case of unadministered estates, the next of kin.
14 Any resident or presiding judge in the district, either at the trial or prior thereto, or the Industrial
15 Commission pursuant to law may, subject to G.S. 8-53.6, compel disclosure if in his opinion
16 disclosure is necessary to a proper administration of justice. If the case is in district court the
17 judge ~~shall~~ be a district court judge, and if the case is in superior court the judge shall be a
18 superior court judge."
19

20 **PART V. MEDICAL RECORDS.**

21 **SECTION 45.** G.S. 90-411 reads as rewritten:

22 "**§ 90-411. Record copy fee.**

23 A health care provider may charge a reasonable fee to cover the costs incurred in searching,
24 handling, copying, and mailing medical records to the patient or the patient's designated
25 representative. The maximum fee for each request shall be seventy-five cents (75¢) per page for
26 the first 25 pages, fifty cents (50¢) per page for pages 26 through 100, and twenty-five cents
27 (25¢) for each page in excess of 100 pages, provided that the health care provider may impose a
28 minimum fee of up to ten dollars (\$10.00), inclusive of copying costs. If requested by the patient
29 or the patient's designated representative, nothing herein shall limit a reasonable professional fee
30 charged by a physician for the review and preparation of a narrative summary of the patient's
31 medical record. ~~This section shall only apply with respect to liability claims for personal injury,~~
32 ~~and claims for social security disability, except that charges for medical records and reports~~
33 ~~related to claims under Article 1 of Chapter 97 of the General Statutes shall be governed by the~~
34 ~~fees established by the North Carolina Industrial Commission pursuant to G.S. 97-26.1.~~ This
35 section shall not apply to Department of Health and Human Services Disability Determination
36 Services requests for copies of medical records made on behalf of an applicant for Social Security
37 or Supplemental Security Income disability."
38

39 **PART VI. RAPE AND OTHER SEX OFFENSES.**

40 **SECTION 46.(a)** Article 7B of Chapter 14 of the General Statutes is amended by
41 adding a new section to read:

42 "**§ 14-27.33A. Sexual contact or penetration under pretext of medical treatment.**

43 (a) Definitions. – The following definitions apply in this section:

44 (1) Incapacitated. – A patient's incapability of appraising the nature of a medical
45 treatment, either because the patient is unconscious or under the influence of
46 an impairing substance, including but not limited to, alcohol, anesthetics,
47 controlled substances listed under Chapter 90 of the General Statutes, or any
48 other drug or psychoactive substance capable of impairing a person's physical
49 or mental faculties.

50 (2) Medical treatment. – Includes an examination or a procedure.

- 1 (3) Patient. – A person who has undergone or is seeking to undergo medical
 2 treatment.
- 3 (4) Sexual contact. – The intentional touching of a person's intimate parts or the
 4 intentional touching of the clothing covering the immediate area of the
 5 person's intimate parts, if that intentional touching can reasonably be
 6 construed as being for the purpose of sexual arousal or gratification, done for
 7 a sexual purpose, or done in a sexual manner.
- 8 (5) Sexual penetration. – Sexual intercourse, cunnilingus, fellatio, anal
 9 intercourse, or any other intrusion, however slight, of any part of a person's
 10 body or of any object into the genital or anal openings of another person's
 11 body, regardless of whether semen is emitted, if that intrusion can reasonably
 12 be construed as being for the purpose of sexual arousal or gratification, done
 13 for a sexual purpose, or done in a sexual manner.
- 14 (b) Offense; Penalty. – Unless the conduct is covered under some other provision of law
 15 providing greater punishment, a person who undertakes medical treatment of a patient is guilty
 16 of a Class C felony if the person does either of the following in the course of that medical
 17 treatment:
- 18 (1) Represents to the patient that sexual contact between the person and the
 19 patient is necessary or will be beneficial to the patient's health and induces the
 20 patient to engage in sexual contact with the person by means of the
 21 representation.
- 22 (2) Represents to the patient that sexual penetration between the person and the
 23 patient is necessary or will be beneficial to the patient's health and who
 24 induces the patient to engage in sexual penetration with the person by means
 25 of the representation.
- 26 (3) Engages in sexual contact with the patient while the patient is incapacitated.
- 27 (4) Engages in sexual penetration with the patient while the patient is
 28 incapacitated.
- 29 (c) This section does not prohibit a person from being charged with, convicted of, or
 30 punished for any other violation of law that is committed by that person while violating this
 31 section.
- 32 (d) The court may order a term of imprisonment imposed for a violation of this section
 33 to be served consecutively to a term of imprisonment imposed for any other crime, including any
 34 other violation of law arising out of the same transaction as the violation of this section."

35 **SECTION 46.(b)** This section becomes effective December 1, 2019, and applies to
 36 offenses committed on or after that date.

37

38 **PART VII. DEATH CERTIFICATES.**

39 **SECTION 47.** G.S. 130A-115 reads as rewritten:

40 **"§ 130A-115. Death registration.**

41 ...

42 (c) The medical certification shall be completed and signed by the physician in charge
 43 of the patient's care for the illness or condition which resulted in death, except when the death
 44 falls within the circumstances described in G.S. 130A-383. In the absence of the physician or
 45 with the physician's approval, the certificate may be completed and signed by an associate
 46 physician, a physician assistant in a manner consistent with G.S. 90-18.1(e1), a nurse practitioner
 47 in a manner consistent with G.S. 90-18.2(e1), the chief medical officer of the hospital or facility
 48 in which the death occurred or a physician who performed an autopsy upon the decedent under
 49 the following circumstances: the individual has access to the medical history of the deceased; the
 50 individual has viewed the deceased at or after death; and the death is due to natural causes. In the
 51 absence of a treating physician, physician assistant, or nurse practitioner in charge of the patient's

1 care at the time of death, chief medical officer of the hospital or facility in which the death
2 occurred, or a physician performing an autopsy, the death certificate may be completed by any
3 other physician, physician assistant, or nurse practitioner who undertakes reasonable efforts to
4 ascertain the events surrounding the patient's death. When specifically approved by the State
5 Registrar, an electronic signature or facsimile signature of the physician, physician assistant, or
6 nurse practitioner shall be acceptable. As used in this section, the term electronic signature has
7 the same meaning as applies in G.S. 66-58.2. The physician, physician assistant, or nurse
8 practitioner shall state the cause of death on the certificate in definite and precise terms. A
9 certificate containing any indefinite terms or denoting only symptoms of disease or conditions
10 resulting from disease as defined by the State Registrar, shall be returned to the person making
11 the medical certification for correction and more definite statement.

12 ...

13 (f) A physician, physician assistant, or nurse practitioner, who completes a death
14 certificate in good faith, and without fraud or malice, shall be immune from civil liability or
15 professional discipline."

16
17 **PART VIII. EFFECTIVE DATES.**

18 **SECTION 48.** Except as otherwise provided, this act becomes effective October 1,
19 2019.