

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1049  
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Committee Substitute Favorable 7/6/00

Short Title: Physician Licensure.

(Public)

Sponsors:

Referred to:

April 14, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE LAWS RELATED TO THE LICENSURE OF  
3 PHYSICIANS IN THIS STATE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 90-5 reads as rewritten:

6 **"§ 90-5. Meetings of Board.**

7 The North Carolina Medical Board shall assemble at least once in every year in the  
8 City of ~~Raleigh, and shall remain in session from day to day until all applicants who may~~  
9 ~~present themselves for examination within the first two days of this meeting have been~~  
10 ~~examined and disposed of, other Raleigh.~~ Other meetings in each year may be held at  
11 some suitable point in the State if deemed advisable."

12 Section 2. G.S. 90-9 reads as rewritten:

13 **"§ 90-9. Examination for license; scope; conditions and prerequisites.**

14 It is the duty of the North Carolina Medical Board to examine for license to practice  
15 medicine or surgery, or any of the branches thereof, ~~every applicant who complies with the~~  
16 ~~following provisions: the applicant shall, before admittance to examination, satisfy the Board of~~  
17 ~~possession of academic education equal to the entrance requirements of the University of North~~  
18 ~~Carolina, or furnish a certificate from the superintendent of public instruction of the county that~~

1 the applicant has passed an examination upon literary attainments to meet the requirements of  
2 entrance in the regular course of the State University. The applicant shall exhibit a diploma or  
3 furnish satisfactory proof of graduation from a medical college or an osteopathic college  
4 approved by the American Osteopathic Association at the time of graduation, dated from January  
5 1, 1960, to the present, and whose medical and osteopathic schools shall require an attendance of  
6 not less than four years or for a lesser period of time approved by the Board, and supply these  
7 facilities for clinical and scientific instruction as meet the approval of the Board. An applicant  
8 shall have graduated from a medical college approved by the Liaison Commission on Medical  
9 Education or osteopathic college that has been approved by the American Osteopathic  
10 Association; or, if graduated from any other medical or osteopathic college, the applicant shall be  
11 enrolled in a graduate medical education and training program in North Carolina that has been  
12 approved by the Board. An applicant who has graduated from a medical college not approved by  
13 the Liaison Commission on Medical Education or osteopathic college that has not been approved  
14 by the American Osteopathic Association and who has not enrolled in a graduate medical  
15 education and training program in North Carolina which has been approved by the Board shall  
16 satisfy the Board that the applicant has successfully completed three years of graduate medical  
17 education in a training program approved by the Board. applicants for a medical license who  
18 meet eligibility requirements as provided by Board rules. The Board may contract for the  
19 design of, application for, and administration of the licensing examination through the  
20 Federation of State Medical Boards of the U.S., Inc., its successor organization, or  
21 another organization approved by the Board. No applicant from a medical or osteopathic  
22 college that has been disapproved by the Board is eligible to take the examination.

23 The examination shall cover the branches of medical science and subjects which the  
24 Board considers necessary to determine competence to practice medicine. The Board may  
25 divide the examination into parts or components.

26 The Board shall grant the applicant a license authorizing the applicant to practice  
27 medicine in any of its branches if the Board determines that the applicant has successfully  
28 passed the examination, is of good moral character, satisfies the requirements of the  
29 Board's rules, and is: is one of the following:

- 30 (1) ~~a~~A graduate of a medical college approved by the Liaison Commission  
31 on Medical Education or an osteopathic college approved by the  
32 American Osteopathic Association and has successfully completed one  
33 year of training in a medical education program approved by the Board  
34 after graduation from medical ~~school;~~school.
- 35 (2) ~~a~~A graduate of a medical college approved by the Liaison Commission  
36 on Medical Education or an osteopathic college approved by the  
37 American Osteopathic Association, is a dentist licensed to practice  
38 dentistry under Article 2 of Chapter 90 of the General Statutes, and has  
39 been certified by the American Board of Oral and Maxillofacial Surgery  
40 after having completed a residency in an Oral and Maxillofacial Surgery  
41 Residency Program approved by the Board before completion of  
42 medical ~~school;~~or school.
- 43 (3) ~~a~~A graduate of a medical college that has not been approved by the  
44 Liaison Commission on Medical Education or an osteopathic college

1 that has not been approved by the American Osteopathic Association  
2 and has successfully completed three years of training in a medical  
3 education program approved by the Board after graduation from  
4 medical school.

5 ~~Applicants shall be examined by number only; names and other identifying~~  
6 ~~information shall not appear on examination papers."~~

7 Section 3. G.S. 90-14 reads as rewritten:

8 **"§ 90-14. Revocation, suspension, annulment or denial of license.**

9 (a) The Board shall have the power to deny, annul, suspend, or revoke a license, or  
10 other authority to practice medicine in this State, issued by the Board to any person who  
11 has been found by the Board to have committed any of the following acts or conduct, or  
12 for any of the following reasons:

13 (1) Immoral or dishonorable conduct.

14 (2) Producing or attempting to produce an abortion contrary to law.

15 (3) Made false statements or representations to the Board, or who has  
16 willfully concealed from the Board material information in connection  
17 with an application for a license.

18 (4) Repealed by Session Laws 1977, c. 838, s. 3.

19 (5) Being unable to practice medicine with reasonable skill and safety to  
20 patients by reason of illness, drunkenness, excessive use of alcohol,  
21 drugs, chemicals, or any other type of material or by reason of any  
22 physical or mental abnormality. The Board is empowered and  
23 authorized to require a physician licensed by it to submit to a mental or  
24 physical examination by physicians designated by the Board before or  
25 after charges may be presented against the physician, and the results of  
26 the examination shall be admissible in evidence in a hearing before the  
27 Board.

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

41 (7) Conviction in any court of a crime involving moral turpitude, or the  
42 violation of a law involving the practice of medicine, or a conviction of

- 1 a felony; provided that a felony conviction shall be treated as provided  
2 in subsection (c) of this section.
- 3 (8) By false representations has obtained or attempted to obtain practice,  
4 money or anything of value.
- 5 (9) Has advertised or publicly professed to treat human ailments under a  
6 system or school of treatment or practice other than that for which the  
7 physician has been educated.
- 8 (10) Adjudication of mental incompetency, which shall automatically  
9 suspend a license unless the Board orders otherwise.
- 10 (11) Lack of professional competence to practice medicine with a reasonable  
11 degree of skill and safety for patients. In this connection the Board may  
12 consider repeated acts of a physician indicating the physician's failure to  
13 properly treat a patient. The Board may, upon reasonable grounds,  
14 require a physician to submit to inquiries or examinations, written or  
15 oral, by members of the Board or by other physicians licensed to  
16 practice medicine in this State, as the Board deems necessary to  
17 determine the professional qualifications of such licensee.
- 18 (12) Promotion of the sale of drugs, devices, appliances or goods for a  
19 patient, or providing services to a patient, in such a manner as to exploit  
20 the patient, and upon a finding of the exploitation, the Board may order  
21 restitution be made to the payer of the bill, whether the patient or the  
22 insurer, by the physician; provided that a determination of the amount of  
23 restitution shall be based on credible testimony in the record.
- 24 (13) Having a license to practice medicine or the authority to practice  
25 medicine revoked, suspended, restricted, or acted against or having a  
26 license to practice medicine denied by the licensing authority of any  
27 jurisdiction. For purposes of this subdivision, the licensing authority's  
28 acceptance of a license to practice medicine voluntarily relinquished by  
29 a physician or relinquished by stipulation, consent order, or other  
30 settlement in response to or in anticipation of the filing of administrative  
31 charges against the physician's license, is an action against a license to  
32 practice medicine.
- 33 (14) The failure to respond, within a reasonable period of time and in a  
34 reasonable manner as determined by the Board, to inquiries from the  
35 Board concerning any matter affecting the license to practice medicine.
- 36 (15) The failure to complete an amount not to exceed 150 hours of  
37 continuing medical education during any three consecutive calendar  
38 years pursuant to rules adopted by the Board.
- 39 (16) Allowing another person or organization to use a license issued by the  
40 Board.
- 41 (17) The repeated prescribing of controlled substances for personal or family  
42 use.
- 43 (18) Fee splitting.

1           (19) Failure to report to the Board disciplinary action in another state.

2           (20) Failure to make copies of patient records available to another physician  
3           when legally requested to do so.

4 For any of the foregoing reasons, the Board may deny the issuance of a license to an  
5 applicant or revoke a license issued to a physician, may suspend such a license for a  
6 period of time, and may impose conditions upon the continued practice after such period  
7 of suspension as the Board may deem advisable, may limit the accused physician's  
8 practice of medicine with respect to the extent, nature or location of the physician's  
9 practice as the Board deems advisable. The Board may, in its discretion and upon such  
10 terms and conditions and for such period of time as it may prescribe, restore a license so  
11 revoked or rescinded, except that no license that has been revoked shall be restored for a  
12 period of two years following the date of revocation. In addition to and in conjunction  
13 with the actions described above, the Board may make a finding adverse to a licensee or  
14 applicant but withhold imposition of judgment and penalty, or it may impose judgment  
15 and penalty but suspend enforcement thereof and place the licensee on probation, which  
16 probation may be vacated upon noncompliance with such reasonable terms as the Board  
17 may impose. The Board may administer a public or private reprimand or a private letter  
18 of concern, and the private reprimand and private letter of concern shall not require a  
19 hearing in accordance with G.S. 90-14.2 and shall not be disclosed to any person except  
20 the licensee. The Board may require a licensee to: (i) make specific redress or monetary  
21 redress; (ii) provide free public or charity service; (iii) complete educational, remedial  
22 training, or treatment programs; (iv) pay a fine; and (v) reimburse the Board for  
23 disciplinary costs.

24       (b) ~~The Board shall may refer to the State Medical Society Physician Health and~~  
25 ~~Effectiveness Committee all physicians—North Carolina Physicians Health Program any~~  
26 ~~physician or physician assistant whose health and effectiveness have been significantly~~  
27 ~~impaired by alcohol, drug addiction or mental illness.~~

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

33       (d) ~~The Board and its members and staff may release confidential or nonpublic~~  
34 ~~information to any health care licensure board in this State or another state about the~~  
35 ~~issuance, denial, annulment, suspension, or revocation of a license, or the voluntary~~  
36 ~~surrender of a license by a Board-licensed physician, including the reasons for the action,~~  
37 ~~or an investigative report made by the Board. The Board shall notify the physician within 60~~  
38 ~~days after the information is transmitted. A summary of the information that is being transmitted~~  
39 ~~shall be furnished to the physician. If the physician requests, in writing, within 30 days after~~  
40 ~~being notified that such information has been transmitted, he shall be furnished a copy of all~~  
41 ~~information so transmitted. The notice or copies of the information shall not be provided if the~~  
42 ~~information relates to an ongoing criminal investigation by any law enforcement agency, or~~

1 authorized Department of Health and Human Services personnel with enforcement or  
2 investigative responsibilities.

3 (e) The Board and its members and staff shall not be held liable in any civil or  
4 criminal proceeding for exercising, in good faith, the powers and duties authorized by  
5 law."

6 Section 4. G.S. 90-15.1 reads as rewritten:

7 **"§ 90-15.1. Registration every year with Board.**

8 Every person licensed to practice medicine by the North Carolina Medical Board shall  
9 register annually with the Board within 30 days of the person's birthday. A person who  
10 registers with the Board shall report to the Board the person's name and office and  
11 residence address and any other information required by the Board, and shall pay a  
12 registration fee fixed by the Board not in excess of ~~one hundred dollars (\$100.00).~~ one  
13 hundred twenty-five dollars (\$125.00). A physician who is not actively engaged in the  
14 practice of medicine in North Carolina and who does not wish to register the license may  
15 direct the Board to place the license on inactive status. For purposes of annual  
16 registration, the Board shall use a simplified registration form which allows registrants to  
17 confirm information on file with the Board. A physician who fails to register as required  
18 by this section shall pay an additional fee of twenty dollars (\$20.00) to the Board. The  
19 license of any physician who fails to register and who remains unregistered for a period  
20 of 30 days after certified notice of the failure is automatically inactive. A person whose  
21 license is inactive shall not practice medicine in North Carolina nor be required to pay the  
22 annual registration fee. Upon payment of all accumulated fees and penalties, the license  
23 of the physician may be reinstated, subject to the Board requiring the physician to appear  
24 before the Board for an interview and to comply with other licensing requirements. The  
25 penalty may not exceed the maximum fee for a license under G.S. 90-13."

26 Section 5. G.S. 90-18.1 is amended by adding the following new subsection:

27 "(g) The provisions of G.S. 90-14 shall apply to physician assistants."

28 Section 6. The Legislative Research Commission may study the role  
29 alternative health care providers have in the health care of the State's citizens and the role  
30 they should have in an integrated health care system. The Commission may study the  
31 need to acknowledge the role alternative health care providers serve in the health care  
32 system and the need to license and regulate alternative health care providers. The  
33 Legislative Research Commission may make a final report of its findings and  
34 recommendations to the 2001 General Assembly.

35 Section 7. This act is effective when it becomes law.