



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 543: Amend Laws Pertaining to NC Medical Board

2015-2016 General Assembly

Committee:	House Health, if favorable, Finance	Date:	April 14, 2015
Introduced by:	Reps. Brawley, Jones	Prepared by:	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H543-CSSH-14		

SUMMARY: House Bill 543 makes a number of changes to the laws pertaining to the NC Medical Board as outlined in the summary below.

BILL ANALYSIS:

Section 1 limits the terms of the terms of a Medical Board member to two complete three-year terms in a lifetime.

Section 2 amends the qualifications for a physician, physician assistant, or nurse practitioner to add the requirement that the individual must not have served more than 72 months as a member of the Board.

Section 3 is a technical change to capitalize "Review Panel."

Section 4 adds new language to the law pertaining to recommending Board members to: (i) allow the Board to provide confidential and nonpublic licensing and investigative information to the Review Panel; (ii) to specify that all applications, records, papers, files, reports, investigative and licensing information received by the Review Panel as a result of soliciting, receiving and reviewing applications and making recommendations will not be considered public records; and (iii) to provide that the Review Panel is a public body within the meaning of Article 33C, Chapter 143, which establishes the policy of the state to conduct open hearings, deliberations, and actions, but species that the Review Panel will meet in closed session to review applications; interview applicants; review and discuss information; and to discuss, debate, and vote on recommendations from the Governor. The Review Panel is required to publish on its Internet site the names and practice addresses of all applicants within 10 days after the application deadline and to publish the names and practice address of nominees recommended to the Governor within 10 days and not less than 30 days prior to the expiration of the open position on the Board.

Section 5 amends the law on the Board's requirement to collect and publish data by removing the requirement to report fax numbers, but does continue to require a current, active email address, which is considered a public record, and may be used or made available by the Board for the purpose of disseminating or soliciting information affecting public health or the practice of medicine.

Section 6 removes a reference to making fax numbers available.

Section 7 amends the law to specify that the Board must not deny an application for licensure based solely on the applicant's failure to become board certified.

Section 8 increases from \$350 to \$400, the application fee payable to the NC Medical Board for each applicant for a license to practice medicine and surgery in the State.

O. Walker Reagan
Director



Research Division
(919) 733-2578

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Section 9 increases from \$175 to \$250, the annual registration fee for every person licensed to practice medicine by the Board, except those who have a limited license to practice in a medical education and training program shall pay \$125, and those who have a retired limited volunteer license pay no annual registration fee. This section also removes duplicate language contained in two subsections. A subsection is added to provide that the Board must not deny a licensee's annual registration based solely on the licensee's failure to become board certified.

Section 10 amends the law on disciplinary authority of the Board to provide that if the licensee has retained counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, appear, submit to assessment or examination or orders following a hearing or provide notice that the Board will not be taking further action against a licensee.

Section 11 amends the law on disciplinary action pertaining to the written notice indicating charges made against the licensee to add a requirement that once charges have been issued, the parties may engage in discovery as provided in G.S. 1A 1, the North Carolina Rules of Civil Procedure. Additionally, the Board must provide the respondent or respondent's counsel with all exculpatory evidence in its possession, except for the following:

- 1) Information that is subject to attorney client privilege.
- 2) Information that would identify an anonymous complainant.
- 3) Information related to advisory opinions, recommendations, or deliberations by the Board, its staff, and its consultants that will not be entered into evidence.

Section 12 amends the reporting requirements of disciplinary action by health care institutions to eliminate the requirement that hospitals report suspensions for delinquent medical records.

Section 13 renames Article 1D, "Health Program for Medical Professionals."

Section 14 amends the peer review agreement to provide that the Medical Board (Board) may enter into agreements with the NC Medical Society (Society), the NC Academy of Physician Assistants (Academy) and the NC Physicians Health Program (Program) to identify, review, and evaluate licensees of the Board, who have been referred to the Program, with regard to their ability to function in their professional capacity and to coordinate regimens for treatment and rehabilitation. The agreement must include guidelines for all items outlined below:

- 1) The assessment, referral, monitoring, support, and education of licensees of the Board by reason of a physical or mental illness, a substance use disorder, or professional sexual misconduct.
- 2) Procedures for the Board to refer licensees to the Program.
- 3) Criteria for the Program to report licensees to the Board.
- 4) A procedure by which licensees may obtain review of recommendations for assessment or treatment by the Program.
- 5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy.
- 6) Maintaining the confidentiality of nonpublic information.

The NC Physicians Health Program (Program) is described as an independent organization for medical professionals that provides screening, referral, monitoring, education, and support services. The Board, Society, and the Academy may provide funds for administration of the Program.

The Program is required to report immediately to the Board detailed information about any licensee of the Board who meets any of the following criteria:

- 1) The licensee constitutes an imminent danger to patient care.
- 2) The licensee refuses to submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with terms of the contract, or continues to be unsafe to practice medicine after treatment.

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Any information acquired, created, or used in good faith by the Program under this health program is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release. No person participating in good faith in the Program can be required to disclose participation in a civil case. Activities conducted in good faith regarding to the agreements are not grounds for civil action.

Upon written request of a licensee, the Program must provide the licensee and the licensee's legal counsel with a copy of a written assessment of the licensee. The licensee is also entitled to a copy of any written assessment created by a treatment provider or facility at the recommendation of the Program, to the extent permitted by State and federal laws and regulations. Such information is limited in its use and availability.

The Board is granted authority to adopt, amend, or repeal rules to enforce the provisions above.

Section 15 repeals the requirement that the Board provide the licensee or applicant access to all information its possession that the Board intends to offer into evidence in presenting its case at the contested hearing.

EFFECTIVE DATE: This act would become effective October 1, 2015.