



EMERGENCY RULE-MAKING FINDINGS OF NEED [G.S. 150B-21.1A]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Medical Board	
2. Rule citation(s): 21 NCAC 32B .1709	
3. Adoption by agency on: March 27, 2020	4. Date agency requests entry of emergency rule in the Code: March 30, 2020 or as soon as practicable.
5. What is the need for an emergency rule? On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. COVID-19 is a respiratory disease that can result in serious illness or death. COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. The search for potential treatments for COVID-19 has caused shortages and threatens to cause further shortages in certain drugs. On March 24, 2020, the North Carolina State Health Director requested that the Medical Board and the Board of Pharmacy adopt the COVID-19 Drug Preservation Rule in order to alleviate shortages and ensure that these drugs are available to patients who need them.	
6. Has the agency provided the public with abbreviated notice? If so, describe. The Medical Board has not. The Medical Board did, however, enact the emergency and temporary rule during a public emergency meeting of the Medical Board. More formal notice has not been provided due to the urgency of the matter.	
7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety? The Medical Board, at the request of the Secretary of the Department of Health and Human Services and the State Health Director and Chief Medical Officer, needs to take emergency and immediate action to help prevent and alleviate shortages of certain drugs that may be used as potential treatments for patients with COVID-19.	

[Emergency Rule-making Findings of Need Continued]

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority)

Yes. G.S. 90-12.5 (copy attached).

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

- Yes
 No

10. Rule establishes or increases a fee? (See G.S. 12-3.1)

- Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

11. Rule-making Coordinator: Lynne Taylor

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12. Signature of Agency Head*:



*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Bryant A. Murphy, M.D.

Title: President

E-Mail: bryant.murphy@ncmedboard.org

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____

Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____

Date: _____

Comments:

§ 90-12.5. Disasters and emergencies.

In the event of an occurrence which the Governor of the State of North Carolina has declared a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 166A-19.31, or to protect the public health, safety, or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of emergency health services to the public. (2002-179, s. 20(a); 2007-346, s. 7; 2012-12, s. 2(ff).)

1 21 NCAC 32B .1709 is adopted under emergency procedures as follows:

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3 **21 NCAC 32B .1709 COVID-19 DRUG PRESERVATION RULE**

4 (a) The following drugs are “Restricted Drugs” as that term is used in this Rule:

5 (1) Hydroxychloroquine;

6 (2) Chloroquine;

7 (3) Lopinavir-ritonavir;

8 (4) Ribavirin;

9 (5) Oseltamivir;

10 (6) Darunavir; and

11 (7) Azithromycin.

12 (b) A physician or physician assistant shall prescribe a Restricted Drug only if that prescription bears a written
13 diagnosis from the prescriber consistent with the evidence for its use.

14 (c) When a patient has been diagnosed with COVID-19, any prescription of a Restricted Drug for the treatment of
15 COVID-19 shall:

16 (1) Indicate on the prescription that the patient has been diagnosed with COVID-19;

17 (2) Be limited to no more than a fourteen-day supply; and

18 (3) Not be refilled, unless a new prescription is issued in conformance with this Rule, including not
19 being refilled through an emergency prescription refill.

20 (d) A physician or physician assistant shall not prescribe a Restricted Drug for the prevention of, or in anticipation of,
21 the contraction of COVID-19 by someone who has not yet been diagnosed.

22 (e) A prescription for a Restricted Drug may be transmitted orally only if all information required by this Rule is
23 provided to the pharmacy by the physician or the physician’s agent, and that information is recorded in writing by the
24 pharmacy along with the identity of the physician or physician’s agent transmitting the prescription.

25 (f) This Rule does not affect orders for administration to inpatients of health care facilities.

26 (g) This Rule does not apply to prescriptions for a Restricted Drug for a patient previously established on that particular
27 Restricted Drug on or before March 10, 2020.

28 History Note: Authority G.S. 90-5.1(a)(3), 90-12.5;

29 Emergency Adoption Eff. April 6, 2020.

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