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## Bills examine medical board

By SARAH AVERY, Staff Writer

The close relationship between the group that lobbies on behalf of doctors and the state board that licenses and disciplines doctors has become a matter of concern to some legislators, former regulators and consumer advocates. The General Assembly is considering three bills that would change the way the N.C. Medical Board is appointed, diluting or eliminating the role of the N.C. Medical Society.

The society is a trade group that lobbies to advance the interests of physicians, and it represents about 11,000 of the state's 19,000 doctors. Under state law, its leaders nominate seven of the 12 members to the N.C. Medical Board; the governor then ratifies the nominations as appointments.

The board oversees the licensing privileges of doctors, nurse practitioners and physician assistants. Its chief function is ensuring that health professionals practice safe medicine, and it investigates when patients and others complain about care. Last year, the board received 1,581 complaints and opened 335 investigations.

Some state lawmakers and others are asking whether it's proper for a trade group to stack the board that regulates its members, particularly where the mission is patient protection.

Sen. Robert Lee Holloman, a Democrat from Ahoskie who has sponsored two of the bills, said the relationship presents the appearance of a conflict of interest, if not an outright conflict.

"When you can appoint yourselves, without any outside input, I have a problem with that," Holloman said. Trial lawyers asked him to sponsor one of the bills after the lawyers questioned whether a board dominated by medical society appointees was aggressively policing doctors.

Consumer groups caution that close ties between medical

societies and regulatory boards often result in lax punishments for problem doctors.

Medical society officials say the society's role in the board's composition has been good for medical services in North Carolina. Current and former members said patient protection always has been a top priority.

Stephen Keene, the society's vice president for government affairs, said the bills not only would undermine an effective process of appointing the board but also would erode the board's ability to prosecute bad practitioners.

"The main issue, the important one to people, is, how strong is the medical board?" Keene said. "There is one purpose of these bills -- to undercut the board's authority to prosecute incompetent doctors."

#### Roles in question

Many close to the board say the society has assumed too much control in recent years. Two former board presidents and a former member said the relationship between the society and the board is troubling.

"Unfortunately, the medical society has of late tended to insert itself in board policy proceedings more than I think is wise," said Dr. George Barrett, a retired radiologist from Charlotte who served two three-year terms on the board in the 1990s and was also elected president of the national Federation of State Medical Boards.

"The role of the North Carolina Medical Board is to regulate medicine for the benefit and protection of the public," Barrett said, while the medical society looks after the interests of doctors. "When the medical society says this is good for doctors first, and the public second, that's when the objectives are flying apart. The issue of public protection is the prime goal, not physician enhancement."

After his third term expired last year, Barrett was eligible for a fourth term on the board, but the society's leadership broke from tradition and withheld his designation. The society also declined to renominate Dr. John Foust of Charlotte to a second term. Both doctors said the reasons were political.

"I know I took some positions they were not comfortable with," Barrett said. Foust said he was told six months before his term was up for renewal that the medical society wanted him out. He said he had made a comment -- "I said, 'The medical society appoints so many members to the board, it looks at the board as one of its committees' " -- that didn't set well with society leadership.

#### Delving into policy

Both doctors said the society's influence is evident not in individual disciplinary actions against doctors, but in broader policy issues that affect how the board does its job. They said one issue that put them at odds with the society was their stand on a policy involving hospital practice privileges. Barrett said the board wanted hospitals to report any changes to a doctor's privileges to practice at the hospital -- an action that can signal a problem doctor -- but the society opposed the measure.

Keene said the society wanted the hospitals to report only those privilege changes that reflected disciplinary actions, saving the board from having to sort through regular moves and retirements.

Minutes from a September 2000 board meeting state that Keene addressed the board with concerns over "the perception within the physician community that they would not want their name before the medical board because the board would look at that report as negative."

Foust and Barrett contended that the society's position would weaken the board's disciplinary authority. By getting all hospital privilege reports, they argued, the board could catch situations when a doctor was moving from one hospital to another to dodge discipline. The board voted to continue getting all hospital privilege reports, but Foust and Barrett said their dissent was costly.

"I do not begrudge the medical society disagreeing with the board," Barrett said, "but I think it's dangerous that when there is disagreement, they simply remove those who disagree with them."

The former board members said such issues would be less politicized if the board's members did not depend on the

medical society for their appointments.

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Bills would alter nomination

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With three bills moving through the legislature, reform that diminishes the N.C. Medical Society's majority interest in the N.C. Medical Board is considered likely. The first bill, filed in both the House and Senate, would reduce the society's number of nominations to the board from seven to four, giving three to the Old North Carolina State Medical Society, which represents black physicians.

Sen. Robert Lee Holloman, a Democrat from Ahoskie who sponsored that bill, said a broader racial makeup is long overdue. The 12-member medical board now has two black members.

"If there is a larger diversity of people on the board, they can speak up if something is not right," Holloman said.

A second bill, supported by the N.C. Academy of Trial Lawyers, would open the board's appointment processes to the state's entire population of licensed physicians. That method is now used to appoint the boards overseeing nurses and pharmacists.

"The medical board is controlled by the physicians' lobby, and there's an inherent conflict there," said Richard M. Taylor Jr., executive director of the trial lawyers' group.

He cited a recent report, published by the consumer advocacy group Public Citizen, that ranked North Carolina 45th in the nation last year for its rate of disciplinary actions against doctors.

A third bill, the most controversial, calls for the governor to appoint all seven physician members, with one being a medical school faculty member.

What makes that bill touchy is its call to limit when and how the medical board could target doctors who practice alternative therapies.

Stephen Keene, the medical society's vice president for government affairs, said this bill would inhibit the medical board's ability to "police charlatans offering treatments that are not proven." He said the other two bills have been filed as "red herrings" to advance this bill's agenda. Asked how, he said the trial lawyers wanted more doctors practicing nontraditional therapies so they could sue more often.

None of the bills has moved out of committees assigned to examine them.