

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 583
House Committee Substitute Favorable 8/13/97

Short Title: Physician Education and Registration.

(Public)

Sponsors:

Referred to:

April 1, 1997

A BILL TO BE ENTITLED

1
2 **AN ACT TO REQUIRE PHYSICIANS TO COMPLETE NOT TO EXCEED ONE**
3 **HUNDRED FIFTY HOURS OF CONTINUING EDUCATION, TO REQUIRE**
4 **PHYSICIANS TO REGISTER ANNUALLY WITH THE NORTH CAROLINA**
5 **MEDICAL BOARD, TO AMEND THE LAW GOVERNING REPORTING OF**
6 **SUSPENSIONS OF PHYSICIAN PRIVILEGES WITH RESPECT TO**
7 **COMPLETION OF MEDICAL RECORDS, TO MAKE A TECHNICAL CHANGE**
8 **IN THE PRACTICE OF MEDICINE ACT, AND TO IMPROVE NORTH**
9 **CAROLINA'S PUBLIC HEALTH SERVICE CAPACITY BY AUTHORIZING**
10 **APPROVAL OF NONPROFIT HEALTH CARE FACILITIES TO SERVE SOME**
11 **OF THE DENTAL NEEDS OF LOW-INCOME POPULATIONS AND BY**
12 **AUTHORIZING THE EMPLOYMENT OF DENTISTS, DENTAL STUDENTS,**
13 **AND DENTAL INTERNS BY THOSE FACILITIES.**

14 The General Assembly of North Carolina enacts:

15 Section 1. G.S. 90-14(a) reads as rewritten:

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

- 1 (1) Immoral or dishonorable conduct.
- 2 (2) Producing or attempting to produce an abortion contrary to law.
- 3 (3) Made false statements or representations to the Board, or who has
- 4 willfully concealed from the Board material information in connection
- 5 with ~~his~~an application for a license.
- 6 (4) Repealed by Session Laws 1977, c. 838, s. 3.
- 7 (5) Being unable to practice medicine with reasonable skill and safety to
- 8 patients by reason of illness, drunkenness, excessive use of alcohol,
- 9 drugs, chemicals, or any other type of material or by reason of any
- 10 physical or mental abnormality. The Board is empowered and
- 11 authorized to require a physician licensed by it to submit to a mental or
- 12 physical examination by physicians designated by the Board before or
- 13 after charges may be presented against ~~him~~the physician, and the
- 14 results of the examination shall be admissible in evidence in a hearing
- 15 before the Board.
- 16 (6) Unprofessional conduct, including, but not limited to, departure from, or
- 17 the failure to conform to, the standards of acceptable and prevailing
- 18 medical practice, or the ethics of the medical profession, irrespective of
- 19 whether or not a patient is injured thereby, or the committing of any act
- 20 contrary to honesty, justice, or good morals, whether the same is
- 21 committed in the course of ~~his~~the physician's practice or otherwise, and
- 22 whether committed within or without North Carolina. The Board shall
- 23 not revoke the license of or deny a license to a person solely because of
- 24 that person's practice of a therapy that is experimental, nontraditional, or
- 25 that departs from acceptable and prevailing medical practices unless, by
- 26 competent evidence, the Board can establish that the treatment has a
- 27 safety risk greater than the prevailing treatment or that the treatment is
- 28 generally not effective.
- 29 (7) Conviction in any court of a crime involving moral turpitude, or the
- 30 violation of a law involving the practice of medicine, or a conviction of
- 31 a felony; provided that a felony conviction shall be treated as provided
- 32 in subsection (c) of this section.
- 33 (8) By false representations has obtained or attempted to obtain practice,
- 34 money or anything of value.
- 35 (9) Has advertised or publicly professed to treat human ailments under a
- 36 system or school of treatment or practice other than that for which ~~he~~the
- 37 physician has been educated.
- 38 (10) Adjudication of mental incompetency, which shall automatically
- 39 suspend a license unless the Board orders otherwise.
- 40 (11) Lack of professional competence to practice medicine with a reasonable
- 41 degree of skill and safety for patients. In this connection the Board may
- 42 consider repeated acts of a physician indicating ~~his~~the physician's
- 43 failure to properly treat a patient. The Board may, upon reasonable

1 grounds, require a physician to submit to inquiries or examinations,
2 written or oral, by members of the Board or by other physicians licensed
3 to practice medicine in this State, as the Board deems necessary to
4 determine the professional qualifications of such licensee.

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

11 (13) Having a license to practice medicine or the authority to practice
12 medicine revoked, suspended, restricted, or acted against or having a
13 license to practice medicine denied by the licensing authority of any
14 jurisdiction. For purposes of this subdivision, the licensing authority's
15 acceptance of a license to practice medicine voluntarily relinquished by
16 a physician or relinquished by stipulation, consent order, or other
17 settlement in response to or in anticipation of the filing of administrative
18 charges against the physician's license, is an action against a license to
19 practice medicine.

20 (14) The failure to respond, within a reasonable period of time and in a
21 reasonable manner as determined by the Board, to inquiries from the
22 Board concerning any matter affecting the license to practice medicine.

23 (15) The failure to complete an amount not to exceed 150 hours of
24 continuing medical education during any three consecutive calendar
25 years pursuant to rules adopted by the Board.

26 For any of the foregoing reasons, the Board may deny the issuance of a license to an
27 applicant or revoke a license issued to ~~him~~, a physician, may suspend such a license for a
28 period of time, and may impose conditions upon the continued practice after such period
29 of suspension as the Board may deem advisable, may limit the accused physician's
30 practice of medicine with respect to the extent, nature or location of ~~his~~ the physician's
31 practice as the Board deems advisable. The Board may, in its discretion and upon such
32 terms and conditions and for such period of time as it may prescribe, restore a license so
33 revoked or rescinded, except that no license that has been revoked shall be restored for a
34 period of two years following the date of revocation."

35 Section 2. G.S. 90-14.13 reads as rewritten:

36 "**§ 90-14.13. Reports of disciplinary action by health care institutions; immunity**
37 **from liability.**

38 The chief administrative officer of every licensed hospital or other health care
39 institution, including Health Maintenance Organizations, as defined in G.S. 58-67-5,
40 preferred providers, as defined in G.S. 58-50-50, and all other provider organizations that
41 issue credentials to physicians who practice medicine in the State, shall, after consultation
42 with the chief of staff of ~~such~~ that institution, report to the Board any revocation,
43 suspension, or limitation of a physician's privileges to practice in that institution. A

1 hospital is not required to report the suspension of a physician's privileges for failure to
2 timely complete medical records unless the suspension is the third within the calendar
3 year for failure to timely complete medical records. Upon reporting the third suspension,
4 the hospital shall also report the previous two suspensions. ~~Each such~~ The institution shall
5 also report to the Board resignations from practice in that institution by persons licensed
6 under this Article. The Board shall report all violations of this subsection known to it to
7 the licensing agency for the institution involved.

8 Any licensed physician who does not possess professional liability insurance shall
9 report to the Board any award of damages or any settlement of any malpractice complaint
10 affecting his or her practice within 30 days of the award or settlement.

11 The chief administrative officer of each insurance company providing professional
12 liability insurance for physicians who practice medicine in North Carolina, the
13 administrative officer of the Liability Insurance Trust Fund Council created by G.S. 116-
14 220, and the administrative officer of any trust fund operated by a hospital authority,
15 group, or provider shall report to the Board within 30 days:

- 16 (1) Any award of damages or settlement affecting or involving a physician
17 it insures, or
- 18 (2) Any cancellation or nonrenewal of its professional liability coverage of
19 a physician, if the cancellation or nonrenewal was for cause.

20 The Board may request details about any action and the officers shall promptly
21 furnish the requested information. The reports required by this section are privileged and
22 shall not be open to the public. The Board shall report all violations of this paragraph to
23 the Commissioner of Insurance.

24 Any person making a report required by this section shall be immune from any
25 criminal prosecution or civil liability resulting therefrom unless such person knew the
26 report was false or acted in reckless disregard of whether the report was false."

27 Section 3. G.S. 90-15.1 reads as rewritten:

28 **"§ 90-15.1. (Effective January 1, 1998) Registration every year with Board.**

29 Every person licensed to practice medicine by the North Carolina Medical Board
30 ~~shall, prior to January 31 of each year, shall register with~~ annually with the Board within 30
31 days of the person's birthday. the Board.—A person who registers with the Board shall
32 report to the Board the person's name and office and residence address and any other
33 information required by the Board, and shall pay a registration fee fixed by the Board not
34 in excess of one hundred dollars (\$100.00). A physician who is not actively engaged in
35 the practice of medicine in North Carolina and who does not wish to register the license
36 may direct the Board to place the license on inactive status. For purposes of annual
37 registration, the Board shall use a simplified registration form which allows registrants to
38 confirm information on file with the Board. A physician who fails to register ~~by January~~
39 ~~31 as required by this section~~ shall pay an additional fee of twenty dollars (\$20.00) to the
40 Board. The license of any physician who fails to register and ~~said failure who continues~~
41 remains unregistered for a period of 30 days after certified notice of ~~said failure, the~~
42 failure is automatically suspended. ~~inactive.~~ A person whose license is inactive shall not
43 practice medicine in North Carolina nor be required to pay the annual registration fee.

1 Upon payment of all accumulated fees and penalties, the license of the physician may be
2 reinstated, subject to the Board requiring the physician to appear before the Board for an
3 interview and to comply with other licensing requirements. The penalty may not exceed
4 the maximum fee for a license under G.S. 90-13."

5 Section 4. G.S. 90-16 reads as rewritten:

6 "**§ 90-16. Board to keep record; publication of names of licentiates; transcript as**
7 **evidence; receipt of evidence concerning treatment of patient who has not**
8 **consented to public disclosure.**

9 The North Carolina Medical Board shall keep a regular record of its proceedings in a
10 book kept for that purpose, together with the names of the members of the Board present,
11 the names of the applicants for license, and other information as to its actions. The North
12 Carolina Medical Board shall cause to be entered in a separate book the name of each
13 applicant to whom a license is issued to practice medicine or surgery, along with any
14 information pertinent to such issuance. The North Carolina Medical Board shall publish
15 the names of those licensed in three daily newspapers published in the State of North
16 Carolina, within 30 days after granting the same. A transcript of any such entry in the
17 record books, or certificate that there is not entered therein the name and proficiency or
18 date of granting such license of a person charged with the violation of the provisions of
19 this Article, certified under the hand of the secretary and the seals of the ~~Board of Medical~~
20 ~~Examiners of the State of North Carolina,~~ North Carolina Medical Board, shall be admitted
21 as evidence in any court of this State when it is otherwise competent.

22 The Board may in a closed session receive evidence involving or concerning the
23 treatment of a patient who has not expressly or impliedly consented to the public
24 disclosure of such treatment as may be necessary for the protection of the rights of such
25 patient or of the accused physician and the full presentation of relevant evidence. All
26 records, papers and other documents containing information collected and compiled by
27 the Board, or its members or employees as a result of investigations, inquiries or
28 interviews conducted in connection with a licensing or disciplinary matter shall not be
29 considered public records within the meaning of Chapter 132 of the General Statutes;
30 provided, however, that any notice or statement of charges against any licensee, or any
31 notice to any licensee of a hearing in any proceeding shall be a public record within the
32 meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain
33 information collected and compiled as a result of any such investigation, inquiry or
34 interview; and provided, further, that if any such record, paper or other document
35 containing information theretofore collected and compiled by the Board, as hereinbefore
36 provided, is received and admitted in evidence in any hearing before the Board, it shall
37 thereupon be a public record within the meaning of Chapter 132 of the General Statutes.

38 In any proceeding before the Board, in any record of any hearing before the Board,
39 and in the notice of the charges against any licensee (notwithstanding any provision
40 herein to the contrary) the Board may withhold from public disclosure the identity of a
41 patient who has not expressly or impliedly consented to the public disclosure of treatment
42 by the accused physician."

43 Section 5. G.S. 90-29(c)(4) reads as rewritten:

1 "(4) The practice of dentistry in dental schools or colleges in this State
2 approved by the North Carolina State Board of Dental Examiners by
3 students enrolled in such schools or colleges as candidates for a doctoral
4 degree in dentistry when such practice is performed as a part of their
5 course of instruction and is under direct supervision of a dentist who is
6 either duly licensed in North Carolina or qualified under subdivision (3)
7 above as a teacher; additionally, the practice of dentistry by such
8 students at State or county institutions with resident populations,
9 hospitals, State or county health departments, area health education
10 ~~centers—centers, nonprofit health care facilities serving low-income~~
11 populations and approved by the State Health Director or his designee
12 and approved by the Board of Dental Examiners, and State or county-
13 owned nursing homes; subject to review and approval or disapproval by
14 the said Board of Dental Examiners when in the opinion of the dean of
15 such dental school or college or his designee, the students' dental
16 education and experience are adequate therefor, and such practice is a
17 part of the course of instruction of such students, is performed under the
18 direct supervision of a duly licensed dentist acting as a teacher or
19 instructor, and is without remuneration except for expenses and
20 subsistence all as defined and permitted by the rules and regulations of
21 said Board of Dental Examiners. Should the Board disapprove a specific
22 program, the Board shall within 90 days inform the dean of its actions.
23 Nothing herein shall be construed to permit the teaching of, delegation
24 to or performance by any dental hygienist, dental assistant, or other
25 auxiliary relative to any program of extramural rotation, of any function
26 not heretofore permitted by the Dental Practice Act, the Dental Hygiene
27 Act or by the rules and regulations of the Board;"

28 Section 6. G.S. 90-29(c) is amended by adding the following new subdivision:

29 "(14) The operation of a nonprofit health care facility serving low-income
30 populations and approved by the State Health Director or his designee
31 and approved by the North Carolina State Board of Dental Examiners."

32 Section 7. G.S. 90-29.4(3) reads as rewritten:

33 "(3) The holder of a valid intern permit may practice dentistry only (i) as an
34 employee in a hospital, sanatorium, or a like institution which is
35 licensed or approved by the State of North Carolina and approved by the
36 North Carolina State Board of Dental Examiners; (ii) as an employee of
37 a nonprofit health care facility serving low-income populations and
38 approved by the State Health Director or his designee and approved by
39 the North Carolina State Board of Dental Examiners; or ~~(ii)-(iii)~~ as an
40 employee of the State of North Carolina or an agency or political
41 subdivision thereof, or any other governmental entity within the State of
42 North Carolina, when said employment is approved by the North
43 Carolina State Board of Dental Examiners;".

1 Section 8. This act is effective when it becomes law.