

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-75
HOUSE BILL 527

AN ACT TO ENHANCE THE ROLE OF OPTOMETRISTS IN MEDICAL COST CONTAINMENT THROUGH REVISION OF THE HOSPITAL PRIVILEGES LAW, TO REPEAL THE REQUIREMENT FOR AN OPTOMETRIST TO COLLABORATE WITH A PHYSICIAN IN THE USE OR PRESCRIPTION OF CERTAIN PHARMACEUTICAL AGENTS, TO ESTABLISH PEER REVIEW FOR OPTOMETRISTS, AND TO ESTABLISH AN OPTOMETRIST PRIVILEGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-114 reads as rewritten:

"§ 90-114. Optometry defined.

Any one or any combination of the following practices shall constitute the practice of optometry:

- (1) The examination of the human eye by any method, other than surgery, to diagnose, to treat, or to refer for consultation or treatment any abnormal condition of the human eye and its adnexa; or
- (2) The employment of instruments, devices, pharmaceutical agents and procedures, other than surgery, intended for the purposes of investigating, examining, treating, diagnosing or correcting visual defects or abnormal conditions of the human eye or its adnexa; or
- (3) The prescribing and application of lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision training, pharmaceutical agents, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

~~Provided, however, in using or prescribing pharmaceutical agents, other than topical pharmaceutical agents within the definition hereinabove set out which are used for the purpose of examining the eye, the optometrist so using or prescribing shall communicate and collaborate with a physician duly licensed to practice medicine in North Carolina designated or agreed to by the patient."~~

Section 2. G.S. 131E-85 reads as rewritten:

"§ 131E-85. Hospital privileges and procedures.

(a) The granting or denial of privileges to practice in hospitals to physicians licensed under Chapter 90 of the General Statutes, Article 1, ~~dentists—dentists,~~ optometrists, and podiatrists and the scope and delineation of such privileges shall be determined by the governing body of the hospital on a non-discriminatory basis. Such determinations shall be based upon the applicant's education, training, experience,

demonstrated competence and ability, and judgment and character of the applicant, and the reasonable objectives and regulations of the hospital, including, but not limited to appropriate utilization of hospital facilities, in which privileges are sought. Nothing in this Part shall be deemed to mandate hospitals to grant or deny to any such individuals or others privileges to practice in hospitals, or to offer or provide any type of care.

(b) The procedures to be followed by a licensed hospital in considering applications of ~~dentists~~ dentists, optometrists, and podiatrists for privileges to practice in such hospitals shall be similar to those applicable to applications of physicians licensed under Chapter 90 of the General Statutes, Article 1. Such procedures shall be available upon request.

(c) In addition to the granting or denial of privileges, the governing body of each hospital may suspend, revoke, or modify privileges.

(d) All applicants or individuals who have privileges shall comply with all applicable medical staff bylaws, rules and regulations, including the policies and procedures governing the qualifications of applicants and the scope and delineation of privileges.

(e) The Department shall not issue or renew a license under this Article unless the applicant has demonstrated that the procedures followed in determining hospital privileges are in accordance with this Part and rules of the Department."

Section 3. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 6A.

"Optometry Peer Review.

"§ 90-127.4. Peer review agreements.

(a) The North Carolina State Board of Examiners in Optometry may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with the North Carolina State Optometric Society (Society), for the purpose of conducting peer review activities. Peer review activities to be covered by such agreements shall be limited in peer review proceedings to review of clinical outcomes as they relate to the quality of health care delivered by optometrists licensed by the Board.

(b) Peer review agreements shall include provisions for the Society to receive relevant information from the Board and other sources, provide assurance of confidentiality of nonpublic information and of the review process, and make reports to the Board. Peer review agreements shall include provisions assuring due process.

(c) Any confidential patient information and other nonpublic information acquired, created, or used in good faith by the Society pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case.

(d) Peer review activities conducted in good faith pursuant to any agreement under this section are deemed to be State directed and sanctioned and shall constitute State action for the purposes of application of antitrust laws. The Board shall be responsible for legal fees arising from peer review activities."

Section 4. Article 7 of Chapter 8 of the General Statutes is amended by adding the following new section to read:

"§ 8-53.9. Optometrist/patient privilege.

No person licensed pursuant to Article 6 of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional optometric services, except that the presiding judge of a superior or district court may compel this disclosure, if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule."

Section 4.1. G.S. 90-118(e) reads as rewritten:

"(e) The Board shall not license any person to practice optometry in the State of North Carolina beyond the scope of the person's educational training as determined by the Board. No optometrist presently licensed in this State shall prescribe and use pharmaceutical agents in the practice of optometry unless and until he (i) has submitted to the Board evidence of satisfactory completion of all educational requirements established by the Board to prescribe and use pharmaceutical agents in the practice of optometry and (ii) has been certified by the Board as educationally qualified to prescribe and use pharmaceutical agents.

Provided, however, that no course or courses in pharmacology shall be approved by the Board unless (i) taught by an institution having facilities for both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Council on Postsecondary Accreditation or the United States Office of Education and (ii) transcript credit for the course or courses is certified to the Board by the institution as being equivalent in both hours and content to those courses in pharmacology required by the other licensing boards in this Chapter whose licensees or registrants are permitted the use of pharmaceutical agents in the course of their professional practice."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:18 a.m. this 22nd day of May, 1997