

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1286*

Short Title: Amend Pharmacy Practice Act.

(Public)

Sponsors: Senators Perdue; and Rand.

Referred to: Commerce.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PHARMACY PRACTICE ACT, AS RECOMMENDED
BY THE JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.6 reads as rewritten:

"§ 90-85.6. Board of Pharmacy; creation; membership; qualification of members.

(a) Creation. – The responsibility for enforcing the provisions of this Article and the laws pertaining to the distribution and use of drugs is vested in the Board. The Board shall adopt reasonable rules for the performance of its duties. The Board shall have all of the duties, powers and authorities specifically granted by and necessary for the enforcement of this Article, as well as any other duties, powers and authorities that may be granted from time to time by other appropriate statutes. The Board may establish a program for the purpose of aiding in the recovery and rehabilitation of pharmacists who have become addicted to controlled substances or alcohol, and the Board may use money collected as fees to fund such a program.

(b) Membership. – The Board shall consist of six members, one of whom shall be a representative of the public, and the remainder of whom shall be pharmacists.

(c) Qualifications. – The public member of the Board shall not be a health care provider or the spouse of a health care provider. He shall not be enrolled in a program to prepare him to be a health care provider. ~~The public member of the Board shall be a resident~~

1 of this State at the time of his appointment and while serving as a Board member. The
2 pharmacist members of the Board shall be residents of this State at the time of their appointment
3 and while serving as Board members. All members of the Board shall be residents of the
4 State at the time of their appointment and while serving as Board members. Of the five
5 pharmacist members, two shall practice in a chain community pharmacy setting, two
6 others shall practice in an independent community pharmacy setting, and one other shall
7 practice in a health care facility setting."

8 Section 2. G.S. 90-85.7(a) reads as rewritten:

9 **"§ 90-85.7. Board of Pharmacy; selection; vacancies; commission; term; per diem;**
10 **removal.**

11 (a) The Board of Pharmacy shall consist of six persons. Five of the members shall
12 be licensed as pharmacists within this State and shall be elected and commissioned by the
13 Governor as hereinafter provided. Pharmacist members shall be chosen in an election
14 held as hereinafter provided in which every person licensed to practice pharmacy in
15 North Carolina and residing in North Carolina shall be entitled to vote. Pharmacist
16 members of the Board shall be nominated and selected without regard to geographic
17 location. Each pharmacist member of said Board shall be elected for a term of five years
18 and until his successor shall be elected and shall qualify. Members chosen by election
19 under this section shall be elected upon the expiration of the respective terms of the
20 members of the present Board of Pharmacy. No pharmacist shall be nominated for
21 membership on said Board, or shall be elected to membership on said Board, unless, at
22 the time of such nomination, and at the time of such election, he is licensed to practice
23 pharmacy in North Carolina. In case of death, resignation or removal from the State of
24 any pharmacist member of said Board, the pharmacists members of the Board shall elect
25 in his place a pharmacist who meets the criteria set forth in subsection (c) of G.S. 90-85.6
26 and in this section to fill the unexpired term.

27 One member of the Board shall be a person who is not a pharmacist and who
28 represents the interest of the public at large. The Governor shall appoint this member.

29 All Board members serving on June 30, 1989, October 1, 1998, shall be eligible to
30 complete their respective terms. At the time of expiration of the first term ending after
31 October 1, 1998, a health care facility pharmacist member shall be elected. The two
32 vacancies occurring in 1999 shall be filled by a community chain pharmacist member and
33 a community independent pharmacist member. For all term expirations thereafter, each
34 vacancy shall be filled with a licensed pharmacist practicing in the site which creates a
35 Board with the composition required by subsection (c) of G.S. 90-85.6. No member
36 appointed or elected to a term on or after July 1, 1989, shall serve more than two
37 complete consecutive five-year terms. The Governor may remove any member appointed
38 by him for good cause shown and may appoint persons to fill unexpired terms of
39 members appointed by him.

40 It shall be the duty of a member of the Board of Pharmacy, within 10 days after
41 receipt of notification of his appointment and commission, to appear before the clerk of
42 the superior court of the county in which he resides and take and subscribe an oath to
43 properly and faithfully discharge the duties of his office according to law."

1 Section 3. Article 4 of Chapter 90 is amended by adding a new section to read:
2 **"§ 90-85.15A. Pharmacy technician.**

3 A pharmacy technician is a person designated and supervised by the pharmacist to
4 assist in the nondiscretionary functions involved in dispensing a prescription. A
5 pharmacy technician must be registered with the Board of Pharmacy. Administrative
6 support personnel and cashiers are not technicians."

7 Section 4. G.S. 90-85.21(a) reads as rewritten:

8 "(a) In accordance with Board regulations, each pharmacy in North Carolina shall
9 annually register with the Board on a form provided by the Board. The application shall
10 identify the pharmacist-manager of the pharmacy and all pharmacist personnel and
11 pharmacy technicians employed in the pharmacy. All pharmacist-managers shall notify
12 the Board of any change in pharmacist personnel within 30 days of such change."

13 Section 5. G.S. 90-85.22 is amended by adding a new subsection to read:

14 "(c) Any place of business located outside the State that ships, mails, or delivers in
15 any manner, devices or medical equipment to the user of the equipment in this State shall
16 comply with the provisions of this section and G.S. 90-85.24, and rules adopted by the
17 Board governing these locations, unless compliance would result in violation of the laws
18 or regulations of the state where the place of business is located."

19 Section 6. G.S. 90-85.25 reads as rewritten:

20 **"§ 90-85.25. Disaster reports. Disasters and emergencies.**

21 (a) In the event of an occurrence which the Governor of the State of North
22 Carolina has declared as a disaster or when the Governor has declared a state of
23 emergency, the Board may waive the requirements of this Article in order to facilitate the
24 delivery of drugs and devices to the public.

25 (b) The pharmacist in charge of a pharmacy shall report within 10 days to the
26 Board any disaster, accident, theft, or emergency which may affect the strength, purity, or
27 labeling of drugs and devices in the pharmacy."

28 Section 7. G.S. 90-85.38(a) reads as rewritten:

29 "(a) The Board may, in accordance with Chapter 150B of the General Statutes,
30 issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a
31 license to practice pharmacy, or require licensees to successfully complete remedial
32 education if the ~~licensee~~ licensee, whether currently residing in this State or not, has:

- 33 (1) Made false representations or withheld material information in
34 connection with securing a license or permit;
- 35 (2) Been found guilty of or plead guilty or nolo contendere to any felony in
36 connection with the practice of pharmacy or the distribution of drugs;
- 37 (3) Indulged in the use of drugs to an extent that renders him unfit to
38 practice pharmacy;
- 39 (4) Made false representations in connection with the practice of pharmacy
40 that endanger or are likely to endanger the health or safety of the public,
41 or that defraud any person;
- 42 (5) A physical or mental disability that renders him unfit to practice
43 pharmacy with reasonable skill, competence and safety to the public;

- 1 (6) Failed to comply with the laws governing the practice of pharmacy and
2 the distribution of drugs;
3 (7) Failed to comply with the rules and regulations of the Board;
4 (8) Engaged in, or aided and abetted an individual to engage in, the practice
5 of pharmacy without a license; or
6 (9) Was negligent in the practice of pharmacy."
7 Section 8. G.S. 106-134.1 is amended by adding a new subsection to read:
8 "(f) A prescription transmitted electronically from a prescriber to a pharmacy
9 without the legal signature of the prescriber may be dispensed only pursuant to rules
10 adopted jointly by the Board of Pharmacy and the Medical Board."
11 Section 9. This act becomes effective October 1, 1998.