

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 654

Short Title: Orthopaedic Physician Assistants.

(Public)

Sponsors: Senator Jordan.

Referred to: Finance.

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COMMITTEE ON ORTHOPAEDIC PHYSICIAN ASSISTANTS AND A SYSTEM TO CERTIFY ORTHOPAEDIC PHYSICIAN ASSISTANTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 30.

"ORTHOPAEDIC PHYSICIAN ASSISTANTS.

"§ 90-500. Definitions.

In this Article, unless the context otherwise requires, the following definitions shall apply:

- (1) 'Board' means the North Carolina Board of Medical Examiners.
- (2) 'Committee' means the North Carolina Committee on Orthopaedic Physician Assistants.
- (3) 'Orthopaedic physician assistant' means a person who renders service under the supervision of a licensed orthopaedic physician or surgeon and who has been certified by the Committee pursuant to this Article as an orthopaedic physician assistant.

"§ 90-501. Committee on Orthopaedic Physician Assistants established.

1 (a) The North Carolina Committee on Orthopaedic Physician Assistants is
2 established as a Committee within the Board.

3 (b) The Committee shall consist of seven members, five of whom are appointed by
4 the Governor and two of whom are members of the Board and are appointed by the
5 Board. The Committee shall elect a chair from its members.

6 (c) The initial terms of the members of the Committee shall be staggered by the
7 appointing authorities so that the terms of three members (two of whom shall be
8 appointees of the Governor) expire December 31, 1998, the terms of two members (both
9 of whom shall be appointees of the Governor) expire December 31, 1999, and the terms
10 of the remaining two members (one of whom shall be an appointee of the Governor)
11 expire December 31, 2000.

12 (d) The terms of the members of the Committee shall be three years. Any vacancy
13 shall be filled by the initial appointing authority.

14 (e) The members of the Committee shall receive per diem and necessary travel and
15 subsistence expenses in accordance with the provisions of G.S. 93B-5 for all time
16 actually spent upon the business of the Committee. All expenses, salaries, and per diem
17 provided for in this Article shall be paid from funds received under the provisions of this
18 Article and shall in no manner be an expense to the State.

19 **"§ 90-502. Committee on Orthopaedic Physician Assistants—duties.**

20 (a) Certified orthopaedic physician assistants shall be under the jurisdiction of the
21 Committee and the Board.

22 (b) The Committee shall have the following duties:

23 (1) To establish rules in accordance with Chapter 150B reasonably
24 necessary for the performance of the duties of orthopaedic physician
25 assistants, including, but not limited to, rules which specify the acts and
26 offenses which subject the certificate holder to disciplinary action by the
27 Board;

28 (2) To set fees relative to the examination, certification, and certification
29 renewal of orthopaedic physician assistants in an amount sufficient to
30 pay all of the expenses of the Committee as well as all of the expenses
31 of the Board which are directly attributable to the performance of their
32 duties pursuant to the provisions of this Article, and to establish and
33 collect a late renewal fee from those orthopaedic physician assistants
34 who fail to renew their certificates in a timely manner;

35 (3) To review and approve or reject the qualifications of each applicant for
36 initial certification as an orthopaedic physician assistant;

37 (4) To review and approve or reject the qualifications of each applicant for
38 renewal every two years. The Committee shall condition approval for
39 renewal on the receipt of evidence satisfactory to the Committee of the
40 applicant's successful completion of 60 hours of continuing medical
41 education approved by the American Medical Association or other
42 appropriate professional associations;

1 (5) To issue, in the Board's name, all approved orthopaedic physician
2 assistant certificates and renewals;

3 (6) To collect or receive all fees, fines, and funds owed pursuant to the
4 provisions of this Article and to pay these funds into the General Fund;
5 and

6 (7) To deny, suspend, or revoke the certificate of, or otherwise discipline by
7 reprimand or by a fine not to exceed five hundred dollars (\$500.00), a
8 certificate holder who violates any of the provisions of this Article or
9 rules adopted pursuant to this Article.

10 **"§ 90-503. Regulation of orthopaedic physician assistants.**

11 (a) It is unlawful for a person to practice or offer to practice or hold oneself out to
12 practice as an orthopaedic physician assistant without a valid certificate issued by the
13 Board.

14 (b) The Board shall certify no person as an orthopaedic physician assistant unless:

15 (1) The person is a graduate of an orthopaedic physician assistant training
16 program approved by the Committee and the Board and has successfully
17 completed the examination of the National Board for Certification of
18 Orthopaedic Physician's Assistants; or

19 (2) The person has successfully completed the examination of the National
20 Board for Certification of Orthopaedic Physician's Assistants and is
21 performing services as an orthopaedic physician assistant in this State
22 on the date this act becomes effective.

23 (c) The Board or the Committee may require that an applicant for certification
24 appear before the Board or the Committee to answer any questions regarding the
25 applicant's fitness for certification.

26 (d) Any person who violates subsection (a) of this section is guilty of a Class 3
27 misdemeanor.

28 **"§ 90-504. Supervision of and limitations on orthopaedic physician assistants.**

29 (a) A certified orthopaedic physician assistant may perform services only under
30 the supervision of a licensed orthopaedic physician or surgeon within the specialty of
31 orthopaedic medicine and surgery.

32 (b) The supervising orthopaedic physician or surgeon shall actively and
33 continuously review the performance of the orthopaedic physician assistant to ensure that
34 the physician's directions, orders, and advice are in fact being implemented. Constant
35 physical presence of the supervising physician is not required, but the supervising
36 physician shall personally review and certify by personal signature in a timely manner the
37 historical, physical, and therapeutic data on all patients and their conditions.

38 (c) No one supervising orthopaedic physician or surgeon shall supervise more than
39 two certified orthopaedic physician assistants at any one time.

40 (d) More than one orthopaedic physician or surgeon may supervise the same
41 certified orthopaedic physician assistant.

42 (e) The supervising orthopaedic physician or surgeon shall designate one or more
43 alternate orthopaedic physicians or surgeons who have agreed to accept the responsibility

1 of supervising the orthopaedic physician assistant on a prearranged basis in the absence
2 of the supervising orthopaedic physician or surgeon.

3 (f) The certified orthopaedic physician assistant shall provide services in
4 accordance with written policies and procedures involving management of care which
5 have been established by the supervising physician and the orthopaedic physician
6 assistant.

7 (g) In cases where follow-up care is rendered in a clinic, hospital, nursing home, or
8 patient's home, and in similar situations where a therapeutic regimen, policy, or protocol
9 has been established by the supervising physician, the certified orthopaedic physician
10 assistant may check and record the patient's progress within the confines of the written
11 regimen, policy, or protocol and report the patient's progress and changes to the physician
12 after each visit. When a new problem arises, the supervising physician shall undertake
13 personal review of the patient's problem or complaint.

14 (h) The orthopaedic physician assistant may render emergency services in
15 accordance with guidelines previously established by the supervising physician pending
16 the arrival of a responsible physician in cases where immediate diagnosis and treatment
17 are necessary to avoid disability or death.

18 (i) The certified orthopaedic physician assistant shall render services and care
19 commensurate with the orthopaedic physician assistant's education, training, and
20 experience.

21 (j) The certified orthopaedic physician assistant shall not make any definitive
22 diagnosis or prescribe any treatment program independent of the supervising physician.

23 (k) The certified orthopaedic physician assistant shall not use presigned
24 prescriptions. Medications dispensed by the certified orthopaedic physician assistant
25 shall be approved by the supervising physician.

26 (l) The patient of any physician receiving services from a certified orthopaedic
27 physician assistant shall be fully informed that the person is a certified orthopaedic
28 physician assistant, or a sign shall be conspicuously placed within the office of the
29 physician stating that certain services may be rendered by a certified orthopaedic
30 physician assistant.

31 (m) Nothing in this Article shall permit a certified orthopaedic physician assistant
32 to:

33 (1) Practice chiropractic or analyze or palpate the articulations of the spinal
34 column for the purposes of giving a spinal adjustment; or

35 (2) Measure the powers or range of human vision, or determine the
36 refractive state of the human eye or the scope of its functions in general,
37 or prescribe or direct the use of ophthalmic lenses or prisms to remedy or
38 relieve defects of vision or muscular anomalies, or prescribe or fit or
39 adapt contact lenses to or for the human eye.

40 **"§ 90-505. Disciplinary action by Board.**

41 (a) Any certified orthopaedic physician assistant rendering services inconsistent
42 with this Article is practicing medicine without a license and shall be subject to
43 appropriate legal action by the Board.

1 (b) When a licensed orthopaedic physician or surgeon utilizes the services of a
2 certified orthopaedic physician assistant inconsistent with this Article, it shall constitute
3 grounds for a finding of unprofessional conduct, and the physician shall be subject to
4 disciplinary action by the Board. Such disciplinary action may include, but is not limited
5 to, the suspension of privileges to utilize a certified orthopaedic physician assistant or the
6 revocation or suspension of the license of the orthopaedic physician or surgeon.

7 **"§ 90-506. Effect on other laws and medical providers.**

8 (a) Nothing in this Article shall be construed to modify or supersede any existing
9 laws or rules pertaining to any other allied health professionals, professions, or services.

10 (b) The provisions of this Article shall not apply to other physician extenders,
11 physician assistants, family nurse practitioners, registered nurses, licensed practical
12 nurses, technologists, technicians, and other assistants or employees that perform
13 delegated services in a medical setting.

14 **"§ 90-507. Recertification.**

15 Any person certified by the Board as an orthopaedic physician assistant who has
16 retired from the practice in this State shall not be required to biennially renew the
17 person's certificate if the person files an affidavit on a form furnished by the Board. The
18 affidavit shall state the date on which the person retired from practice and any other
19 information required by the Board. If the retired person decides to reengage in practice in
20 this State, the person shall apply for certification as provided by this Article but shall not
21 be liable for payment of certification renewal fees which accrued during the period of the
22 person's retirement.

23 **"§ 90-508. Use of title.**

24 Any person who holds a valid certificate from the Board pursuant to this Article may
25 use the title 'orthopaedic physician assistant' or the abbreviation 'opa-c' or 'opa', but shall
26 not be entitled to use the title 'physician assistant' or the abbreviation 'PA' or 'PA-C'."

27 Section 2. G.S. 90-18 reads as rewritten:

28 **"§ 90-18. Practicing without license; practicing defined; penalties.**

29 No person shall practice medicine or surgery, or any of the branches thereof, nor in
30 any case prescribe for the cure of diseases unless he shall have been first licensed and
31 registered so to do in the manner provided in this Article, and if any person shall practice
32 medicine or surgery without being duly licensed and registered, as provided in this
33 Article, he shall not be allowed to maintain any action to collect any fee for such services.
34 The person so practicing without license shall be guilty of a Class 1 misdemeanor.

35 Any person shall be regarded as practicing medicine or surgery within the meaning of
36 this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or
37 attempt to operate on, or prescribe for or administer to, or profess to treat any human
38 ailment, physical or mental, or any physical injury to or deformity of another person:
39 Provided, that the following cases shall not come within the definition above recited:

40 (1) The administration of domestic or family remedies in cases of
41 emergency.

42 (2) The practice of dentistry by any legally licensed dentist engaged in the
43 practice of dentistry and dental surgery.

- 1 (3) The practice of pharmacy by any legally licensed pharmacist engaged in
2 the practice of pharmacy.
- 3 (4) The practice of medicine and surgery by any surgeon or physician of the
4 United States army, navy, or public health service in the discharge of his
5 official duties.
- 6 (5) The treatment of the sick or suffering by mental or spiritual means
7 without the use of any drugs or other material means.
- 8 (6) The practice of optometry by any legally licensed optometrist engaged
9 in the practice of optometry.
- 10 (7) The practice of midwifery as defined in G.S. 90-178.2.
- 11 (8) The practice of chiropody by any legally licensed chiropodist when
12 engaged in the practice of chiropody, and without the use of any drug.
- 13 (9) The practice of osteopathy by any legally licensed osteopath when
14 engaged in the practice of osteopathy as defined by law, and especially
15 G.S. 90-129.
- 16 (10) The practice of chiropractic by any legally licensed chiropractor when
17 engaged in the practice of chiropractic as defined by law, and without
18 the use of any drug or surgery.
- 19 (11) The practice of medicine or surgery by any reputable physician or
20 surgeon in a neighboring state coming into this State for consultation
21 with a resident registered physician. This proviso shall not apply to
22 physicians resident in a neighboring state and regularly practicing in this
23 State.
- 24 (12) Any person practicing radiology as hereinafter defined shall be deemed
25 to be engaged in the practice of medicine within the meaning of this
26 Article. 'Radiology' shall be defined as, that method of medical practice
27 in which demonstration and examination of the normal and abnormal
28 structures, parts or functions of the human body are made by use of X
29 ray. Any person shall be regarded as engaged in the practice of
30 radiology who makes or offers to make, for a consideration, a
31 demonstration or examination of a human being or a part or parts of a
32 human body by means of fluoroscopic exhibition or by the shadow
33 imagery registered with photographic materials and the use of X rays; or
34 holds himself out to diagnose or able to make or makes any
35 interpretation or explanation by word of mouth, writing or otherwise of
36 the meaning of such fluoroscopic or registered shadow imagery of any
37 part of the human body by use of X rays; or who treats any disease or
38 condition of the human body by the application of X rays or radium.
39 Nothing in this subdivision shall prevent the practice of radiology by
40 any person licensed under the provisions of Articles 2, 7, 8, and 12A of
41 this Chapter.
- 42 (13) Any act, task or function performed by an assistant to a person licensed
43 as a physician by the North Carolina Medical Board when

- 1 a. Such assistant is approved by and annually registered with the
2 Board as one qualified by training or experience to function as an
3 assistant to a physician, except that no more than two assistants
4 may be currently registered for any physician, and
5 b. Such act, task or function is performed at the direction or under
6 the supervision of such physician, in accordance with rules and
7 regulations promulgated by the Board, and
8 c. The services of the assistant are limited to assisting the physician
9 in the particular field or fields for which the assistant has been
10 trained, approved and registered;
11 Provided that this subdivision shall not limit or prevent any physician
12 from delegating to a qualified person any acts, tasks or functions which
13 are otherwise permitted by law or established by custom.
- 14 (14) The practice of nursing by a registered nurse engaged in the practice of
15 nursing and the performance of acts otherwise constituting medical
16 practice by a registered nurse when performed in accordance with rules
17 and regulations developed by a joint subcommittee of the North
18 Carolina Medical Board and the Board of Nursing and adopted by both
19 boards.
- 20 (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist
21 under the provisions of Article 25 of this Chapter.
- 22 (16) The practice of acupuncture by a licensed acupuncturist in accordance
23 with the provisions of Article 30 of this Chapter.
- 24 (17) Any act, task, or function performed by an orthopaedic physician
25 assistant pursuant to the provisions of Article 30 of this Chapter."
- 26 Section 3. This act is effective when it becomes law.