

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 780
House Committee Substitute Favorable 8/14/97

Short Title: Telemedicine by Licensed Doctors.

(Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

1 AN ACT REQUIRING THAT NONRESIDENT PHYSICIANS WHO TREAT
2 PATIENTS IN THIS STATE THROUGH THE USE OF ELECTRONIC OR OTHER
3 MEDIUMS SHALL BE LICENSED IN THIS STATE AND SHALL BE SUBJECT
4 TO REASONABLE REGULATIONS BY THE NORTH CAROLINA MEDICAL
5 BOARD.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 90-18 reads as rewritten:

9 "**§ 90-18. Practicing without license; practicing defined; penalties.**

10 (a) No person shall practice medicine or surgery, or any of the branches thereof,
11 nor in any case prescribe for the cure of diseases unless ~~he~~ the person shall have been first
12 licensed and registered so to do in the manner provided in this Article, and if any person
13 shall practice medicine or surgery without being duly licensed and registered, as provided
14 in this Article, ~~he~~ the person shall not be allowed to maintain any action to collect any fee
15 for such services. The person so practicing without license shall be guilty of a Class 1
16 misdemeanor.

17 (b) Any person shall be regarded as practicing medicine or surgery within the
18 meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to
19 treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat

1 any human ailment, physical or mental, or any physical injury to or deformity of another
2 ~~person~~ person. A person who resides in any state and who, by use of any electronic or
3 other mediums, performs any of the acts described in this subsection shall be regarded as
4 practicing medicine or surgery and shall be subject to the provisions of this Article and
5 appropriate regulation by the North Carolina Medical Board.

6 (c) ~~Provided, that the~~ The following ~~eases~~ shall not come within the definition above
7 ~~recited~~: constitute practicing medicine or surgery as defined in subsection (b) of this
8 section:

- 9 (1) The administration of domestic or family remedies in cases of
10 emergency.
- 11 (2) The practice of dentistry by any legally licensed dentist engaged in the
12 practice of dentistry and dental surgery.
- 13 (3) The practice of pharmacy by any legally licensed pharmacist engaged in
14 the practice of pharmacy.
- 15 (4) The practice of medicine and surgery by any surgeon or physician of the
16 United States army, navy, or public health service in the discharge of his
17 official duties.
- 18 (5) The treatment of the sick or suffering by mental or spiritual means
19 without the use of any drugs or other material means.
- 20 (6) The practice of optometry by any legally licensed optometrist engaged
21 in the practice of optometry.
- 22 (7) The practice of midwifery as defined in G.S. 90-178.2.
- 23 (8) The practice of chiropody by any legally licensed chiropodist when
24 engaged in the practice of chiropody, and without the use of any drug.
- 25 (9) The practice of osteopathy by any legally licensed osteopath when
26 engaged in the practice of osteopathy as defined by law, and especially
27 G.S. 90-129.
- 28 (10) The practice of chiropractic by any legally licensed chiropractor when
29 engaged in the practice of chiropractic as defined by law, and without
30 the use of any drug or surgery.
- 31 (11) The practice of medicine or surgery by any nonregistered reputable
32 physician or surgeon ~~in a neighboring state coming who comes~~ into this
33 ~~State for consultation~~ State, either in person or by use of any electronic or
34 other mediums, on an irregular basis, to consult with a resident
35 ~~registered physician~~ physician or to consult with personnel at a medical
36 school about educational or medical training. This proviso shall not
37 apply to physicians resident in a neighboring state and regularly
38 practicing in this State.
- 39 (12) Any person practicing radiology as hereinafter defined shall be deemed
40 to be engaged in the practice of medicine within the meaning of this
41 Article. "Radiology" shall be defined as, that method of medical
42 practice in which demonstration and examination of the normal and
43 abnormal structures, parts or functions of the human body are made by

1 use of X ray. Any person shall be regarded as engaged in the practice of
2 radiology who makes or offers to make, for a consideration, a
3 demonstration or examination of a human being or a part or parts of a
4 human body by means of fluoroscopic exhibition or by the shadow
5 imagery registered with photographic materials and the use of X rays; or
6 holds himself out to diagnose or able to make or makes any
7 interpretation or explanation by word of mouth, writing or otherwise of
8 the meaning of such fluoroscopic or registered shadow imagery of any
9 part of the human body by use of X rays; or who treats any disease or
10 condition of the human body by the application of X rays or radium.
11 Nothing in this subdivision shall prevent the practice of radiology by
12 any person licensed under the provisions of Articles 2, 7, 8, and 12A of
13 this Chapter.

- 14 (13) Any act, task or function performed by an assistant to a person licensed
15 as a physician by the North Carolina Medical Board when
- 16 a. Such assistant is approved by and annually registered with the
17 Board as one qualified by training or experience to function as an
18 assistant to a physician, except that no more than two assistants
19 may be currently registered for any physician, and
 - 20 b. Such act, task or function is performed at the direction or under
21 the supervision of such physician, in accordance with rules and
22 regulations promulgated by the Board, and
 - 23 c. The services of the assistant are limited to assisting the physician
24 in the particular field or fields for which the assistant has been
25 trained, approved and registered;

26 Provided that this subdivision shall not limit or prevent any physician
27 from delegating to a qualified person any acts, tasks or functions which
28 are otherwise permitted by law or established by custom.

- 29 (14) The practice of nursing by a registered nurse engaged in the practice of
30 nursing and the performance of acts otherwise constituting medical
31 practice by a registered nurse when performed in accordance with rules
32 and regulations developed by a joint subcommittee of the North
33 Carolina Medical Board and the Board of Nursing and adopted by both
34 boards.

- 35 (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist
36 under the provisions of Article 25 of this Chapter.

- 37 (16) The practice of acupuncture by a licensed acupuncturist in accordance
38 with the provisions of Article 30 of this Chapter."

39 Section 2. Article 1B of Chapter 90 of the General Statutes is amended by
40 adding a new section to read:

41 **"§ 90-21.12A. Nonresident physicians.**

1 A patient may bring a medical malpractice claim in the courts of this State against a
2 nonresident physician who practices medicine or surgery by use of any electronic or other
3 media in this State."

4 Section 3. This act is effective when it becomes law.