

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

2

SENATE BILL 118
Health Care Committee Substitute Adopted 3/8/01

Short Title: Telemedicine by Internet/Phone/Injunction.

(Public)

Sponsors:

Referred to:

February 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD TO
3 REQUIRE ANY PERSON TREATING A PATIENT BY USE OF THE
4 INTERNET OR A TOLL-FREE TELEPHONE NUMBER TO OBTAIN A
5 LICENSE IN THIS STATE AND TO PERMIT THE MEDICAL BOARD TO
6 BRING AN ACTION FOR INJUNCTIVE RELIEF AGAINST NONRESIDENTS
7 IN THE DISTRICT WHERE THE BOARD RESIDES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 90-14.12 reads as rewritten:

10 **"§ 90-14.12. Injunctions.**

11 The Board may appear in its own name in the superior courts in an action for
12 injunctive relief to prevent violation of this Article and the superior courts shall have
13 power to grant such injunctions regardless of whether criminal prosecution has been or
14 may be instituted as a result of such violations. Actions under this section shall be
15 commenced in the superior court district or set of districts as defined in G.S. 7A-41.1
16 which the respondent resides or has his principal place of business or in which the
17 alleged acts ~~occurred~~occurred, or in the case of an action against a nonresident, in the
18 district where the Board resides."

19 **SECTION 2.** G.S. 90-18 reads as rewritten:

20 **"§ 90-18. Practicing without license; practicing defined; penalties.**

21 (a) No person shall practice medicine or surgery, or any of the branches thereof,
22 nor in any case prescribe for the cure of diseases unless the person shall have been first
23 licensed and registered so to do in the manner provided in this Article, and if any person
24 shall practice medicine or surgery without being duly licensed and registered, as
25 provided in this Article, the person shall not be allowed to maintain any action to collect
26 any fee for such services. The person so practicing without license shall be guilty of a
27 Class 1 misdemeanor.

28 (b) Any person shall be regarded as practicing medicine or surgery within the
29 meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to

1 treat, operate or attempt to operate on, or prescribe for or administer to, or profess to
2 treat any human ailment, physical or mental, or any physical injury to or deformity of
3 another person. A person who resides in any state or foreign country and who, by use of
4 any electronic or other mediums, performs any of the acts described in this
5 ~~subsection~~subsection, including prescribing medication by use of the Internet or a toll-
6 free telephone number, shall be regarded as practicing medicine or surgery and shall be
7 subject to the provisions of this Article and appropriate regulation by the North Carolina
8 Medical Board.

9 (c) The following shall not constitute practicing medicine or surgery as defined
10 in subsection (b) of this section:

- 11 (1) The administration of domestic or family remedies in cases of
12 emergency.
- 13 (2) The practice of dentistry by any legally licensed dentist engaged in the
14 practice of dentistry and dental surgery.
- 15 (3) The practice of pharmacy by any legally licensed pharmacist engaged
16 in the practice of pharmacy.
- 17 (3a) The provision of drug therapy management by a licensed pharmacist
18 engaged in the practice of pharmacy pursuant to an agreement that is
19 physician, pharmacist, patient, and disease specific when performed in
20 accordance with rules and rules developed by a joint subcommittee of
21 the North Carolina Medical Board and the North Carolina Board of
22 Pharmacy and approved by both Boards. Drug therapy management
23 shall be defined as: (i) the implementation of predetermined drug
24 therapy which includes diagnosis and product selection by the patient's
25 physician; (ii) modification of prescribed drug dosages, dosage forms,
26 and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be
27 pursuant to an agreement that is physician, pharmacist, patient, and
28 disease specific.
- 29 (4) The practice of medicine and surgery by any surgeon or physician of
30 the United States army, navy, or public health service in the discharge
31 of his official duties.
- 32 (5) The treatment of the sick or suffering by mental or spiritual means
33 without the use of any drugs or other material means.
- 34 (6) The practice of optometry by any legally licensed optometrist engaged
35 in the practice of optometry.
- 36 (7) The practice of midwifery as defined in G.S. 90-178.2.
- 37 (8) The practice of chiropody by any legally licensed chiropodist when
38 engaged in the practice of chiropody, and without the use of any drug.
- 39 (9) The practice of osteopathy by any legally licensed osteopath when
40 engaged in the practice of osteopathy as defined by law, and especially
41 G.S. 90-129.

- 1 (10) The practice of chiropractic by any legally licensed chiropractor when
2 engaged in the practice of chiropractic as defined by law, and without
3 the use of any drug or surgery.
- 4 (11) The practice of medicine or surgery by any nonregistered reputable
5 physician or surgeon who comes into this State, either in person or by
6 use of any electronic or other mediums, on an irregular basis, to
7 consult with a resident registered physician or to consult with
8 personnel at a medical school about educational or medical training.
9 This proviso shall not apply to physicians resident in a neighboring
10 state and regularly practicing in this State.
- 11 (12) Any person practicing radiology as hereinafter defined shall be
12 deemed to be engaged in the practice of medicine within the meaning
13 of this Article. "Radiology" shall be defined as, that method of medical
14 practice in which demonstration and examination of the normal and
15 abnormal structures, parts or functions of the human body are made by
16 use of X ray. Any person shall be regarded as engaged in the practice
17 of radiology who makes or offers to make, for a consideration, a
18 demonstration or examination of a human being or a part or parts of a
19 human body by means of fluoroscopic exhibition or by the shadow
20 imagery registered with photographic materials and the use of X rays;
21 or holds himself out to diagnose or able to make or makes any
22 interpretation or explanation by word of mouth, writing or otherwise of
23 the meaning of such fluoroscopic or registered shadow imagery of any
24 part of the human body by use of X rays; or who treats any disease or
25 condition of the human body by the application of X rays or radium.
26 Nothing in this subdivision shall prevent the practice of radiology by
27 any person licensed under the provisions of Articles 2, 7, 8, and 12A
28 of this Chapter.
- 29 (13) The performance of any medical acts, tasks, and functions by a
30 licensed physician assistant at the direction or under the supervision of
31 a physician in accordance with rules adopted by the Board. This
32 subdivision shall not limit or prevent any physician from delegating to
33 a qualified person any acts, tasks, and functions that are otherwise
34 permitted by law or established by custom. The Board shall authorize
35 physician assistants licensed in this State or another state to perform
36 specific medical acts, tasks, and functions during a disaster.
- 37 (14) The practice of nursing by a registered nurse engaged in the practice of
38 nursing and the performance of acts otherwise constituting medical
39 practice by a registered nurse when performed in accordance with
40 rules and regulations developed by a joint subcommittee of the North
41 Carolina Medical Board and the Board of Nursing and adopted by both
42 boards.

- 1 (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist
2 under the provisions of Article 25 of this Chapter.
3 (16) The practice of acupuncture by a licensed acupuncturist in accordance
4 with the provisions of Article 30 of this Chapter.
5 (17) The use of an automated external defibrillator as provided in G.S.
6 90-21.15.
7 (18) The practice of medicine by any nonregistered physician residing in
8 another state or foreign country who is contacted by one of the
9 physician's regular patients for treatment by use of the Internet or a
10 toll-free telephone number while the physician's patient is temporarily
11 in this State."

12 **SECTION 3.** This act becomes effective December 1, 2001, and applies to
13 offenses committed and causes of action arising on or after that date.