

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-375
SENATE BILL 446**

AN ACT TO AMEND THE NORTH CAROLINA PHARMACY PRACTICE ACT BY AUTHORIZING THE BOARD TO ESTABLISH REGISTRATION CRITERIA FOR PHARMACY TECHNICIANS AND TO INCLUDE PHARMACY TECHNICIANS IN BOARD AGREEMENTS WITH SPECIAL PEER REVIEW ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.3 is amended by adding the following new subsections to read:

"(q1) 'Pharmacy personnel' means pharmacists and pharmacy technicians.

(q2) 'Pharmacy technician' means a person who may, under the supervision of a pharmacist, perform technical functions to assist the pharmacist in preparing and dispensing prescription medications."

SECTION 2. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-85.15A. Pharmacy technicians.

(a) Registration. – A registration program for pharmacy technicians is established for the purposes of identifying those persons who are employed as pharmacy technicians. The Board must maintain a registry of pharmacy technicians that contains the name of each pharmacy technician, the name and location of the pharmacy in which the pharmacy technician works, the pharmacist-manager who employs the pharmacy technician, and the dates of that employment. The Board must register a pharmacy technician who pays the fee required under G.S. 90-85.24 and completes a required training program. A pharmacy technician must register with the Board within 30 days after the date the pharmacy technician completes a training program conducted by the pharmacy technician's pharmacist-manager. The registration must be renewed annually by paying a registration fee.

(b) Responsibilities of Pharmacist-Manager. – A pharmacist-manager may hire a person who has a high school diploma or equivalent or is currently enrolled in a program that awards a high school diploma or equivalent to work as a pharmacy technician. Pursuant to G.S. 90-85.21, a pharmacist-manager must notify the Board within 30 days of the date the pharmacy technician began employment. The pharmacist-manager must provide a training program for a pharmacy technician that includes pharmacy terminology, pharmacy calculations, dispensing systems and labeling requirements, pharmacy laws and regulations, record keeping and documentation, and the proper handling and storage of medications. The requirements of a training program may differ depending upon the type of employment. The training program must be provided and completed within 180 days of the date the pharmacy technician began employment unless the pharmacy technician is registered with the Board. If the pharmacy technician is registered with the Board, then the completion of the training program is optional at the discretion of the pharmacist-manager.

(c) Supervision. – A pharmacist may not supervise more than two pharmacy technicians unless the pharmacist-manager receives written approval from the Board. The Board may not allow a pharmacist to supervise more than two pharmacy technicians unless the additional pharmacy technicians have passed a nationally

recognized pharmacy technician certification board exam, or its equivalent, that has been approved by the Board. The Board must respond to a request from a pharmacist-manager to allow a pharmacist to supervise more than two pharmacy technicians within 60 days of the date it received the request. The Board must respond to the request in one of three ways:

- (1) Approval of the request.
- (2) Approval of the request as amended by the Board.
- (3) Disapproval of the request. A disapproval of a request must include a reasonable explanation of why the request was not approved.

(d) Disciplinary Action. – The Board may, in accordance with Chapter 150B of the General Statutes and rules adopted by the Board, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew the registration of a pharmacy technician if the pharmacy technician has done one or more of the following:

- (1) Made false representations or withheld material information in connection with registering as a pharmacy technician.
- (2) Been found guilty of or plead guilty or nolo contendere to a felony involving the use or distribution of drugs.
- (3) Indulged in the use of drugs to an extent that it renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.
- (4) Developed a physical or mental disability that renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.
- (5) Willfully violated any provision of this Article or rules adopted by the Board governing pharmacy technicians.

(e) Exemption. – This section does not apply to pharmacy students who are enrolled in a school of pharmacy approved by the Board under G.S. 90-85.13.

(f) Rule-Making Authority. – The Board may adopt rules necessary to implement this section."

SECTION 3. G.S. 90-85.21(a) reads as rewritten:

"§ 90-85.21. Pharmacy permit.

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

SECTION 4. G.S. 90-85.24 reads as rewritten:

"§ 90-85.24. Fees collectible by Board.

The Board of Pharmacy shall be entitled to charge and collect not more than the following fees: for the examination of an applicant for license as a pharmacist, one hundred sixty dollars (\$160.00) plus the cost of the test material; for renewing the license as a pharmacist, one hundred ten dollars (\$110.00); ~~for renewing the license of an assistant pharmacist, ten dollars (\$10.00);~~for registration of a pharmacy technician, twenty-five dollars (\$25.00); for licenses without examination as provided in G.S. 90-85.20, original, four hundred dollars (\$400.00); for original registration of a pharmacy, three hundred fifty dollars (\$350.00), and renewal thereof, one hundred seventy-five dollars (\$175.00); for annual registration as a dispensing physician under G.S. 90-85.21(b), fifty dollars (\$50.00); for annual registration as a dispensing physician assistant under G.S. 90-18.1, fifty dollars (\$50.00); for annual registration as a dispensing nurse practitioner under G.S. 90-18.2, fifty dollars (\$50.00); for registration of any change in pharmacist personnel as required under G.S. 90-85.21(a), twenty-five dollars (\$25.00); for a duplicate of any license, permit, or registration issued by the Board, twenty-five dollars (\$25.00); for registration to dispense devices, deliver medical equipment, or both, three hundred dollars (\$300.00) per year. All fees shall be paid before any applicant may be admitted to examination or the applicant's name may be

placed upon the register of pharmacists or before any license or permit, or any renewal thereof, may be issued by the Board."

SECTION 5. G.S. 90-85.38(a) reads as rewritten:

"(a) The Board may, in accordance with Chapter 150B of the General Statutes, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a license to practice pharmacy, or require licensees to successfully complete remedial education if the licensee ~~has~~ has done any of the following:

- (1) Made false representations or withheld material information in connection with securing a license or ~~permit~~; permit.
- (2) Been found guilty of or plead guilty or nolo contendere to any felony in connection with the practice of pharmacy or the distribution of ~~drugs~~; drugs.
- (3) Indulged in the use of drugs to an extent that renders ~~him~~ the pharmacist unfit to practice ~~pharmacy~~; pharmacy.
- (4) Made false representations in connection with the practice of pharmacy that endanger or are likely to endanger the health or safety of the public, or that defraud any ~~person~~; person.
- (5) ~~A~~ Developed a physical or mental disability that renders ~~him~~ the pharmacist unfit to practice pharmacy with reasonable skill, competence and safety to the ~~public~~; public.
- (6) Failed to comply with the laws governing the practice of pharmacy and the distribution of ~~drugs~~; drugs.
- (7) Failed to comply with any provision of this Article or the rules and regulations of adopted by the Board; ~~Board.~~
- (8) Engaged in, or aided and abetted an individual to engage in, the practice of pharmacy without a ~~license~~; or license.
- (9) ~~Was~~ Been negligent in the practice of pharmacy."

SECTION 6. G.S. 90-85.40(a) reads as rewritten:

"(a) It shall be unlawful for any owner or manager of a pharmacy or other place to allow or cause anyone other than a pharmacist to dispense or compound any prescription drug ~~except~~ unless that person is a pharmacy technician or a pharmacy student who is enrolled in a school of pharmacy approved by the Board as an aide to and is working under the supervision of a pharmacist."

SECTION 7. G.S. 90-85.40(c) reads as rewritten:

"(c) It shall be unlawful for any person not licensed as a pharmacist to compound or dispense any prescription drug, ~~except~~ unless that person is a pharmacy technician or a pharmacy student who is enrolled in a school of pharmacy approved by the Board as an aide to and is working under the supervision of a pharmacist."

SECTION 8. G.S. 90-85.41 reads as rewritten:

"§ 90-85.41. Board agreements with special peer review organizations for impaired pharmacists. ~~pharmacy personnel.~~

(a) The North Carolina Board of Pharmacy may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired ~~pharmacist~~ pharmacy personnel peer review organizations. Peer review activities to be covered by such agreements shall include investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of ~~pharmacists~~ pharmacy personnel licensed or registered by the Board, as such matters may relate to impaired ~~pharmacists~~ pharmacy personnel. Special impaired ~~pharmacist~~ pharmacy personnel peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups.

(b) Agreements authorized under this section shall include provisions for the impaired ~~pharmacist~~ pharmacy personnel peer review organizations to receive relevant information from the Board and other sources, conduct any investigation, review, and evaluation in an expeditious manner, provide assurance of confidentiality of nonpublic

information and of the peer review process, make reports of investigations and evaluations to the Board, and to do other related activities for operating and promoting a coordinated and effective peer review process. The agreements shall include provisions assuring basic due process for ~~pharmacists-pharmacy personnel~~ that become involved.

(c) The impaired ~~pharmacist-pharmacy personnel~~ peer review organizations that enter into agreements with the Board shall establish and maintain a program for impaired ~~pharmacists-pharmacy personnel~~ licensed or registered by the Board for the purpose of identifying, reviewing, and evaluating the ability of those pharmacists to function as pharmacists, and pharmacy technicians to function as pharmacy technicians, and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired ~~pharmacist-pharmacy personnel~~ peer review programs. The Board shall adopt rules to apply to the operation of impaired ~~pharmacist-pharmacy personnel~~ peer review programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v) arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; and (viii) assurance of confidentiality of nonpublic information and of the peer review process.

(d) Upon investigation and review of a pharmacist licensed by the Board, or a pharmacy technician registered with the Board, or upon receipt of a complaint or other information, an impaired ~~pharmacist-pharmacy personnel~~ peer review organization that enters into a peer review agreement with the Board shall report immediately to the Board detailed information about any pharmacist licensed or pharmacy technician registered by the Board, if:

- (1) The pharmacist or pharmacy technician constitutes an imminent danger to the public or himself or herself.
- (2) The pharmacist or pharmacy technician refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.
- (3) It reasonably appears that there are other grounds for disciplinary action.

(e) Any confidential patient information and other nonpublic information acquired, created, or used in good faith by an impaired ~~pharmacist-pharmacy personnel~~ peer review organization pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. No person participating in good faith in an impaired ~~pharmacist-pharmacy personnel~~ peer review program developed under this section shall be required in a civil case to disclose any information (including opinions, recommendations, or evaluations) acquired or developed solely in the course of participating in the program.

(f) Impaired ~~pharmacist-pharmacy personnel~~ peer review activities conducted in good faith pursuant to any program developed under this section shall not be grounds for civil action under the laws of this State, and the activities are deemed to be State directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws."

SECTION 9. A person employed as a pharmacy technician prior to January 1, 2002, may register with the Board of Pharmacy as a pharmacy technician without completing the pharmacy technician-training program required under G.S. 90-85.15A, as enacted by this act, if (i) the pharmacist-manager who employs the person certifies to the Board that the person has the training necessary to serve as a pharmacy technician and (ii) the person registers with the Board prior to July 1, 2002.

SECTION 10. This act becomes effective January 1, 2002.
In the General Assembly read three times and ratified this the 6th day of August, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:57 a.m. this 17th day of August, 2001