

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

2

HOUSE BILL 120
Committee Substitute Favorable 3/17/93

Short Title: Open Meetings/Records Law Changes.

(Public)

Sponsors:

Referred to:

February 10, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE OPEN MEETINGS LAW AND TO AMEND THE
3 PUBLIC RECORDS LAW AS IT RELATES TO THE HOSPITAL LICENSURE
4 ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-318.10 reads as rewritten:

7 "**§ 143-318.10. All official meetings of public bodies open to the public.**

8 (a) Except as provided in G.S. 143-318.11, G.S. 143-318.14A, G.S. 143-318.15,
9 and G.S. 143-318.18, each official meeting of a public body shall be open to the public,
10 and any person is entitled to attend such a meeting.

11 (b) As used in this Article, 'public body' means any elected or appointed
12 authority, board, commission, committee, council, or other body of the State, or of one
13 or more counties, cities, school administrative units, constituent institutions of The
14 University of North Carolina, or other political subdivisions or public corporations in
15 the State that (i) is composed of two or more members; and

16 (1) ~~Exercises or is authorized to exercise a legislative, policy making,~~
17 ~~quasi-judicial, administrative, or advisory function; and~~

18 (2) ~~Is established by (i) the State Constitution, (ii) an act or resolution of~~
19 ~~the General Assembly, (iii) a resolution or order of a State agency,~~
20 ~~pursuant to a statutory procedure under which the agency establishes a~~
21 ~~political subdivision or public corporation, (iv) an ordinance,~~
22 ~~resolution, or other action of the governing board of one or more~~
23 ~~counties, cities, school administrative units, or other political~~

1 subdivisions or public corporations, or (v) an executive order of the
2 Governor or comparable formal action of the head of a principal State
3 office or department, as defined in G.S. 143A-11 and G.S. 143B-6, or
4 of a division thereof.

5 members and (ii) exercises or is authorized to exercise a legislative, policy-making,
6 quasi-judicial, administrative, or advisory function. In addition, 'public body' means (1)
7 the governing board of a 'public hospital' as defined in G.S. 159-39 and (2) each
8 committee of a public body, except a committee of the governing board of a public hospital if
9 the committee is not a policy-making body. In addition, for the purposes of this Article "public
10 body" means any nonprofit corporation to which a hospital facility has been sold or
11 conveyed pursuant to G.S. 131E-8, any subsidiary of that such nonprofit corporation,
12 and any nonprofit corporation owning the corporation to which the hospital facility has
13 been sold or conveyed.

14 (c) 'Public body' does not include and shall not be construed to include (1) meetings
15 among the professional staff of a public body, body or the medical staff of a public
16 hospital, unless the staff members have been appointed to and are meeting as an
17 authority, board, commission, committee, council, or other body established by one of the
18 methods listed in subsection (b)(2) of this section, or (2) meetings among the medical staff of a
19 public hospital or council.

20 (d) 'Official meeting' means a meeting, assembly, or gathering together at any
21 time or place or the simultaneous communication by conference telephone or other
22 electronic means of a majority of the members of a public body for the purpose of
23 conducting hearings, participating in deliberations, or voting upon or otherwise
24 transacting the public business within the jurisdiction, real or apparent, of the public
25 body. However, a social meeting or other informal assembly or gathering together of the
26 members of a public body does not constitute an official meeting unless called or held
27 to evade the spirit and purposes of this Article.

28 (e) Every public body shall keep full and accurate minutes of all official
29 meetings, ~~excluding any executive sessions~~ including any closed sessions held pursuant to
30 G.S. 143-318.11. Such minutes may be in written form or, at the option of the public
31 body, may be in the form of sound or video and sound recordings. Such minutes shall
32 be public records within the meaning of G.S. 132-6, the Public Records Law, G.S. 132-1
33 **et seq.**; provided, however, that minutes of a closed session conducted in compliance
34 with G.S. 143-318.11 may be withheld from public inspection so long as public
35 inspection would frustrate the purpose of a closed session."

36 Sec. 2. G.S. 143-318.11 reads as rewritten:

37 "**§ 143-318.11. Executive sessions. Closed sessions.**

38 (a) Permitted Purposes. – It is the policy of this State that closed sessions shall be
39 held only when required to permit a public body to act in the public interest. A public
40 body may hold an executive session a closed session and exclude the public: public only:

41 (1) ~~To consider the selection of a site or the acquisition by any means or~~
42 ~~lease as lessee of interests in real property. At the conclusion of all~~
43 ~~negotiations with regard to the acquisition or lease of real property, if~~

1 final authorization to acquire or lease is to be given, it shall be given at
2 an open meeting.

3 (2) ~~To consider and authorize the acquisition by gift or bequest of personal
4 property offered to the public body or the government of which it is a
5 part.~~

6 (3) ~~To consider and authorize the acquisition by any means of paintings,
7 sculptures, objects of virtu, artifacts, manuscripts, books and papers,
8 and similar articles and objects that are or will be part of the
9 collections of a museum, library, or archive.~~

10 (4) ~~To consider the validity, settlement, or other disposition of a claim
11 against or on behalf of the public body or an officer or employee of the
12 public body or in which the public body finds that it has a substantial
13 interest; or the commencement, prosecution, defense, settlement, or
14 litigation of a potential or pending judicial action or administrative
15 proceeding in which the public body or an officer or employee of the
16 public body is a party or in which the public body finds that it has a
17 substantial interest. During such an executive session, the public body
18 may give instructions to an attorney or other agent concerning the
19 handling or settlement of a claim, judicial action, or administrative
20 proceeding. If a public body has considered a settlement in executive
21 session, the terms of that settlement shall be reported to the public
22 body and entered into its minutes within a reasonable time after the
23 settlement is concluded.~~

24 (5) ~~To consult with an attorney employed or retained to represent the
25 public body, to the extent that confidentiality is required in order to
26 preserve the attorney-client privilege between the attorney and the
27 public body.~~

28 (6) ~~To discuss matters relating to the location or expansion of industries or
29 other businesses in the area served by the public body.~~

30 (7) ~~To consider matters dealing with specific patients (including but not
31 limited to all aspects of admission, treatment, and discharge; all
32 medical records, reports, and summaries; and all charges, accounts,
33 and credit information pertaining to such a patient).~~

34 (8) ~~To consider the qualifications, competence, performance, character,
35 fitness, conditions of appointment, or conditions of initial employment
36 of a public officer or employee or prospective public officer or
37 employee; or to hear or investigate a complaint, charge or grievance by
38 or against a public officer or employee. A public body may consider
39 the appointment or removal of a member of another body in executive
40 session but may not consider or fill a vacancy among its own
41 membership except in an open meeting.~~

42 Final action making an appointment or discharge or removal by a
43 public body having final authority for the appointment or discharge or
44 removal shall be taken in an open meeting. If a public body considers

1 an appointment to another body, except a committee composed of
2 members of the public body, in executive session, it shall, before
3 making that appointment, present at an open meeting a written list of
4 the persons then being considered for the appointment, and that list
5 shall on the same day be made available for public inspection in the
6 office of the clerk or secretary to the public body. The public body
7 may not make the appointment before the seventh day after the day on
8 which the list was presented.

- 9 (9) To consider the employment, performance, or discharge of an
10 independent contractor. Any action employing or authorizing the
11 employment or discharging or directing the discharge of an
12 independent contractor shall be taken at an open meeting.
- 13 (10) To hear, consider, and decide (i) disciplinary cases involving students
14 or pupils and (ii) questions of reassignment of pupils under G.S. 115-
15 178.
- 16 (11) To identify candidates for, assess the candidates' worthiness for, and
17 choose the recipients of honors, awards, honorary degrees, or citations
18 bestowed by the public body.
- 19 (12) To consider information, when State or federal law (i) directs that the
20 information be kept confidential or (ii) makes the confidentiality of the
21 information a condition of State or federal aid.
- 22 (13) To consider and adopt contingency plans for dealing with, and
23 consider and take action relating to, strikes, slowdowns, and other
24 collective employment interruptions.
- 25 (14) To consider and take action necessary to deal with a riot or civil
26 disorder or with conditions that indicate that a riot or civil disorder is
27 imminent.
- 28 (15) To plan, conduct, or hear reports concerning investigations of alleged
29 criminal misconduct.
- 30 (16) To consider and decide matters concerning specific inmates of the
31 correction system or security problems of the correction system.
- 32 (17) To hear, consider, and decide matters involving admission, discipline,
33 or termination of members of the medical staff of a public hospital.
34 Final action on an admission or termination shall be reported at an
35 open meeting.
- 36 (18) To consider and give instructions relating to the setting or negotiation
37 of airport landing fees or the negotiation of contracts, including leases,
38 concerning the use of airport facilities. Final action approving landing
39 fees or such a contract shall be taken in an open meeting.
- 40 (19) To plan investigations and receive investigative reports requested by a
41 board of elections concerning election frauds, irregularities, election
42 contests, or violations of the election laws. Following a public hearing
43 during which it is alleged or apparent that any election official may
44 have committed an act of misconduct, a board of elections may meet in

1 ~~executive session to deliberate, adjudicate, and reach its decision on~~
2 ~~whether further action shall be ordered or whether no further action~~
3 ~~shall be ordered against any election official. Each member's vote on~~
4 ~~the decision shall be a matter of public record.~~

5 (20) ~~To consider and authorize acquisitions, mergers, joint ventures, or~~
6 ~~other competitive business activities by or on behalf of: (i) a hospital~~
7 ~~facility and a nonprofit corporation to which it has been sold or~~
8 ~~conveyed pursuant to G.S. 131E-8; (ii) any nonprofit corporation~~
9 ~~owning the corporation to which the hospital facility has been sold or~~
10 ~~conveyed; or (iii) any subsidiary of either nonprofit corporation.~~

11 (1) When a closed session is required to prevent the disclosure of
12 information that is privileged or confidential pursuant to a statute of
13 this State or of the United States, or would be privileged or
14 confidential if such information were the subject of a written or
15 electronic data record, except that this subdivision shall not be used to
16 authorize a closed session which would be prohibited by subdivision
17 (4) of this subsection;

18 (2) When a closed session is required to prevent the premature disclosure
19 of an honorary degree, scholarship, prize, or similar award;

20 (3) When a closed session is required to permit an attorney employed or
21 retained by the public body to provide legal advice with respect to (i)
22 the public body's rights and obligations pursuant to an existing or
23 proposed contract to which the public body is or will be a party; or (ii)
24 a pending, threatened, or contemplated judicial proceeding in which
25 the public body has a direct interest. As used herein, a 'judicial
26 proceeding' shall mean a claim, lawsuit, appeal, arbitration, or
27 administrative proceeding before a State or federal court or other
28 judicial or quasi-judicial tribunal. The public body shall be deemed to
29 have a 'direct interest' in a judicial proceeding (i) if the public body is
30 or is likely to be a party; (ii) if the public body is the governing or
31 representative body of an entity that is or is likely to be a party; or (iii)
32 if an employee or individual member of the public body is or is likely
33 to be a party, and the judicial proceeding arises out of the employee's
34 or member's performance of his or her official duties. Nothing herein
35 shall be construed to permit a public body to close a meeting that
36 otherwise would be open merely because an attorney employed or
37 retained by the public body is a participant.

38 (4) When a closed session is required to consider the qualifications,
39 competence, performance, character, fitness, conditions of
40 appointment, or conditions of initial employment of an individual
41 public officer or employee or prospective public officer or employee;
42 or to hear or investigate a complaint, charge, or grievance by or against
43 an individual public officer or employee. The authorization for a
44 closed session provided for in this subdivision shall not apply to the

1 hiring or selection process for the following positions: (i) town
2 manager, city manager, or other chief administrative officer of an
3 incorporated municipality; (ii) police chief or other head of a
4 municipal law enforcement or public safety agency; (iii) county
5 manager; (iv) school superintendent; (v) President of The University of
6 North Carolina; (vi) chief administrative officer of a public hospital; or
7 (vii) president of a community college. By authorizing a public body
8 to consider him or her for appointment to any of the positions listed in
9 the immediately preceding sentence, a person shall be deemed to have
10 waived any confidentiality that might otherwise attach to the
11 discussions permitted to be held in closed session by this subdivision.
12 General personnel policy issues may not be considered in a closed
13 session. A public body may not consider the qualifications,
14 competence, performance, character, fitness, appointment, or removal
15 of a member of the public body or another body and may not consider
16 or fill a vacancy among its own membership except in an open
17 meeting. Final action making an appointment or discharge or removal
18 by a public body having final authority for the appointment or
19 discharge or removal shall be taken in an open meeting;

20 (5) When a closed session is requested by a private entity or its
21 representative in order to prevent the premature disclosure of the
22 private entity's identity in connection with a potential industrial project
23 concerning a new or existing industry within the area served by the
24 public body. Nothing herein shall be construed to permit a public
25 body to close a meeting to act upon an extension of public services or
26 an expenditure of public funds in connection with a potential industrial
27 project;

28 (6) When a closed session is required to establish, or to instruct the public
29 body's staff or negotiating agents concerning, the position to be taken
30 by or on behalf of the public body in negotiating (i) the price and other
31 material terms of a contract for the acquisition or sale of real property
32 by purchase, option, lease, or exchange, or (ii) the amount of
33 compensation and other material terms of an employment contract. A
34 public body shall not consider or act upon a proposed contract except
35 in an open meeting; or

36 (7) When a closed session is required to plan, conduct, or hear reports
37 concerning investigations of alleged criminal misconduct.

38 (b) Repealed by Session Laws 1991, c. 694, s. 4.

39 (c) Calling an Executive Session a Closed Session. – A public body may hold an
40 executive session a closed session only upon a motion duly made and adopted at an open
41 meeting. The motion shall state the general purpose of the executive session and must be
42 approved by the vote of a majority of those present and voting. Every motion to close a
43 meeting shall cite one or more of the permissible purposes listed in subsection (a) of this
44 section. A motion based on subdivision (a)(1) of this section shall also state the name

1 or citation of the statute that renders the information to be discussed privileged or
2 confidential. A motion based on subdivision (a)(3) of this section shall identify the
3 parties in each pending judicial proceeding concerning which the public body expects to
4 receive advice during the closed session.

5 ~~(d) Minutes of Executive Session.—Notwithstanding the provisions of G.S. 132-~~
6 ~~6, minutes and other records made of an executive session may be withheld from public~~
7 ~~inspection so long as public inspection would frustrate the purpose of the executive~~
8 ~~session."~~

9 Sec. 3. G.S. 143-318.16B reads as rewritten:

10 "**§ 143-318.16B. Attorney's fees awarded to prevailing party. Assessments and awards**
11 **of attorneys' fees.**

12 (a) ~~In any~~ When an action is brought pursuant to G.S. 143-318.16 or G.S. 143-
13 318.16A, and the court shall make written findings specifying the prevailing party or
14 parties, and shall award the prevailing party or parties a reasonable attorney's fee, to be
15 taxed against the losing party or parties as part of the costs. determines that a public
16 body acted in violation of this Article, the court shall assess a reasonable attorney's fee
17 against the public body and award it to the person or persons instituting the action as
18 part of the costs. The court may order that all or any portion of any fee so assessed be
19 paid personally by any individual member or members of the public body found by the
20 court to have knowingly or intentionally committed, caused, permitted, suborned, or
21 participated in the violation; provided, that no such order shall issue in any case where
22 the public body seeks the advice of an attorney employed or retained by the public
23 body, and such advice is followed.

24 (b) When an action is brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A,
25 and the court determines that the action was filed in bad faith or was frivolous, the court
26 may assess a reasonable attorney's fee against the person or persons instituting the
27 action and award it to the defendants as part of the costs."

28 Sec. 4. Article 33C of Chapter 143 of the General Statutes is amended by
29 adding two new sections to read:

30 "**§ 143-318.16C. Accelerated hearing; priority.**

31 Actions brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A shall be set down
32 for immediate hearing, and subsequent proceedings in such actions shall be accorded
33 priority by the trial and appellate courts.

34 "**§ 143-318.16D. Local acts.**

35 Any reference in any city charter or local act to an 'executive session' is amended to
36 read 'closed session'."

37 Sec. 5. G.S. 143B-282.1(a)(3) reads as rewritten:

38 "(3) Deliberations of the Commission shall be conducted in its public
39 meeting unless the Commission determines that consultation with its
40 counsel should be held in ~~an executive session~~ a closed session pursuant
41 to G.S. 143-318.11."

42 Sec. 6. G.S. 90-16 reads as rewritten:

1 **"§ 90-16. Board to keep record; publication of names of licentiates; transcript as**
2 **evidence; receipt of evidence concerning treatment of patient who has**
3 **not consented to public disclosure.**

4 The Board of Examiners shall keep a regular record of its proceedings in a book kept
5 for that purpose, together with the names of the members of the Board present, the
6 names of the applicants for license, and other information as to its actions. The Board of
7 Examiners shall cause to be entered in a separate book the name of each applicant to
8 whom a license is issued to practice medicine or surgery, along with any information
9 pertinent to such issuance. The Board of Examiners shall publish the names of those
10 licensed in three daily newspapers published in the State of North Carolina, within 30
11 days after granting the same. A transcript of any such entry in the record books, or
12 certificate that there is not entered therein the name and proficiency or date of granting
13 such license of a person charged with the violation of the provisions of this Article,
14 certified under the hand of the secretary and the seals of the Board of Medical
15 Examiners of the State of North Carolina, shall be admitted as evidence in any court of
16 this State when it is otherwise competent.

17 The Board may in ~~an executive session~~ a closed session receive evidence involving or
18 concerning the treatment of a patient who has not expressly or impliedly consented to
19 the public disclosure of such treatment as may be necessary for the protection of the
20 rights of such patient or of the accused physician and the full presentation of relevant
21 evidence. All records, papers and other documents containing information collected and
22 compiled by the Board, or its members or employees as a result of investigations,
23 inquiries or interviews conducted in connection with a licensing or disciplinary matter
24 shall not be considered public records within the meaning of Chapter 132 of the General
25 Statutes; provided, however, that any notice or statement of charges against any
26 licensee, or any notice to any licensee of a hearing in any proceeding shall be a public
27 record within the meaning of Chapter 132 of the General Statutes, notwithstanding that
28 it may contain information collected and compiled as a result of any such investigation,
29 inquiry or interview; and provided, further, that if any such record, paper or other
30 document containing information theretofore collected and compiled by the Board, as
31 hereinbefore provided, is received and admitted in evidence in any hearing before the
32 Board, it shall thereupon be a public record within the meaning of Chapter 132 of the
33 General Statutes.

34 In any proceeding before the Board, in any record of any hearing before the Board,
35 and in the notice of the charges against any licensee (notwithstanding any provision
36 herein to the contrary) the Board may withhold from public disclosure the identity of a
37 patient who has not expressly or impliedly consented to the public disclosure of
38 treatment by the accused physician."

39 Sec. 7. G.S. 90-270.15(c) reads as rewritten:

40 "(c) Except as provided otherwise in this Article, the procedure for revocation,
41 suspension, denial, limitations of the license, or other disciplinary, remedial, or
42 rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the
43 General Statutes. The Board is required to provide the opportunity for a hearing under
44 Chapter 150B to any applicant whose license is denied or to whom licensure is offered

1 subject to any restrictions, probation, disciplinary action, remediation, or other
2 conditions or limitations, or to any licensee before revoking, suspending, or restricting a
3 license or imposing any other disciplinary action or remediation. If the applicant or
4 licensee waives the opportunity for a hearing, the Board's denial, revocation,
5 suspension, or other proposed action becomes final without a hearing having been
6 conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a
7 hearing for failure to pass an examination. In any proceeding before the Board, in any
8 record of any hearing before the Board, in any complaint or notice of charges against
9 any licensee or applicant for licensure, and in any decision rendered by the Board, the
10 Board may withhold from public disclosure the identity of any clients or patients who
11 have not consented to the public disclosure of treatment by the licensee or applicant.
12 The Board may close a hearing to the public and receive in ~~executive session~~ closed
13 session evidence involving or concerning the treatment or delivery of psychological
14 services to a client or a patient who has not consented to the public disclosure of such
15 treatment or services as may be necessary for the protection and rights of such patient or
16 client of the accused applicant or licensee and the full presentation of relevant evidence.
17 All records, papers and other documents containing information collected and compiled
18 by or on behalf of the Board, as a result of investigations, inquiries or interviews
19 conducted in connection with licensing or disciplinary matters will not be considered
20 public records within the meaning of Chapter 132 of the General Statutes; provided,
21 however, that any notice or statement of charges against any licensee or applicant, or
22 any notice to any licensee or applicant of a hearing in any proceeding, or any decision
23 rendered in connection with a hearing in any proceeding, shall be a public record within
24 the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain
25 information collected and compiled as a result of such investigation, inquiry, or hearing
26 except that identifying information concerning the treatment or delivery of services to a
27 patient or client who has not consented to the public disclosure of such treatment or
28 services may be deleted; and provided, further, that if any such record, paper or other
29 document containing information theretofore collected and compiled by or on behalf of
30 the Board, as hereinbefore provided, is received and admitted in evidence in any hearing
31 before the Board, it shall thereupon be a public record within the meaning of Chapter
32 132 of the General Statutes, subject to any deletions of identifying information
33 concerning the treatment or delivery of psychological services to a patient or client who
34 has not consented to the public disclosure of such treatment or services."

35 Sec. 8. G.S. 90-390(c) reads as rewritten:

36 "(c) Except as otherwise provided in this Article, the procedure for revocation,
37 suspension, refusal, or other limitations of the certificate shall be in accordance with the
38 provisions of Chapter 150B of the General Statutes. In any proceeding or record of any
39 hearing before the Board, and in any complaint or notice of charges against any certified
40 fee-based pastoral counselor or certified fee-based pastoral counseling associate and in
41 any decision rendered by the Board, the Board shall endeavor to withhold from public
42 disclosure the identity of any counselees or clients who have not consented to the public
43 disclosure of treatment by the certified fee-based pastoral counselor or certified fee-
44 based pastoral counseling associate. The Board may close a hearing to the public and

1 receive in ~~executive session~~ a closed session evidence concerning the treatment or
2 delivery of pastoral counseling services to a counselee or a client who has not consented
3 to public disclosure of treatment or services, as may be necessary for the protection of
4 the counselee's or client's rights and the full presentation of relevant evidence. All
5 records, papers, and documents containing information collected and compiled by or on
6 behalf of the Board as a result of investigations, inquiries, or interviews conducted in
7 connection with certification or disciplinary matters are not public records within the
8 meaning of Chapter 132 of the General Statutes. However, any notice or statement of
9 charges against any certified fee-based pastoral counselor or certified fee-based pastoral
10 counseling associate, any notice to any certified fee-based pastoral counselor or certified
11 fee-based pastoral counseling associate of a hearing in any proceeding, or any decision
12 rendered in connection with a hearing in any proceeding is a public record within the
13 meaning of Chapter 132 of the General Statutes, except that identifying information
14 concerning the treatment or delivery of services to a counselee or client who has not
15 consented to the public disclosure of such treatment or services may be deleted. Any
16 record, paper, or other document containing information collected and compiled by or
17 on behalf of the Board, as provided in this section, that is received and admitted in
18 evidence in any hearing before the Board shall be a public record within the meaning of
19 Chapter 132 of the General Statutes, subject to any deletions of identifying information
20 concerning the treatment or delivery of pastoral counseling services to a counselee or
21 client who has not consented to public disclosure of the treatment or services."

22 Sec. 9. G.S. 120-131(b)(4) reads as rewritten:

23 "(4) Bill, resolution, memorandum, written analysis, letter, or other
24 document resulting from a drafting or information request and it has
25 been distributed at a legislative commission or standing committee or
26 subcommittee meeting not held in executive ~~session~~ session, closed
27 session, or on the floor of a house."

28 Sec. 10. Article 5 of Chapter 131E of the General Statutes is amended by
29 adding a new Part to read:

30 **"PART F. CONFIDENTIAL INFORMATION.**

31 **"§ 131E-97. Confidentiality of patient information.**

32 (a) Medical records compiled and maintained by health care facilities in
33 connection with the admission, treatment, and discharge of individual patients are not
34 public records as defined by Chapter 132 of the General Statutes.

35 (b) Charges, accounts, credit histories, and other personal financial records
36 compiled and maintained by health care facilities in connection with the admission,
37 treatment, and discharge of individual patients are not public records as defined by
38 Chapter 132 of the General Statutes.

39 **"§ 131E-98. Confidentiality of personnel information.**

40 (a) Except as provided in subsection (b) of this section, the personnel files of
41 employees or former employees, and the files of applicants for employment, maintained
42 by a public hospital, as defined by G.S. 159-39, are not public records as defined by
43 Chapter 132 of the General Statutes.

1 (b) The following information with respect to each employee of a public hospital,
2 as defined by G.S. 159-39, is a matter of public record: name; age; date of original
3 employment or appointment; beginning and ending dates, position titles, position
4 descriptions, and total compensation of current and former positions; and date of most
5 recent promotion, demotion, transfer, suspension, separation, or other change in position
6 classification. In addition, the following information with respect to each licensed
7 medical provider employed by or having privileges to practice in such a public hospital
8 shall be a matter of public record: educational history and qualifications; date and
9 jurisdiction of original and current licensure; and information relating to medical board
10 certifications or other qualifications of medical specialists.

11 **"§ 131E-99. Confidentiality of credentialing information.**

12 Information acquired by a public hospital, as defined by G.S. 159-39, or by persons
13 acting for or on behalf of such a public hospital, in connection with the credentialing
14 and peer review of persons having or applying for privileges to practice in the hospital
15 is confidential and is not a public record under Chapter 132 of the General Statutes;
16 provided that information otherwise available to the public shall not become
17 confidential merely because it was acquired by the public hospital or by persons acting
18 for or on behalf of the public hospital.

19 **"§ 131E-99.1. Confidentiality of competitive health care information.**

20 Information relating to competitive health care activities of hospitals shall be
21 confidential and not a public record under Chapter 132 of the General Statutes; provided
22 that any contract entered into by or on behalf of a public hospital, as defined by G.S.
23 159-39, shall be a public record unless otherwise exempted by law."

24 Sec. 11. This act becomes effective October 1, 1993.