

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1267

Short Title: Liability/Blood Services.

(Public)

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Sponsors: Senator Cooper.

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Referred to: Children and Human Resources.

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June 29, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE STANDARD OF CARE APPLICABLE FOR  
LIABILITY FOR BLOOD-RELATED SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-410 reads as rewritten:

**"§ 130A-410. Use of tissue declared a medical service; standard of care; burden of proof.**

The procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues such as corneas, bones or organs for the purpose of injecting, transfusing or transplanting any of them into the human body is declared to be, for all purposes, the rendition of a medical service by every participating person or institution. Whether or not any remuneration is paid, the service is declared not to be a sale of whole blood, plasma, blood products, blood derivatives or other human tissues, for any purpose. No person or institution shall be liable in warranty, express or implied, for the procurement, processing, distribution or use of these items but nothing in this section shall alter or restrict the liability of a person or institution in negligence or tort in consequence of these ~~services~~-services; provided that in an action for damages for personal injury or death arising out of the furnishing or the failure to furnish medical services in the performance of blood-related services or the procurement or distribution of blood-related products by the American Red Cross, licensed hospital, or Food and Drug Administration licensed blood providers, the defendant shall not be held liable for the payment of damages unless the trier of fact is satisfied by the greater weight of the evidence that the care of such health care provider was not in accordance with the standards mandated by the Food and Drug

1 Administration, or standards of practice among members of the same health care  
2 profession with similar training and experience situated in the same or similar  
3 communities at the time of the alleged act giving rise to the cause of action."

4           Sec. 2. This act is effective upon ratification and applies to claims arising on  
5 or after that date.