

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 341*
Introduced and Referred 3/11/93
Judiciary I Committee Substitute Adopted 4/27/93

Short Title: Bd. of Med. Examiners.

(Public)

Sponsors:

Referred to: Calendar 4/28/93

February 24, 1993

A BILL TO BE ENTITLED

AN ACT REGULATING THE PRACTICE OF COMPLEMENTARY MEDICINE
AND TO INCREASE THE MEMBERSHIP OF THE BOARD OF MEDICAL
EXAMINERS AND INCLUDE MORE PUBLIC MEMBERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-14(a) reads as rewritten:

"(a) The Board shall have the power to deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

- (1) Immoral or dishonorable ~~conduct~~; conduct.
- (2) Producing or attempting to produce an abortion contrary to ~~law~~; law.
- (3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with his application for a ~~license~~; license.
- (4) Repealed by Session Laws 1977, c. 838, s. 3.
- (5) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality. The Board is empowered and authorized to require a physician licensed by it to submit to a mental or physical examination by physicians designated by the Board before or

- 1 after charges may be presented against him, and the results of
2 examination shall be admissible in evidence in a hearing before the
3 ~~Board;~~Board.
- 4 (6) Unprofessional conduct, including, but not limited to, ~~any~~ departure
5 from, or the failure to conform to, the standards of acceptable and
6 prevailing medical practice, or the ethics of the medical profession,
7 irrespective of whether or not a patient is injured thereby, or the
8 committing of any act contrary to honesty, justice, or good morals,
9 whether the same is committed in the course of his practice or
10 otherwise, and whether committed within or without North ~~Carolina;~~
11 Carolina. The Board shall not revoke the license of or deny a license to
12 a person solely because of that person's practice of a therapy that is
13 experimental, nontraditional, or that departs from acceptable and
14 prevailing medical practices unless, by competent evidence, the Board
15 can establish that the treatment has a safety risk greater than the
16 prevailing treatment or that the treatment is generally not effective.
- 17 (7) Conviction in any court of a crime involving moral turpitude, or the
18 violation of a law involving the practice of medicine, or a conviction
19 of a felony; provided that a felony conviction shall be treated as
20 provided in subsection (c) of this ~~section;~~section.
- 21 (8) By false representations has obtained or attempted to obtain practice,
22 money or anything of ~~value;~~value.
- 23 (9) Has advertised or publicly professed to treat human ailments under a
24 system or school of treatment or practice other than that for which he
25 has been ~~educated;~~educated.
- 26 (10) Adjudication of mental incompetency, which shall automatically
27 suspend a license unless the Board orders ~~otherwise;~~otherwise.
- 28 (11) Lack of professional competence to practice medicine with a
29 reasonable degree of skill and safety for patients. In this connection the
30 Board may consider repeated acts of a physician indicating his failure
31 to properly treat a patient and may require such physician to submit to
32 inquiries or examinations, written or oral, by members of the Board or
33 by other physicians licensed to practice medicine in this State, as the
34 Board deems necessary to determine the professional qualifications of
35 such ~~licensee;~~licensee.
- 36 (12) Promotion of the sale of drugs, devices, appliances or goods for a
37 patient, or providing services to a patient, in such a manner as to
38 exploit the patient for financial gain of the physician; and upon a
39 finding of the exploitation for financial gain, the Board may order
40 restitution be made to the payer of the bill, whether the patient or the
41 insurer, by the physician; provided that a determination of the amount
42 of restitution shall be based on credible testimony in the ~~record;~~record.
- 43 (13) Suspension or revocation of a license to practice medicine in any other
44 state, or territory of the United States, or other ~~country;~~country.

- 1 (14) The failure to respond, within a reasonable period of time and in a
 2 reasonable manner as determined by the Board, to inquiries from the
 3 Board concerning any matter affecting the license to practice
 4 medicine.

5 For any of the foregoing reasons, the Board may deny the issuance of a license to an
 6 applicant or revoke a license issued to him, may suspend such a license for a period of
 7 time, and may impose conditions upon the continued practice after such period of
 8 suspension as the Board may deem advisable, may limit the accused physician's practice
 9 of medicine with respect to the extent, nature or location of his practice as the Board
 10 deems advisable. The Board may, in its discretion and upon such terms and conditions
 11 and for such period of time as it may prescribe, restore a license so revoked or
 12 rescinded."

13 Sec. 2. G.S. 90-2 reads as rewritten:

14 **"§ 90-2. Board of Examiners.**

15 (a) In order to properly regulate the practice of medicine and ~~surgery~~, surgery for
 16 the benefit and protection of the people of North Carolina, there is established a Board
 17 of Medical Examiners of the State of North Carolina. The Board shall consist of ~~eight~~ 12
 18 members.

- 19 (1) Seven of the members shall be duly licensed physicians elected and
 20 nominated to the Governor by the North Carolina Medical Society. ~~The~~
 21 ~~other member shall be a person chosen by the Governor to represent the~~
 22 ~~public at large.~~

- 23 (2) Of the remaining five members, all to be appointed by the Governor, at
 24 least three shall be public members and at least one shall be a
 25 physician extender. ~~The~~ A public member shall not be a health care
 26 provider nor the spouse of a health care provider. For purposes of
 27 board membership, 'health care provider' means any licensed health
 28 care professional and any agent or employee of any health care
 29 institution, health care insurer, health care professional school, or a
 30 member of any allied health profession. For purposes of this section, a
 31 person enrolled in a program to prepare him to be a licensed health
 32 care professional or an allied health professional shall be deemed a
 33 health care provider. For purposes of this section, any person with
 34 significant financial interest in a health service or profession is not a
 35 public member.

36 (b) No member appointed to the Board on or after November 1, 1981, shall serve
 37 more than two complete consecutive three-year terms, except that each member shall
 38 serve until his successor is chosen and qualifies.

39 (c) In order to establish regularly overlapping terms, the terms of office of the
 40 members ~~currently serving on the Board~~ shall expire as follows: ~~two on October 31,~~
 41 ~~1982; two on October 31, 1983; three on October 31, 1986.~~ Terms of Board members
 42 shall expire in direct relation to their date of appointment by the society; the terms of the
 43 two members first appointed shall expire in 1982, and the terms of the three members
 44 last appointed shall expire in 1986. two on October 31, 1993; four on October 31, 1994;

1 four on October 31, 1995; and two on October 31, 1996. No initial physician member
2 of the Board may serve another term until at least three years from the date of expiration
3 of his current term.

4 ~~The Governor shall appoint the public member not later than October 31, 1981.~~

5 (d) Any initial or regular member of the Board may be removed from office by
6 the Governor for good cause shown. Any vacancy in the initial or regular physician
7 membership of the Board shall be filled for the period of the unexpired term by the
8 Governor from a list of physicians submitted by the North Carolina Medical Society
9 Executive Council. Any vacancy in the public membership of the Board shall be filled
10 by the Governor for the unexpired term.

11 (e) The Board of Medical Examiners shall have the power to acquire, hold, rent,
12 encumber, alienate, and otherwise deal with real property in the same manner as any
13 private person or corporation, subject only to approval of the Governor and the Council
14 of State as to the acquisition, rental, encumbering, leasing, and sale of real property.
15 Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
16 revenues of the Board."

17 Sec. 3. This act is effective upon ratification. The terms of the new
18 appointed positions created by Section 2 of this act shall commence November 1, 1993.
19 The terms of the members serving on the Board as of the effective date of this act shall
20 not be altered as a result of Section 2 of this act.