

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 877

Short Title: Amend Laws/Prac. of Med./Inc. Certain Fees.

(Public)

Sponsors: Senators Purcell; and Forrester.

Referred to: Health Care.

March 23, 2005

A BILL TO BE ENTITLED
AN ACT AMENDING CERTAIN LAWS REGULATING THE PRACTICE OF
MEDICINE IN NORTH CAROLINA AND AUTHORIZING THE NORTH
CAROLINA MEDICAL BOARD TO INCREASE CERTAIN FEES.

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 place on probation, impose limitations and conditions on, publicly reprimand, assess monetary redress, mandate free medical services, require satisfactory completion of treatment programs or remedial or education training, fine, 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.
- (2) Producing or attempting to produce an abortion contrary to law.
- (3) Made false statements or representations to the Board, or who has willfully concealed from the Board material information in connection with an application for a 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- (4) Repealed by Session Laws 1977, c. 838, s. 3.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 after charges may be presented against the physician, and the results of the examination shall be admissible in evidence in a hearing before the Board.

- 1 (6) Unprofessional conduct, including, but not limited to, departure from,
2 or the failure to conform to, the standards of acceptable and prevailing
3 medical practice, or the ethics of the medical profession, irrespective
4 of whether or not a patient is injured thereby, or the committing of any
5 act contrary to honesty, justice, or good morals, whether the same is
6 committed in the course of the physician's practice or otherwise, and
7 whether committed within or without North Carolina. The Board shall
8 not revoke the license of or deny a license to a person solely because
9 of that person's practice of a therapy that is experimental,
10 nontraditional, or that departs from acceptable and prevailing medical
11 practices unless, by competent evidence, the Board can establish that
12 the treatment has a safety risk greater than the prevailing treatment or
13 that the treatment is generally not effective.
- 14 (7) Conviction in any court of a crime involving moral turpitude, or the
15 violation of a law involving the practice of medicine, or a conviction
16 of a felony; provided that a felony conviction shall be treated as
17 provided in subsection (c) of this section.
- 18 (8) By false representations has obtained or attempted to obtain practice,
19 money or anything of value.
- 20 (9) Has advertised or publicly professed to treat human ailments under a
21 system or school of treatment or practice other than that for which the
22 physician has been educated.
- 23 (10) Adjudication of mental incompetency, which shall automatically
24 suspend a license unless the Board orders otherwise.
- 25 (11) Lack of professional competence to practice medicine with a
26 reasonable degree of skill and safety for patients. In this connection the
27 Board may consider repeated acts of a physician indicating the
28 physician's failure to properly treat a patient. The Board may, upon
29 reasonable grounds, require a physician to submit to inquiries or
30 examinations, written or oral, ~~by members of the Board or by other~~
31 ~~physicians licensed to practice medicine in this State~~, as the Board
32 deems necessary to determine the professional qualifications of such
33 licensee. In order to annul, suspend, deny, or revoke a license of an
34 accused person, the Board shall find by the greater weight of the
35 evidence that the care provided was not in accordance with the
36 standards of practice for the procedures or treatments administered.
- 37 (11a) Having not actively practiced medicine or practiced as a physician
38 assistant or having not maintained continued competency, as
39 determined by the Board, for the two-year period immediately
40 preceding the filing of an application for an initial license from the
41 Board or a request, petition, motion, or application to reactivate an
42 inactive, suspended, or revoked license previously issued by the
43 Board. The Board is authorized to adopt any rules or regulations it
44 deems necessary to carry out the provisions of this subdivision.

- 1 (12) Promotion of the sale of drugs, devices, appliances or goods for a
2 patient, or providing services to a patient, in such a manner as to
3 exploit the patient, and upon a finding of the exploitation, the Board
4 may order restitution be made to the payer of the bill, whether the
5 patient or the insurer, by the physician; provided that a determination
6 of the amount of restitution shall be based on credible testimony in the
7 record.
- 8 (13) Having a license to practice medicine or the authority to practice
9 medicine revoked, suspended, restricted, or acted against or having a
10 license to practice medicine denied by the licensing authority of any
11 jurisdiction. For purposes of this subdivision, the licensing authority's
12 acceptance of a license to practice medicine voluntarily relinquished
13 by a physician or relinquished by stipulation, consent order, or other
14 settlement in response to or in anticipation of the filing of
15 administrative charges against the physician's license, is an action
16 against a license to practice medicine.
- 17 (14) The failure to respond, within a reasonable period of time and in a
18 reasonable manner as determined by the Board, to inquiries from the
19 Board concerning any matter affecting the license to practice
20 medicine.
- 21 (15) The failure to complete an amount not to exceed 150 hours of
22 continuing medical education during any three consecutive calendar
23 years pursuant to rules adopted by the Board.

24 For any of the foregoing reasons, the Board may deny the issuance of a license to ~~an~~
25 a physician or physician assistant applicant or revoke a license issued to a
26 ~~physician, physician or physician assistant~~, may suspend such a license for a period of
27 time, and may impose conditions upon the continued practice after such period of
28 suspension as the Board may deem advisable, may limit the accused physician's or
29 physician assistant's practice of medicine or medical acts with respect to the extent,
30 nature or location of the physician's or physician assistant's practice as the Board deems
31 advisable. The Board may, in its discretion and upon such terms and conditions and for
32 such period of time as it may prescribe, restore a license so revoked or rescinded, except
33 that no license that has been revoked shall be restored for a period of two years
34 following the date of revocation."

35 **SECTION 2.** G.S. 90-15 reads as rewritten:

36 "**§ 90-15. License fee; salaries, fees, and expenses of Board.**

37 Each applicant for a license ~~by examination to practice medicine and surgery in this~~
38 State under either G.S. 90-9, 90-10, or 90-13 shall pay to the North Carolina Medical
39 Board ~~a fee which shall be prescribed by the Board in an amount not exceeding the sum~~
40 ~~of four hundred dollars (\$400.00) plus the cost of test materials before being admitted to~~
41 ~~the examination. Whenever a license is granted without examination, as authorized in~~
42 G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by
43 ~~the Board not in excess of two hundred fifty dollars (\$250.00); an application fee of~~
44 three hundred fifty dollars (\$350.00). Whenever a limited license is granted as provided

1 in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty
2 dollars (\$150.00), except where a limited license to practice in a medical education and
3 training program approved by the Board for the purpose of education or training is
4 granted, the applicant shall pay a fee of ~~twenty-five dollars (\$25.00)~~, one hundred dollars
5 (\$100.00), and where a limited license to practice medicine and surgery only at clinics
6 that specialize in the treatment of indigent patients is granted, the applicant shall not pay
7 a fee. A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a duplicate
8 license. All fees shall be paid in advance to the North Carolina Medical Board, to be
9 held in a fund for the use of the Board. The compensation and expenses of the members
10 and officers of the Board and all expenses proper and necessary in the opinion of the
11 Board to the discharge of its duties under and to enforce the laws regulating the practice
12 of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The
13 per diem compensation of Board members shall not exceed two hundred dollars
14 (\$200.00) per day per member for time spent in the performance and discharge of duties
15 as a member. Any unexpended sum or sums of money remaining in the treasury of the
16 Board at the expiration of the terms of office of the members of the Board shall be paid
17 over to their successors in office.

18 For the initial and annual registration of an assistant to a physician, the Board may
19 require the payment of a fee not to exceed a reasonable amount."

20 **SECTION 3.** G.S. 90-15.1 reads as rewritten:

21 "**§ 90-15.1. Registration every year with Board.**

22 Every person licensed to practice medicine by the North Carolina Medical Board
23 shall register annually with the Board within 30 days of the person's birthday. A person
24 who registers with the Board shall report to the Board the person's name and office and
25 residence address and any other information required by the Board, and shall pay a
26 registration fee of ~~one hundred twenty-five dollars (\$125.00)~~, one hundred seventy-five
27 dollars (\$175.00), except those who have a limited license to practice in a medical
28 education and training program approved by the Board for the purpose of education or
29 training shall pay a registration fee of one hundred twenty-five dollars (\$125.00), and
30 those who have a limited volunteer license shall pay an annual registration fee of
31 twenty-five dollars (\$25.00). A physician who is not actively engaged in the practice of
32 medicine in North Carolina and who does not wish to register the license may direct the
33 Board to place the license on inactive status. For purposes of annual registration, the
34 Board shall use a simplified registration form which allows registrants to confirm
35 information on file with the Board. A physician who fails to register as required by this
36 section shall pay an additional fee of ~~twenty dollars (\$20.00)~~ fifty dollars (\$50.00) to the
37 Board. The license of any physician who fails to register and who remains unregistered
38 for a period of 30 days after certified notice of the failure is automatically inactive.
39 Except as provided in G.S. 90-12(d), a person whose license is inactive shall not
40 practice medicine in North Carolina nor be required to pay the annual registration fee.
41 Upon payment of all accumulated fees and penalties, the license of the physician may
42 be reinstated, subject to the Board requiring the physician to appear before the Board for
43 an interview and to comply with other licensing requirements. The penalty may not
44 exceed the maximum fee for a license under G.S. 90-13."

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SECTION 4. This act is effective when it becomes law.