

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 527

Short Title: Optometry Changes.

(Public)

Sponsors: Representatives Justus, Hiatt, Davis; Adams, Aldridge, Berry, Blue, Bonner, Boyd-McIntyre, Braswell, Brawley, Brown, Buchanan, Capps, Carpenter, Church, Clary, Cole, Creech, Culpepper, Cunningham, Decker, Dedmon, Dockham, Earle, Easterling, Eddins, Fitch, Goodwin, Grady, Gulley, Hall, Hardaway, Hightower, Hill, Howard, H. Hunter, Hurley, Ives, Jarrell, Jeffus, Kinney, Kiser, Luebke, McAllister, McCrary, Mercer, Michaux, Miner, Moore, Mosley, Nichols, Oldham, Owens, Preston, Rayfield, Redwine, Saunders, Sexton, Sherrill, Smith, Starnes, Sutton, Tallent, Thompson, Tolson, Wainwright, Warner, Warwick, Watson, Weatherly, Wilkins, G. Wilson, Womble, Wood, Wright, and Yongue.

Referred to: Judiciary I.

March 18, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO ENHANCE THE ROLE OF OPTOMETRISTS IN MEDICAL COST
3 CONTAINMENT THROUGH REVISION OF THE HOSPITAL PRIVILEGES
4 LAW, TO REPEAL THE REQUIREMENT FOR AN OPTOMETRIST TO
5 COLLABORATE WITH A PHYSICIAN IN THE USE OR PRESCRIPTION OF
6 CERTAIN PHARMACEUTICAL AGENTS, TO ESTABLISH PEER REVIEW FOR
7 OPTOMETRISTS, AND TO ESTABLISH AN OPTOMETRIST PRIVILEGE.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 90-114 reads as rewritten:

10 "**§ 90-114. Optometry defined.**

11 Any one or any combination of the following practices shall constitute the practice of
12 optometry:

- 1 (1) The examination of the human eye by any method, other than surgery,
2 to diagnose, to treat, or to refer for consultation or treatment any
3 abnormal condition of the human eye and its adnexa; or
4 (2) The employment of instruments, devices, pharmaceutical agents and
5 procedures, other than surgery, intended for the purposes of
6 investigating, examining, treating, diagnosing or correcting visual
7 defects or abnormal conditions of the human eye or its adnexa; or
8 (3) The prescribing and application of lenses, devices containing lenses,
9 prisms, contact lenses, orthoptics, vision training, pharmaceutical
10 agents, and prosthetic devices to correct, relieve, or treat defects or
11 abnormal conditions of the human eye or its adnexa.

12 ~~Provided, however, in using or prescribing pharmaceutical agents, other than topical~~
13 ~~pharmaceutical agents within the definition hereinabove set out which are used for the~~
14 ~~purpose of examining the eye, the optometrist so using or prescribing shall communicate~~
15 ~~and collaborate with a physician duly licensed to practice medicine in North Carolina~~
16 ~~designated or agreed to by the patient."~~

17 Section 2. G.S. 131E-85 reads as rewritten:

18 "**§ 131E-85. Hospital privileges and procedures.**

19 (a) The granting or denial of privileges to practice in hospitals to physicians
20 licensed under Chapter 90 of the General Statutes, Article 1, ~~dentists—dentists,~~
21 ~~optometrists,~~ and podiatrists and the scope and delineation of such privileges shall be
22 determined by the governing body of the hospital on a non-discriminatory basis. Such
23 determinations shall be based upon the applicant's education, training, experience,
24 demonstrated competence and ability, and judgment and character of the applicant, and
25 the reasonable objectives and regulations of the hospital, including, but not limited to
26 appropriate utilization of hospital facilities, in which privileges are sought. Nothing in
27 this Part shall be deemed to mandate hospitals to grant or deny to any such individuals or
28 others privileges to practice in hospitals, or to offer or provide any type of care.

29 (b) The procedures to be followed by a licensed hospital in considering
30 applications of ~~dentists—dentists,~~ ~~optometrists,~~ and podiatrists for privileges to practice in
31 such hospitals shall be similar to those applicable to applications of physicians licensed
32 under Chapter 90 of the General Statutes, Article 1. Such procedures shall be available
33 upon request.

34 (c) In addition to the granting or denial of privileges, the governing body of each
35 hospital may suspend, revoke, or modify privileges.

36 (d) All applicants or individuals who have privileges shall comply with all
37 applicable medical staff bylaws, rules and regulations, including the policies and
38 procedures governing the qualifications of applicants and the scope and delineation of
39 privileges.

40 (e) The Department shall not issue or renew a license under this Article unless the
41 applicant has demonstrated that the procedures followed in determining hospital
42 privileges are in accordance with this Part and rules of the Department."

1 Section 3. Chapter 90 of the General Statutes is amended by adding a new
2 Article to read:

3 **“ARTICLE 6A.**

4 **“OPTOMETRY PEER REVIEW.**

5 **“§ 90-127.4. Peer review agreements.**

6 (a) The North Carolina State Board of Examiners in Optometry may, under rules
7 adopted by the Board in compliance with Chapter 150B of the General Statutes, enter
8 into agreements with the North Carolina State Optometric Society (Society), for the
9 purpose of conducting peer review activities. Peer review activities to be covered by
10 such agreements shall be limited in peer review proceedings to review of clinical
11 outcomes as they relate to the quality of health care delivered by optometrists licensed by
12 the Board.

13 (b) Peer review agreements shall include provisions for the Society to receive
14 relevant information from the Board and other sources, provide assurance of
15 confidentiality of nonpublic information and of the review process, and make reports to
16 the Board. Peer review agreements shall include provisions assuring due process.

17 (c) Any confidential patient information and other nonpublic information
18 acquired, created, or used in good faith by a Society pursuant to this section shall remain
19 confidential and shall not be subject to discovery or subpoena in a civil case.

20 (d) Peer review activities conducted in good faith pursuant to any agreement under
21 this section are deemed to be State directed and sanctioned and shall constitute State
22 action for the purposes of application of antitrust laws. The Board shall be responsible
23 for legal fees arising from peer review activities.”

24 Section 4. Article 7 of Chapter 8 of the General Statutes is amended by adding
25 the following new section to read:

26 **“§ 8-53.9. Optometrist/patient privilege.**

27 No person licensed pursuant to Article 6 of Chapter 90 of the General Statutes shall
28 be required to disclose any information that may have been acquired in rendering
29 professional optometric services, except that the presiding judge of a superior or district
30 court may compel this disclosure, if, in the court's opinion, disclosure is necessary to a
31 proper administration of justice and disclosure is not prohibited by other statute or rule.”

32 Section 5. This act is effective when it becomes law.