

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE DRH70247-MG-27 (01/08)

Short Title: Amend Pharmacy Laws.

(Public)

Sponsors: Representatives Murry, Martin, Wray, and Wilkins (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING LAWS PERTAINING TO THE REGULATION OF PHARMACY  
3 TECHNICIANS, PHARMACY AUDITS, AND PRESCRIPTIONS FOR SCHEDULE II  
4 SUBSTANCES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-85.3 is amended by adding a new subsection to read:

7 "(q3) "Certified pharmacy technician" means a pharmacy technician who (i) has passed a  
8 nationally recognized pharmacy technician certification board examination, or its equivalent,  
9 that has been approved by the Board and (ii) obtains and maintains certification from a  
10 nationally recognized pharmacy technician certification board that has been approved by the  
11 Board."

12 **SECTION 2.** G.S. 90-85.15A reads as rewritten:

13 "(a) ~~Registration.~~ Registration, Generally. – A registration program for pharmacy  
14 technicians is established for the purposes of identifying those persons who are employed or  
15 eligible for employment as pharmacy technicians. The Board must maintain a registry of  
16 pharmacy technicians that contains the name of each pharmacy technician, the name and  
17 location of ~~the~~ a pharmacy in which the pharmacy technician works, the pharmacist-manager  
18 who employs the pharmacy technician, and the dates of that employment.

19 (a1) Registration of Noncertified Pharmacy Technicians. – The Board must register a  
20 pharmacy technician who pays the fee required under ~~G.S. 90-85.24~~ G.S. 90-85.24, is employed  
21 by a pharmacy holding a valid permit under this Article, and completes a required training  
22 ~~program~~ program provided by the supervising pharmacist-manager as specified in subsection  
23 (b) of this section. A pharmacy technician must register with the Board within 30 days after the  
24 date the pharmacy technician completes a training program conducted by the ~~pharmacy~~  
25 ~~technician's supervising~~ pharmacist-manager. The registration must be renewed annually by  
26 paying a registration fee.

27 (a2) Registration of Certified Pharmacy Technicians. – The Board must register a  
28 certified pharmacy technician who pays the fee required under G.S. 90-85.24 and provides  
29 proof of current certification. The registration must be renewed annually by paying a  
30 registration fee and providing proof of current certification.

31 (b) Responsibilities of Pharmacist-Manager. ~~Pharmacist-Manager to Noncertified~~  
32 Pharmacy Technicians. – A pharmacist-manager may hire a person who has a high school  
33 diploma or equivalent or is currently enrolled in a program that awards a high school diploma  
34 or equivalent to work as a pharmacy technician. Pursuant to G.S. 90-85.21, a  
35 pharmacist-manager must notify the Board within ~~30~~ 10 days of the date the pharmacy  
36 technician began employment. The pharmacist-manager must provide a training program for a



1 pharmacy technician that includes pharmacy terminology, pharmacy calculations, dispensing  
2 systems and labeling requirements, pharmacy laws and regulations, record keeping and  
3 documentation, and the proper handling and storage of medications. The requirements of a  
4 training program may differ depending upon the type of employment. The training program  
5 must be provided and completed within 180 days of the date the pharmacy technician began  
6 ~~employment unless the pharmacy technician is registered with the Board. If the pharmacy~~  
7 ~~technician is registered with the Board, then the completion of the training program is optional~~  
8 ~~at the discretion of the pharmacist-manager-employment.~~

9 (b1) Responsibilities of Pharmacist-Manager to Certified Pharmacy Technicians. – A  
10 pharmacist-manager may hire a certified pharmacy technician who has registered with the  
11 Board pursuant to subsection (a2) of this section. Pursuant to G.S. 90-85.21, a certified  
12 pharmacy technician shall notify the Board within 10 days of beginning employment as a  
13 pharmacy technician. The supervising pharmacist-manager and certified pharmacy technician  
14 shall be deemed to have satisfied the pharmacy technician training program requirements of  
15 subsection (b) of this section.

16 (c) Supervision. – A pharmacist may not supervise more than two pharmacy technicians  
17 unless the pharmacist-manager receives written approval from the Board. The Board may not  
18 allow a pharmacist to supervise more than two pharmacy technicians unless the additional  
19 pharmacy technicians ~~have passed a nationally recognized pharmacy technician certification~~  
20 ~~board exam, or its equivalent, that has been approved by the Board-are certified pharmacy~~  
21 ~~technicians.~~ The Board must respond to a request from a pharmacist-manager to allow a  
22 pharmacist to supervise more than two pharmacy technicians within 60 days of the date it  
23 received the request. The Board must respond to the request in one of three ways:

- 24 (1) Approval of the request.
- 25 (2) Approval of the request as amended by the Board.
- 26 (3) Disapproval of the request. A disapproval of a request must include a  
27 reasonable explanation of why the request was not approved.

28 (d) Disciplinary Action. – The Board may, in accordance with Chapter 150B of the  
29 General Statutes and rules adopted by the Board, issue a letter of reprimand or suspend, restrict,  
30 revoke, or refuse to grant or renew the registration of a pharmacy technician if the pharmacy  
31 technician has done one or more of the following:

- 32 (1) Made false representations or withheld material information in connection  
33 with registering as a pharmacy technician.
- 34 (2) Been found guilty of or plead guilty or nolo contendere to a felony involving  
35 the use or distribution of drugs.
- 36 (3) Indulged in the use of drugs to an extent that it renders the pharmacy  
37 technician unfit to assist a pharmacist in preparing and dispensing  
38 prescription medications.
- 39 (4) Developed a physical or mental disability that renders the pharmacy  
40 technician unfit to assist a pharmacist in preparing and dispensing  
41 prescription medications.
- 42 (4a) Been negligent in assisting a pharmacist in preparing and dispensing  
43 prescription medications.
- 44 ~~(5) Willfully violated~~Failed to comply with the laws governing pharmacy  
45 technicians, including any provision of this Article- Article or rules adopted  
46 by the Board governing pharmacy technicians.

47 (e) Exemption. – This section does not apply to pharmacy students who are enrolled in  
48 a school of pharmacy approved by the Board under G.S. 90-85.13.

49 (f) Rule-Making Authority. – The Board may adopt rules necessary to implement this  
50 section."

51 **SECTION 3.** G.S. 90-85.50(b) is amended by adding new subdivisions to read:

- 1           "(21) Not to be subject to recoupment on any portion of the product cost of the  
2           prescription, except in cases of fraud or misrepresentation.
- 3           (22) To have an audit based only on information obtained by the entity  
4           conducting the audit and not based on any audit report or other information  
5           gained from an audit conducted by a different auditing entity. This  
6           subdivision does not prohibit an auditing entity from using an earlier audit  
7           report prepared by that auditing entity for the same pharmacy.
- 8           (23) To be informed of the identity of the responsible party on whose behalf the  
9           audit is being conducted without having to request this information.
- 10          (24) To use any prescription that complies with State laws and regulations to  
11          validate a claim in connection with a prescription, prescription refill, or a  
12          change in a prescription."

13           **SECTION 4.** G.S. 90-85.52 reads as rewritten:

14   "**§ 90-85.52. Pharmacy audit recoupments.**

15       (a) ~~Recoupments of any disputed funds shall occur only after~~ The entity conducting an  
16       audit shall not recoup any disputed funds, charges, or other penalties from a pharmacy until (i)  
17       the deadline for initiating the appeals process established pursuant to G.S. 90-85.51 has elapsed  
18       or (ii) after the final internal disposition of an audit, including the appeals process as set forth in  
19       G.S. 90-85.51, whichever is later, unless fraud or misrepresentation is reasonably suspected.

20       (b) Recoupment on an audit shall be refunded to the responsible party as contractually  
21       agreed upon by the parties.

22       (c) The entity conducting the audit may charge or assess the responsible party, directly  
23       or indirectly, based on amounts recouped if both of the following conditions are met:

- 24           (1) The responsible party and the entity conducting the audit have entered into a  
25           contract that explicitly states the percentage charge or assessment to the  
26           responsible party.
- 27           (2) A commission or other payment to an agent or employee of the entity  
28           conducting the audit is not based, directly or indirectly, on amounts  
29           recouped.

30       (d) The amount of the recoupment shall not include any portion of the product cost of  
31       the prescription, except in cases of fraud or misrepresentation."

32           **SECTION 5.** G.S. 90-106(a) reads as rewritten:

33       "(a) Except when dispensed directly by a practitioner, other than a pharmacist, to an  
34       ultimate user, no controlled substance included in Schedule II of this Article may be dispensed  
35       without the written prescription of a practitioner. No written prescription for a Schedule II  
36       substance shall be dispensed more than six months after the date it was prescribed."

37           **SECTION 6.** This act becomes effective October 1, 2013.