

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 987

Short Title: Optometry Law Changes.

(Public)

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Sponsors: Representative Nye.

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Referred to: State Government.

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April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PEER REVIEW FOR OPTOMETRISTS AND TO  
ESTABLISH AN OPTOMETRIST PRIVILEGE.

The General Assembly of North Carolina enacts:

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

**"ARTICLE 6A.**

**"OPTOMETRY PEER REVIEW.**

**"§ 90-127.4. Peer review agreements.**

(a) The North Carolina State Board of Examiners in Optometry may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with the North Carolina State Optometric Society (Society) or its local or district society components, for the purpose of conducting peer review activities. Peer review activities to be covered by such agreements shall include investigation, review, and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of optometrists licensed by the Board, and shall include programs for impaired optometrists.

(b) Peer review agreements shall include provisions for the Society to receive relevant information from the Board and other sources, conduct the investigation and review in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the review process, make reports of investigations and evaluations to the Board, and to do other related activities for promoting a coordinated and effective peer review process. Peer review agreements shall include provisions assuring due process.

1 (c) When the Society or a component thereof enters into a peer review agreement  
2 with the Board, it shall establish and maintain a program for impaired optometrists  
3 licensed by the Board for the purpose of identifying, reviewing, and evaluating the  
4 ability of those optometrists to function as optometrists and shall provide programs for  
5 treatment and rehabilitation. The Board may provide funds for the administration of  
6 impaired optometrist programs and shall adopt rules with provisions for definitions of  
7 impairment; guidelines for program elements; procedures for receipt and use of  
8 information of suspected impairment; procedures for intervention and referral;  
9 monitoring treatment, rehabilitation, posttreatment support and performance; reports of  
10 individual cases to the Board; periodic reporting of statistical information; assurance of  
11 confidentiality of nonpublic information and of the review process.

12 (d) Upon investigation and review of an optometrist licensed by the Board, or  
13 upon receipt of a complaint or other information, the Society or any component thereof  
14 which enters into a peer review agreement with the Board shall report immediately to  
15 the Board detailed information about any optometrist licensed by the Board if:

16 (1) The optometrist constitutes an imminent danger to the public or to  
17 himself;

18 (2) The optometrist refuses to cooperate with the program, refuses to  
19 submit to treatment or is still impaired after treatment and exhibits  
20 professional incompetence; or

21 (3) It reasonably appears that there are other grounds for disciplinary  
22 action.

23 (e) Any confidential patient information and other nonpublic information  
24 acquired, created, or used in good faith by a Society pursuant to this section shall  
25 remain confidential and shall not be subject to discovery or subpoena in a civil case. No  
26 person participating in good faith in the peer review or impaired optometrist programs  
27 of this section shall be required in a civil case to disclose any information acquired or  
28 opinions, recommendations, or evaluations acquired or developed solely in the course of  
29 participating in any agreements pursuant to this section.

30 (f) Peer review activities conducted in good faith pursuant to any agreement  
31 under this section shall not be grounds for civil action under the laws of this State and  
32 are deemed to be State directed and sanctioned and shall constitute State action for the  
33 purposes of application of antitrust laws."

34 Sec. 2. Article 7 of Chapter 8 of the General Statutes is amended by adding  
35 the following new section to read:

36 "**§ 8-53.9. Optometrist/patient privilege.**

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

42 Sec. 3. This act is effective upon ratification.