

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 162  
Committee Substitute Favorable 4/23/99

Short Title: 1999 Technical Corrections.

(Public)

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Sponsors:

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Referred to:

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February 25, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES  
3 TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL  
4 STATUTES COMMISSION AND OTHERS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-56 reads as rewritten:

7 "**§ 143-56. Certain purchases excepted from provisions of Article.**

8 Unless as may otherwise be ordered by the Secretary of Administration, the purchase  
9 of supplies, materials and equipment through the Secretary of Administration shall be  
10 mandatory in the following cases:

- 11 (1) Published books, manuscripts, maps, pamphlets and periodicals.
- 12 (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs,  
13 and others as may be classified by the Secretary of Administration.

14 Purchase through the Secretary of Administration shall not be mandatory for a purchase  
15 of supplies, materials or equipment for the General Assembly if the total expenditures is  
16 less than the expenditure benchmark established under the provisions of G.S. 143-53.1,  
17 for group purchases made by hospitals through a competitive bidding purchasing  
18 program, as defined in ~~G.S. 143-29~~, G.S. 143-129, by the University of North Carolina  
19 Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina

1 Hospitals at Chapel Hill pursuant to G.S. 116-37(a)(4), by the University of North  
2 Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of  
3 Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-  
4 37(a)(4), or by East Carolina University on behalf of the Medical Faculty Practice Plan  
5 pursuant to G.S. 116-40.6(c).

6 All purchases of the above articles made directly by the departments, institutions and  
7 agencies of the State government shall, whenever possible, be based on competitive bids.  
8 Whenever an order is placed or contract awarded for such articles by any of the  
9 departments, institutions and agencies of the State government, a copy of such order or  
10 contract shall be forwarded to the Secretary of Administration and a record of the  
11 competitive bids upon which it was based shall be retained for inspection and review."

12 Section 2. G.S. 32A-14.1 reads as rewritten:

13 **"§ 32A-14.1. Gifts under power of attorney.**

14 (a) Except as provided in subsection (b) of this section, if any power of attorney  
15 authorizes an attorney-in-fact to do, execute, or perform any act that the principal might  
16 or could do or evidences the principal's intent to give the attorney-in-fact full power to  
17 handle the principal's affairs or deal with the principal's property, the attorney-in-fact  
18 shall have the power and authority to make gifts in any amount of any of the principal's  
19 property to any individual or to any organization described in sections 170(c) and ~~2422(a)~~  
20 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax  
21 law, or both, in accordance with the principal's personal history of making or joining in  
22 the making of lifetime gifts. As used in this subsection, "Internal Revenue Code" means  
23 the "Code" as defined in G.S. 105-2.1.

24 (b) Except as provided in subsection (c) of this section, or unless gifts are  
25 expressly authorized by the power of attorney, a power described in subsection (a) of this  
26 section may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the  
27 estate, creditors, or the creditors of the estate of the attorney-in-fact.

28 (c) If the power of attorney described in subsection (a) of this section is conferred  
29 upon two or more attorneys-in-fact, it may be exercised by the attorney-in-fact or  
30 attorneys-in-fact who are not disqualified by subsection (b) of this section from  
31 exercising the power of appointment as if they were the only attorney-in-fact or  
32 attorneys-in-fact. If the power of attorney described in subsection (a) of this section is  
33 conferred upon one attorney-in-fact, the power of attorney may be exercised by the  
34 attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of  
35 the estate of the attorney-in-fact pursuant to an order issued by the clerk in accordance  
36 with the procedures and provisions of Article 2B of this Chapter.

37 (d) Subsection (a) of this section shall not in any way impair the right, power, or  
38 ability of any principal, by express terms in the power of attorney, to authorize or limit  
39 the authority of any attorney-in-fact to make gifts of the principal's property.

40 (e) An attorney-in-fact expressly authorized by this section to make gifts of the  
41 principal's property may elect to request that the clerk of the superior court issue an order  
42 approving a gift or gifts of the property of the principal.

1 (f) This section shall apply to all powers of attorney executed prior to, on, or after  
2 ~~the effective date of this section—October 1, 1995.~~"

3 Section 3. G.S. 122C-57(d) through (f) read as rewritten:

4 "(d) Each voluntarily admitted client, the client's legally responsible person, or a  
5 health care agent named pursuant to a valid health care power of ~~attorney~~, attorney has the  
6 right to consent to or refuse any treatment offered by the facility. Consent may be  
7 withdrawn at any time by the person who gave the consent. If treatment is refused, the  
8 qualified professional shall determine whether treatment in some other modality is  
9 possible. If all appropriate treatment modalities are refused, the voluntarily admitted  
10 client may be discharged. In an emergency, a voluntarily admitted client may be  
11 administered treatment or medication, other than those specified in subsection (f) of this  
12 section, despite the refusal of the client, the client's legally responsible person, a health  
13 care agent named pursuant to a valid health care power of attorney, or the client's refusal  
14 expressed in a valid advance instruction for mental health treatment. The Commission  
15 may adopt rules to provide a procedure to be followed when a voluntarily admitted client  
16 refuses treatment.

17 (d1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor  
18 from treatment shall include notice to and consultation with the minor's legally  
19 responsible person and in no event shall a minor be discharged from treatment upon the  
20 minor's request alone.

21 (e) In the case of an involuntarily committed client, treatment measures other than  
22 those requiring express written consent as specified in subsection (f) of this section may  
23 be given despite the refusal of the client, the client's legally responsible person, a health  
24 care agent named pursuant to a valid health care power of attorney, or the client's refusal  
25 expressed in a valid ~~advanced~~ advance instruction for mental health treatment ~~or an~~  
26 ~~attorney-in-fact named pursuant to a valid instruction for mental health treatment~~ in the event of  
27 an emergency or when consideration of side effects related to the specific treatment  
28 measure is given and in the professional judgment, as documented in the client's record,  
29 of the treating physician and a second physician, who is either the director of clinical  
30 services of the facility, or the director's designee, either:

- 31 (1) The client, without the benefit of the specific treatment measure, is  
32 incapable of participating in any available treatment plan which will  
33 give the client a realistic opportunity of improving the client's condition;  
34 (2) There is, without the benefit of the specific treatment measure, a  
35 significant possibility that the client will harm self or others before  
36 improvement of the client's condition is realized.

37 (f) Treatment involving electroshock therapy, the use of experimental drugs or  
38 procedures, or surgery other than emergency surgery may not be given without the  
39 express and informed written consent of the client, the client's legally responsible person,  
40 a health care agent named pursuant to a valid health care power of attorney, or the client's  
41 consent expressed in a valid ~~advanced~~ advance instruction ~~or for~~ for mental health treatment.  
42 This consent may be withdrawn at any time by the person who gave the consent. The  
43 Commission may adopt rules specifying other therapeutic and diagnostic procedures that

1 require the express and informed written consent of the client, the client's legally  
2 responsible person, or a health care agent named pursuant to a valid health care power of  
3 attorney, or an attorney in fact named pursuant to a valid advance instruction for mental health  
4 treatment prior to their initiation- attorney."

5 Section 4. G.S. 122C-211(f1) reads as rewritten:

6 "(f1) An individual in need of treatment for mental illness may be admitted to a  
7 facility pursuant to an advance instruction for mental health treatment or pursuant to the  
8 authority of a health care agent named in a valid health care power of attorney, provided  
9 that the individual is incapable, as defined in ~~G.S. 122C-72(e)~~ G.S. 122C-72(4) at the time  
10 of the need for admission. An individual admitted to a facility pursuant to an advance  
11 instruction for mental health treatment may not be retained for more than 10 days, except  
12 as provided for in subsection (b) of this section. When a health care power of attorney  
13 authorizes a health care agent to seek the admission of an incapable individual, the health  
14 care agent shall act for the individual in applying for admission to a facility and in  
15 consenting to medical treatment at the facility when consent is required, provided that the  
16 individual is incapable."

17 Section 5. G.S. 74C-5 reads as rewritten:

18 "**§ 74C-5. Powers of the Board.**

19 In addition to the powers conferred upon the Board elsewhere in this Chapter, the  
20 Board shall have the power to:

- 21 (1) Promulgate rules necessary to carry out and administer the provisions of  
22 this Chapter including the authority to require the submission of reports  
23 and information by licensees under this Chapter;
- 24 (2) Determine minimum qualifications, establish and require written or oral  
25 examinations, and establish minimum education, experience, and  
26 training standards for applicants and licensees under this Chapter;
- 27 (3) Conduct investigations regarding alleged violations and to make  
28 evaluations as may be necessary to determine if licensees and trainees  
29 under this Chapter are complying with the provisions of this Chapter;
- 30 (4) Adopt and amend bylaws, consistent with law, for its internal  
31 management and control;
- 32 (5) Approve individual applicants to be licensed or registered according to  
33 this Chapter;
- 34 (6) Deny, suspend, or revoke any license or trainee permit issued or to be  
35 issued under this Chapter to any applicant, licensee, or permit holder  
36 who fails to satisfy the requirements of this Chapter or the rules  
37 established by the Board. The denial, suspension, or revocation shall be  
38 in accordance with Chapter 150B of the General Statutes of North  
39 Carolina;
- 40 (7) Issue subpoenas to compel the attendance of witnesses and the  
41 production of pertinent books, accounts, records, and documents. The  
42 district court shall have the power to impose punishment pursuant to  
43 G.S. [Chapter] 5A, Article 2, for acts occurring in matters pending

1 before the Private Protective Services Board which would constitute  
2 civil contempt if the acts occurred in an action pending in court; ~~and~~

3 (8) Repealed by Session Laws 1989, c. 759, s. 5.

4 (9) Establish rules governing detection of deception schools, and charge  
5 fees for reimbursement of costs incurred pursuant to approval of such  
6 ~~schools-schools; and~~

7 (10) Contract for services as necessary to carry out the functions of the  
8 Board."

9 Section 6. G.S. 74D-5(a) reads as rewritten:

10 "(a) In addition to the powers conferred upon the Board elsewhere in this Chapter,  
11 the Board shall have the power to:

12 (1) Promulgate rules necessary to carry out and administer the provisions of  
13 this Chapter including the authority to require the submission of reports  
14 and information by licensees under this Chapter;

15 (2) Determine minimum qualifications and establish minimum education,  
16 experience, and training standards for applicants and licensees under  
17 this Chapter;

18 (3) Conduct investigations regarding alleged violations and make  
19 evaluations as may be necessary to determine if licensees and registrants  
20 under this Chapter are complying with the provisions of this Chapter;

21 (4) Adopt and amend bylaws, consistent with law, for its internal  
22 management and control;

23 (5) Investigate and approve individual applicants to be licensed or  
24 registered according this Chapter;

25 (6) Deny, suspend, or revoke any license issued or to be issued under this  
26 Chapter to any applicant or licensee who fails to satisfy the  
27 requirements of this Chapter or the rules established by the Board. The  
28 denial, suspension, or revocation of such license shall be in accordance  
29 with Chapter 150B of this General Statutes of North Carolina;

30 (7) Issue subpoenas to compel the attendance of witnesses and the  
31 production of pertinent books, accounts, records, and documents. The  
32 district court shall have the power to impose punishment pursuant to  
33 G.S. 5A-21 et seq. for acts occurring in matters pending before the  
34 Board which would constitute civil contempt if the acts occurred in an  
35 action pending in ~~court-court; and~~

36 (8) Contract for services as necessary to carry out the functions of the  
37 Board."

38 Section 7. G.S. 74C-6 reads as rewritten:

39 **"§ 74C-6. Position of Administrator created.**

40 The position of Administrator of the Private Protective Services Board is hereby  
41 created within the ~~State Bureau of Investigation-Department of Justice.~~ The Attorney  
42 General shall appoint a person to fill this full-time position. The Administrator's duties  
43 shall be to administer the directives contained in this Chapter and the rules promulgated

1 by the Board to implement this Chapter and to carry out the administrative duties incident  
2 to the functioning of the Board in order to actively police the private protective services  
3 industry to ensure compliance with the law in all aspects.”

4 Section 8. G.S. 74D-5.1 reads as rewritten:

5 **"§ 74D-5.1. Position of Administrator created.**

6 The position of Administrator of the Alarm Systems Licensing Board is hereby  
7 created within the ~~State Bureau of Investigation~~ Department of Justice. The Attorney  
8 General shall appoint a person to fill this full-time position. The Administrator's duties  
9 shall be to administer the directives contained in this Chapter and the rules promulgated  
10 by the Board to implement this Chapter and to carry out the administrative duties incident  
11 to the functioning of the Board in order to actively police the alarm systems industry to  
12 insure compliance with the law in all aspects. The Administrator may issue a temporary  
13 grant or denial of a request for registration subject to final action by the Board at its next  
14 regularly scheduled meeting.”

15 Section 9. This act is effective when it becomes law.