

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 906

Short Title: Pharmacist Peer Review.

(Public)

Sponsors: Representatives Alexander, Gardner; Brown, Cansler, Church, Earle, Hiatt, Sherrill, Wainwright, and G. Wilson.

Referred to: Health.

April 5, 1999

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF PHARMACY TO
3 ENTER INTO AGREEMENTS WITH PHARMACIST PEER REVIEW
4 ORGANIZATIONS FOR IMPAIRED PHARMACISTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 4A of Chapter 90 of the General Statutes is amended by
7 adding the following new section:

8 "**§ 90-85.41. Board agreements with special peer review organizations for impaired**
9 **pharmacists.**

10 (a) The North Carolina Board of Pharmacy may, under rules adopted by the Board
11 in compliance with Chapter 150B of the General Statutes, enter into agreements with
12 special impaired pharmacist peer review organizations. Peer review activities to be
13 covered by such agreements shall include investigation, review and evaluation of records,
14 reports, complaints, litigation, and other information about the practices and practice
15 patterns of pharmacists licensed by the Board, as such matters may relate to impaired
16 pharmacists. Special impaired pharmacist peer review organizations may include a
17 statewide supervisory committee and various regional and local components or
18 subgroups.

1 (b) Agreements authorized under this section shall include provisions for the
2 impaired pharmacist peer review organizations to receive relevant information from the
3 Board and other sources, conduct any investigation, review, and evaluation in an
4 expeditious manner, provide assurance of confidentiality of nonpublic information and of
5 the peer review process, make reports of investigations and evaluations to the Board, and
6 to do other related activities for operating and promoting a coordinated and effective peer
7 review process. The agreements shall include provisions assuring basic due process for
8 pharmacists that become involved.

9 (c) The impaired pharmacist peer review organizations that enter into agreements
10 with the Board shall establish and maintain a program for impaired pharmacists licensed
11 by the Board for the purpose of identifying, reviewing, and evaluating the ability of those
12 pharmacists to function as pharmacists, and to provide programs for treatment and
13 rehabilitation. The Board may provide funds for the administration of these impaired
14 pharmacist peer review programs. The Board shall adopt rules to apply to the operation
15 of impaired pharmacist peer review programs, with provisions for: (i) definitions of
16 impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of
17 information of suspected impairment; (iv) procedures for intervention and referral; (v)
18 arrangements for monitoring treatment, rehabilitation, posttreatment support, and
19 performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of
20 statistical information; and (viii) assurance of confidentiality of nonpublic information
21 and of the peer review process.

22 (d) Upon investigation and review of a pharmacist licensed by the Board, or upon
23 receipt of a complaint or other information, an impaired pharmacist peer review
24 organization that enters into a peer review agreement with the Board shall report
25 immediately to the Board detailed information about any pharmacist licensed by the
26 Board, if:

- 27 (1) The pharmacist constitutes an imminent danger to the public or himself
28 or herself.
- 29 (2) The pharmacist refuses to cooperate with the program, refuses to submit
30 to treatment, or is still impaired after treatment and exhibits professional
31 incompetence.
- 32 (3) It reasonably appears that there are other grounds for disciplinary action.

33 (e) Any confidential patient information and other nonpublic information
34 acquired, created, or used in good faith by an impaired pharmacist peer review
35 organization pursuant to this section shall remain confidential and shall not be subject to
36 discovery or subpoena in a civil case. No person participating in good faith in an
37 impaired pharmacist peer review program developed under this section shall be required
38 in a civil case to disclose any information (including opinions, recommendations, or
39 evaluations) acquired or developed solely in the course of participating in the program.

40 (f) Impaired pharmacist peer review activities conducted in good faith pursuant to
41 any program developed under this section shall not be grounds for civil action under the
42 laws of this State, and the activities are deemed to be State directed and sanctioned and
43 shall constitute "State action" for the purposes of application of antitrust laws."

1 Section 2. This act is effective when it becomes law.