

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-81
HOUSE BILL 906

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF PHARMACY TO
ENTER INTO AGREEMENTS WITH PHARMACIST PEER REVIEW
ORGANIZATIONS FOR IMPAIRED PHARMACISTS.

The General Assembly of North Carolina enacts:

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

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

(a) The North Carolina Board of Pharmacy may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired pharmacist peer review organizations. 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 pharmacists licensed by the Board, as such matters may relate to impaired pharmacists. Special impaired pharmacist peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups.

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

(c) The impaired pharmacist peer review organizations that enter into agreements with the Board shall establish and maintain a program for impaired pharmacists licensed by the Board for the purpose of identifying, reviewing, and evaluating the ability of those pharmacists to function as pharmacists, and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired pharmacist peer review programs. The Board shall adopt rules to apply to the operation of impaired pharmacist peer review programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v)

arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; and (viii) assurance of confidentiality of nonpublic information and of the peer review process.

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

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

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

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

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

In the General Assembly read three times and ratified this the 13th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:00 p.m. this 21st day of May, 1999