

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1038

Short Title: Pharmacy Board Changes.

(Public)

Sponsors: Representative Nichols.

Referred to: Rules, Calendar and Operations of the House.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE STATEWIDE VOTING TO ELECT MEMBERS OF THE BOARD OF PHARMACY AND TO ALLOW THE GENERAL ASSEMBLY TO APPOINT MEMBERS TO THE BOARD.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-85.6 reads as rewritten:

~~"§ 90-85.6. Board of Pharmacy; creation; membership; qualification of members. Board's powers and duties.~~

(a) ~~Creation.~~—The responsibility for enforcing the provisions of this Article and the laws pertaining to the distribution and use of drugs is vested in the Board. The Board shall adopt reasonable rules for the performance of its duties. The Board shall have all of the duties, ~~powers~~ powers, and authorities specifically granted by and necessary for the enforcement of this Article, as well as any other duties, ~~powers~~ powers, and authorities that may be granted from time to time by other appropriate statutes.

(b) ~~Membership.~~—The Board shall consist of six members, one of whom shall be a representative of the public, and the remainder of whom shall be pharmacists.

(c) ~~Qualifications.~~—The public member of the Board shall not be a health care provider or the spouse of a health care provider. He shall not be enrolled in a program to prepare him to be a health care provider. The public member of the Board shall be a resident of this State at the time of his appointment and while serving as a Board

1 member. The pharmacist members of the Board shall be residents of this State at the time
2 of their appointment and while serving as Board members.”

3 Section 2. G.S. 90-85.7 reads as rewritten:

4 "**§ 90-85.7. Board of Pharmacy; selection; vacancies; commission; term; per diem;**
5 **removal. Board of Pharmacy composition; qualifications; vacancies;**
6 **removal; per diem; immunity.**

7 (a) Composition. – The Board shall have six members as follows:

8 (1) The General Assembly, upon the recommendation of the President Pro
9 Tempore of the Senate, shall appoint two members. One of the
10 members shall be an independent pharmacist and one shall be a
11 multioutlet retail pharmacist.

12 (2) The General Assembly, upon the recommendation of the Speaker of the
13 House of Representatives, shall appoint two members. One of the
14 members shall be a hospital pharmacist and one shall be associated with
15 a managed care organization.

16 (3) The Governor shall appoint two public members.

17 Members of the Board shall take office May 1 following the expired term of that seat
18 and shall serve for a term of five years or until their successors have been appointed and
19 qualified. No member may serve more than two complete consecutive terms.

20 (b) Qualifications. – All members of the Board shall be residents of this State at
21 the time of appointment and at all times during their term on the Board. Pharmacist
22 members shall hold a current license to practice pharmacy in this State. A public member
23 shall not be a health care provider or the spouse of a health care provider, and shall not be
24 enrolled in a program to prepare himself or herself to be a health care provider.

25 (c) Vacancies. – Vacancies shall be filled in the same manner as the original
26 appointment, except that all unexpired terms in seats appointed by the General Assembly
27 shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve
28 the remainder of the unexpired term and until their successors have been duly appointed
29 and qualified.

30 (d) Removal. – The Governor may remove any Board member for neglect of duty,
31 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
32 as a licensee shall be disqualified from participating in the official business of the Board
33 until the charges have been resolved.

34 (e) Per diem. – Notwithstanding G.S. 93B-5, Board members shall receive as
35 compensation for their services per diem not to exceed one hundred dollars (\$100.00) for
36 each day during which they are engaged in the official business of the Board.

37 (f) Immunity from suit. – Individual Board members shall be immune from civil
38 liability arising from activities performed within the scope of their official duties.

39 ~~(a) The Board of Pharmacy shall consist of six persons. Five of the members shall~~
40 ~~be licensed as pharmacists within this State and shall be elected and commissioned by the~~
41 ~~Governor as hereinafter provided. Pharmacist members shall be chosen in an election~~
42 ~~held as hereinafter provided in which every person licensed to practice pharmacy in~~
43 ~~North Carolina and residing in North Carolina shall be entitled to vote. Each pharmacist~~

1 member of said Board shall be elected for a term of five years and until his successor
2 shall be elected and shall qualify. Members chosen by election under this section shall be
3 elected upon the expiration of the respective terms of the members of the present Board
4 of Pharmacy. No pharmacist shall be nominated for membership on said Board, or shall
5 be elected to membership on said Board, unless, at the time of such nomination, and at
6 the time of such election, he is licensed to practice pharmacy in North Carolina. In case
7 of death, resignation or removal from the State of any pharmacist member of said Board,
8 the pharmacist members of the Board shall elect in his place a pharmacist who meets the
9 criteria set forth in this section to fill the unexpired term.

10 One member of the Board shall be a person who is not a pharmacist and who
11 represents the interest of the public at large. The Governor shall appoint this member.

12 All Board members serving on June 30, 1989, shall be eligible to complete their
13 respective terms. No member appointed or elected to a term on or after July 1, 1989,
14 shall serve more than two complete consecutive five year terms. The Governor may
15 remove any member appointed by him for good cause shown and may appoint persons to
16 fill unexpired terms of members appointed by him.

17 It shall be the duty of a member of the Board of Pharmacy, within 10 days after
18 receipt of notification of his appointment and commission, to appear before the clerk of
19 the superior court of the county in which he resides and take and subscribe an oath to
20 properly and faithfully discharge the duties of his office according to law.

21 (b) All nominations and elections of pharmacist members of the Board shall be
22 conducted by the Board of Pharmacy, which is hereby constituted a Board of Pharmacy
23 Elections. Every pharmacist with a current North Carolina license residing in this State
24 shall be eligible to vote in all elections. The list of pharmacists shall constitute the
25 registration list for elections. The Board of Pharmacy Elections is authorized to make
26 rules and regulations relative to the conduct of these elections, provided such rules and
27 regulations are not in conflict with the provisions of this section and provided that notice
28 shall be given to all pharmacists residing in North Carolina. All such rules and
29 regulations shall be adopted subject to the procedures of Chapter 150B of the General
30 Statutes of North Carolina. From any decision of the Board of Pharmacy Elections
31 relative to the conduct of such elections, appeal may be taken to the courts in the manner
32 otherwise provided by Chapter 150B of the General Statutes.

33 (c) All rules, regulations, and bylaws of the North Carolina Board of Pharmacy so
34 far as they are not inconsistent with the provisions of this Article, shall continue in effect.

35 (d) Notwithstanding G.S. 93B-5, Board members shall receive as compensation
36 for their services per diem not to exceed one hundred dollars (\$100.00) for each day
37 during which they are engaged in the official business of the Board."

38 Section 3. Members serving on the North Carolina Board of Pharmacy (Board)
39 on the effective date of this act may complete the terms for which they were elected or
40 appointed. When the term of a member is completed on April 30, 2000, the General
41 Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall,
42 pursuant to G.S. 90-85.7A, as enacted in Section 1 of this act, appoint an independent
43 pharmacist to the Board. When the term of a member is completed on April 30, 2000, the

1 General Assembly, upon the recommendation of the Speaker of the House of
2 Representatives, shall, pursuant to G.S. 90-85.7A, as enacted in Section 1 of this act,
3 appoint a multioutlet retail pharmacist to the Board. When the term of a member is
4 completed on April 30, 2000, and the term of a member is completed on April 30, 2001,
5 the Governor shall, pursuant to G.S. 90-85.7A, as enacted in Section 1 of this act, appoint
6 a public member to the Board. When the term of a member is completed on April 30,
7 2002, the General Assembly, upon the recommendation of the President Pro Tempore of
8 the Senate, shall, pursuant to G.S. 90-85.7A, as enacted in Section 1 of this act, appoint a
9 hospital pharmacist to the Board. When the term of a member is completed on April 30,
10 2002, the General Assembly, upon the recommendation of the Speaker of the House of
11 Representatives, shall, pursuant to G.S. 90-85.7A, as enacted in Section 1 of this act,
12 appoint a pharmacist who is associated with a managed care organization to the Board.

13 Section 4. The rules of the Board of Pharmacy in effect on the effective date of
14 this act shall continue in effect if they are not inconsistent with the provisions of this act.

15 Section 5. This act is effective when it becomes law, and applies to terms
16 beginning on or after April 30, 2000.