

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 677
PROPOSED SENATE COMMITTEE SUBSTITUTE H677-PCS20189-STxf-117

Short Title: Consolidation of Certain Fire Districts.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT COUNTIES TO CONSOLIDATE RURAL FIRE PROTECTION
3 DISTRICTS ESTABLISHED UNDER ARTICLE 3A OF CHAPTER 69 OF THE
4 GENERAL STATUTES AND FIRE PROTECTION SERVICE DISTRICTS
5 ESTABLISHED UNDER ARTICLE 16 OF CHAPTER 153A OF THE GENERAL
6 STATUTES AND TO AMEND THE STATUTES GOVERNING THE NORTH
7 CAROLINA MEDICAL BOARD.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 153A-303 is amended by adding a new subsection to read:

10 "(b1) Annexation of Certain Areas to a Fire Service District. – The board of
11 commissioners may by ordinance extend the boundaries of any service district that provides
12 fire protection under this Part to include any territory located within that county that has been
13 located in a fire protection district established under Article 3A of Chapter 69 of the General
14 Statutes ("Chapter 69 District") for at least 30 years as of the date of the adoption of the
15 resolution. Upon the effective date of the ordinance, that area is removed from the Chapter 69
16 District. If any such area is within both the boundaries of a Chapter 69 District for at least 30
17 years as of the date of the adoption of the ordinance and the service district established under
18 this Part, the ordinance may remove the territory from the Chapter 69 District. Prior to adopting
19 any ordinance under this subsection, the board of commissioners shall hold a public hearing
20 after at least 10 days' notice in a newspaper of general circulation in the area. The effective date
21 of the ordinance shall be either (i) June 30 after the date of the passage of the ordinance if the
22 ordinance is adopted more than 90 days before June 30 or (ii) June 30 of the following year
23 after the date of passage of the ordinance. Removal of territory from a Chapter 69 District
24 under this subsection does not affect the rights or liabilities of the county, a taxpayer, or other
25 person concerning taxes previously levied."

26 SECTION 1.(b) G.S. 69-25.11 is amended by adding a new subdivision to read:

27 "(6) The area of any fire protection district may be decreased as provided by
28 G.S. 153A-303(b1)."

29 SECTION 2.1. G.S. 90-2(b) reads as rewritten:

30 "(b) No member shall serve more than two complete ~~consecutive~~ three-year terms,
31 except that each member shall serve until a successor is chosen and qualifies."

32 SECTION 2.2. G.S. 90-3 reads as rewritten:

33 "§ 90-3. **Review Panel recommends certain Board members; criteria for**
34 **recommendations.**

35 (a) There is created a Review Panel to review all applicants for the physician positions
36 and the physician assistant or nurse practitioner position on the Board except as provided in



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1 G.S. 90-2(a)(2)a. The Review Panel shall consist of nine members, including four from the
2 Medical Society, one from the Old North State Medical Society, one from the North Carolina
3 Osteopathic Medical Association, one from the North Carolina Academy of Physician
4 Assistants, one from the North Carolina Nurses Association Council of Nurse Practitioners, and
5 one public member currently serving on the Board. All physicians, physician assistants, and
6 nurse practitioners serving on the Review Panel shall be actively practicing in North Carolina.

7 The Review Panel shall contract for the independent administrative services needed to
8 complete its functions and duties. The Board shall provide funds to pay the reasonable cost for
9 the administrative services of the Review Panel. The Board shall convene the initial meeting of
10 the Review Panel. The Review Panel shall elect a chair, and all subsequent meetings shall be
11 convened by the Review Panel.

12 The Governor shall appoint Board members as provided in G.S. 90-2. The Review Panel
13 shall attempt to make its recommendations to the Governor reflect the composition of the State
14 with regard to gender, ethnic, racial, and age composition.

15 The Review Panel and its members and staff shall not be held liable in any civil or criminal
16 proceeding for exercising, in good faith, the powers and duties authorized by law.

17 (b) To be considered qualified for a physician position or the physician assistant or
18 nurse practitioner position on the Board, an applicant shall meet each of the following criteria:

- 19 (1) Hold an active, nonlimited license to practice medicine in North Carolina, or
20 in the case of a physician assistant or nurse practitioner, hold an active
21 license or approval to perform medical acts, tasks, and functions in North
22 Carolina.
- 23 (2) Have an active clinical or teaching practice. For purposes of this subdivision,
24 the term "active" means patient care, or instruction of students in an
25 accredited medical school or residency, or clinical research program, for 20
26 hours or more per week.
- 27 (3) Have actively practiced in this State for at least five consecutive years
28 immediately preceding the appointment.
- 29 (4) Intend to remain in active practice in this State for the duration of the term
30 on the Board.
- 31 (5) Submit at least three letters of recommendation, either from individuals or
32 from professional or other societies or organizations.
- 33 (6) Have no public disciplinary history with the Board or any other licensing
34 board in this State or another state over the past 10 years before applying for
35 appointment to the Board.
- 36 (7) Have no history of felony convictions of any kind.
- 37 (8) Have no misdemeanor convictions related to the practice of medicine.
- 38 (9) Indicate, in a manner prescribed by the Review Panel, that the applicant: (i)
39 understands that the primary purpose of the Board is to protect the public;
40 (ii) is willing to take appropriate disciplinary action against his or her peers
41 for misconduct or violations of the standards of care or practice of medicine;
42 and (iii) is aware of the time commitment needed to be a constructive
43 member of the Board.
- 44 (10) Has not served more than 72 months as a member of the Board.

45 (c) ~~The review panel~~ Review Panel shall recommend at least two qualified nominees for
46 each open position on the Board. If the Governor chooses not to appoint either of the
47 recommended nominees, the Review Panel shall recommend at least two new qualified
48 nominees.

49 (d) Notice of open physician positions or the physician assistant or nurse practitioner
50 position on the Board shall be sent to all physicians currently licensed to practice medicine in

1 North Carolina and all physician assistants and nurse practitioners currently licensed or
2 approved to perform medical acts, tasks, and functions in this State.

3 (e) Applicants for positions on the Board shall not be required to be members of any
4 professional association or society, except as provided in G.S. 90-2(a)(2)a.

5 (f) Notwithstanding any provision contained in G.S. 90-16, the Board may provide
6 confidential and nonpublic licensing and investigative information in its possession to the
7 Review Panel.

8 (g) All applications, records, papers, files, reports, and all investigative and licensing
9 information received by the Review Panel from the Board and other documents received or
10 gathered by the Review Panel, its members, employees, agents, and consultants as a result of
11 soliciting, receiving and reviewing applications, and making recommendations as required
12 above shall not be considered public records within the meaning of Chapter 132 of the General
13 Statutes and are privileged, confidential, and not subject to discovery, subpoena, or other means
14 of legal compulsion for release to any person other than the Review Panel and the Board, their
15 employees, agents, or consultants, except as provided herein. The Review Panel shall publish
16 on its Web site the names and practice addresses of all applicants within 10 days of the
17 application deadline. The Review Panel shall publish on its Web site the names and practice
18 addresses of the nominees upon recommendation to the Governor.

19 (h) The Review Panel is a public body within the meaning of Article 33C of Chapter
20 143 of the General Statutes. In addition to the provisions contained in that Article permitting a
21 public body to conduct business in a closed session, the Review Panel shall meet in a closed
22 session to review applications, interview applicants, review and discuss information received
23 from the Board, and discuss, debate, and vote on recommendations to the Governor."

24 **SECTION 2.3.** G.S. 90-5.2 reads as rewritten:

25 **"§ 90-5.2. Board to collect and publish certain data.**

26 (a) The Board shall require all physicians and physician assistants to report to the Board
27 certain information, including, but not limited to, the following:

- 28 (1) The names of any schools of medicine or osteopathy attended and the year
29 of graduation.
- 30 (2) Any graduate medical or osteopathic education at any institution approved
31 by the Accreditation Council of Graduate Medical Education, the Committee
32 for the Accreditation of Canadian Medical Schools, the American
33 Osteopathic Association, or the Royal College of Physicians and Surgeons
34 of Canada.
- 35 (3) Any specialty board of certification as approved by the American Board of
36 Medical Specialties, the Bureau of Osteopathic Specialists of American
37 Osteopathic Association, or the Royal College of Physicians and Surgeons
38 of Canada.
- 39 (4) Specialty area of practice.
- 40 (5) Hospital affiliations.
- 41 (6) Address and telephone number of the primary practice setting.
- 42 (7) ~~An A current effective e-mail address or facsimile number~~ which shall not be
43 ~~made available to the a public record and shall may be used or made~~
44 available for the purpose of expediting the dissemination of information
45 ~~about affecting a public health emergency or the practice of medicine.~~
- 46 (8) Any final disciplinary order or other action required to be reported to the
47 Board pursuant to G.S. 90-14.13 that results in a suspension or revocation of
48 privileges.
- 49 (9) Any final disciplinary order or action of any regulatory board or agency
50 including other state medical boards, the United States Food and Drug

Administration, the United States Drug Enforcement Administration, Medicare, or the North Carolina Medicaid program.

(10) Conviction of a felony.

(11) Conviction of certain misdemeanors, occurring within the last 10 years, in accordance with rules adopted by the Board.

(12) Any medical license, active or inactive, granted by another state or country.

(13) Certain malpractice information received pursuant to G.S. 90-5.3, G.S. 90-14.13, or from other sources in accordance with rules adopted by the Board.

(a1) The Board shall make e-mail addresses ~~and facsimile numbers~~ reported pursuant to G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the North Carolina Controlled Substance Reporting System established by Article 5E of this Chapter.

(b) Except as provided, the Board shall make information collected under G.S. 90-5.2(a) available to the public.

(c) The Board may adopt rules to implement this section.

(d) Failure to provide information as required by this section and in accordance with Board rules or knowingly providing false information may be considered unprofessional conduct as defined in G.S. 90-14(a)(6)."

SECTION 2.4. G.S. 90-13.1(a) reads as rewritten:

"(a) Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application fee of ~~three four hundred fifty~~ four hundred dollars ~~(\$350.00)-(\$400.00).~~"

SECTION 2.5. G.S. 90-13.2 reads as rewritten:

"§ 90-13.2. Registration every year with Board.

(a) Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday.

(b) A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay an annual registration fee of ~~one hundred seventy five two hundred fifty~~ two hundred fifty dollars ~~(\$175.00)-(\$250.00)~~, except the following:

(1) ~~those~~Those who have a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training shall pay a registration fee of one hundred twenty-five dollars ~~(\$125.00)-(\$125.00).~~

(2) ~~those~~Those who have a retired limited volunteer license pursuant to ~~G.S. 90-12.1B shall pay an annual registration fee of twenty five dollars~~ ~~(\$25.00)~~, and G.S. 90-12.1B shall pay no registration fee.

(3) ~~those~~Those who have a limited volunteer license pursuant to G.S. 90-12.1A shall pay no annual registration fee.

~~(b1) However,~~ Notwithstanding subsection (b) of this section, licensees who have a limited license to practice for the purpose of education and training under G.S. 90-12.01 shall not be required to pay more than one annual registration fee for each year of training.

~~(e) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.~~

(d) A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status.

(e) A physician who fails to register as required by this section shall pay an additional fee of fifty dollars (\$50.00) to the Board. The license of any physician who fails to register and

1 who remains unregistered for a period of 30 days after certified notice of the failure is
2 automatically inactive. The Board shall retain jurisdiction over the holder of the inactive
3 license.

4 (f) Except as provided in G.S. 90-12.1B, a person whose license is inactive shall not
5 practice medicine in North Carolina nor be required to pay the annual registration fee.

6 (g) Upon payment of all accumulated fees and penalties, the license of the physician
7 may be reinstated, subject to the Board requiring the physician to appear before the Board for
8 an interview and to comply with other licensing requirements. The penalty may not exceed the
9 maximum fee for a license under G.S. 90-13.1."

10 **SECTION 2.6.** G.S. 90-14(n) reads as rewritten:

11 "(n) Notwithstanding subsection (m) of this section, if the licensee has retained counsel
12 ~~and the Board has not made a nonpublic determination to initiate disciplinary proceedings,~~ the
13 Board may serve to both the licensee and the licensee's counsel any of the following:

14 (1) ~~orders~~ Orders to produce, produce.

15 (2) ~~orders~~ Orders to appear, appear.

16 (3) Orders to submit to assessment or examination.

17 (4) Orders following a hearing.

18 (5) ~~or provide notice~~ Notice that the Board will not be taking any further action
19 against a licensee ~~to both the licensee and the licensee's counsel.~~ licensee."

20 **SECTION 2.7.** G.S. 90-14.2 is amended by adding a new subsection to read:

21 "(c) Once charges have been issued, the parties may engage in discovery pursuant to the
22 provisions of the Rules of Civil Procedure, G.S. 1A-1. Additionally, the Board shall provide the
23 respondent or respondent's counsel with all exculpatory evidence in its possession, except the
24 Board shall not be required to provide information that is within the attorney-client privilege;
25 would identify an anonymous complainant; or relates to advisory opinions, recommendations,
26 or deliberations by the Board, its staff, and its consultants that will not be entered into
27 evidence."

28 **SECTION 2.8.** G.S. 90-16(d) is repealed.

29 **SECTION 2.9.** G.S. 90-14.13(a1) reads as rewritten:

30 "(a1) A hospital is not required to report:

31 (1) The suspension or limitation of a physician's privileges for failure to timely
32 complete medical ~~records unless the suspension or limitation is the third~~
33 ~~within the calendar year for failure to timely complete medical records.~~
34 ~~Upon reporting the third suspension or limitation, the hospital shall also~~
35 ~~report the previous two suspensions or limitations.~~ records.

36 (2) A resignation from practice due solely to the physician's completion of a
37 medical residency, internship, or fellowship."

38 **SECTION 2.10.** G.S. 90-21.22 reads as rewritten:

39 "Article 1D.

40 "~~Peer Review~~ Health Program for Medical Professionals.

41 "**§ 90-21.22. ~~Peer review agreements.~~ Health program for medical professionals.**

42 (a) The North Carolina Medical Board ~~may, under rules adopted by the Board in~~
43 ~~compliance with Chapter 150B of the General Statutes,~~ (Board) may enter into agreements with
44 the North Carolina Medical Society (Society), and its local medical society components, and
45 ~~with the North Carolina Academy of Physician Assistants (Academy), and the North Carolina~~
46 Physicians Health Program (Program) for the purpose of conducting peer review
47 activities: identifying, reviewing, and evaluating the ability of licensees of the Board referred to
48 the Program to function in their professional capacity and to coordinate regimens for treatment
49 and rehabilitation. Peer review activities to be covered by such agreements shall include
50 investigation, review, and evaluation of records, reports, complaints, litigation and other
51 information about the practices and practice patterns of physicians licensed by the Board, and

1 of physician assistants approved by the Board, and shall include programs for impaired
2 physicians and impaired physician assistants. Agreements between the Academy and the Board
3 shall be limited to programs for impaired physicians and physician assistants and shall not
4 include any other peer review activities. The agreement shall include guidelines for the
5 assessment, referral, monitoring, support, and education of licensees of the Board with physical
6 or mental illness, chemical dependence, or professional sexual misconduct; procedures for
7 referral by the Board; criteria for reporting licensees to the Board by the Program; periodic
8 reporting of statistical information to the Board, the Society, and the Academy; and assurance
9 of confidentiality of nonpublic information.

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

17 (c) ~~Each society which enters a peer review agreement with the Board shall establish~~
18 ~~and maintain a program for impaired physicians licensed by the Board. The Academy, after~~
19 ~~entering a peer review agreement with the Board, shall either enter an agreement with the North~~
20 ~~Carolina Medical Society for the inclusion of physician assistants in the Society's program for~~
21 ~~impaired physicians, or shall establish and maintain the Academy's own program for impaired~~
22 ~~physician assistants. The purpose of the programs shall be to identify, review, and evaluate the~~
23 ~~ability of those physicians and physician assistants to function in their professional capacity~~
24 ~~and to provide programs for treatment and rehabilitation. The Board, Society, and the~~
25 ~~Academy may provide funds for the administration of impaired physician and impaired~~
26 ~~physician assistants such health programs and shall adopt rules with provisions for definitions of~~
27 ~~impairment; guidelines for program elements; procedures for receipt and use of information of~~
28 ~~suspected impairment; procedures for intervention and referral; monitoring treatment,~~
29 ~~rehabilitation, post-treatment support and performance; reports of individual cases to the Board;~~
30 ~~periodic reporting of statistical information; assurance of confidentiality of nonpublic~~
31 ~~information and of the review process.~~ for licensees.

32 (d) ~~Upon investigation and review of a physician licensed by the Board, or a physician~~
33 ~~assistant approved by the Board, or upon receipt of a complaint or other information, a society~~
34 ~~which enters a peer review agreement with the Board, or the Academy if it has a peer review~~
35 ~~agreement with the Board, as appropriate, The Program shall report immediately to the Board~~
36 ~~detailed information about any physician or physician assistant licensed or approved by the~~
37 ~~Board if: licensee who meets any of the following criteria:~~

38 (1) ~~The physician or physician assistant constitutes~~ The licensee constitutes an
39 imminent danger to the public or to himself patient care ~~by reason of~~
40 ~~impairment, mental illness, physical illness, the commission of~~
41 substance-related disorder, or professional sexual boundary violations, or
42 any other reason; misconduct.

43 (2) ~~The physician or physician assistant~~ The licensee refuses to cooperate with
44 the program, refuses to submit to treatment, or is still impaired after
45 treatment and exhibits professional incompetence; or submit to an assessment
46 as ordered by the Board, has entered into a monitoring contract and fails to
47 comply with the terms of the Program's monitoring contract, or is still unsafe
48 to practice medicine after treatment.

49 (3) ~~It reasonably appears that there are other grounds for disciplinary action.~~

50 (e) Any confidential patient information and other nonpublic information acquired,
51 created, or used in good faith by the ~~Academy or a society~~ Program pursuant to this section

1 shall remain confidential and shall not be subject to discovery or subpoena ~~in a civil case, or~~
2 ~~other means of legal compulsion for release to any person other than the Board, Board~~
3 ~~employees, or consultants used by the Board or the Program.~~ No person participating in good
4 faith in the ~~peer review or impaired physician or impaired physician assistant programs~~ Program
5 ~~of this section~~ shall be required in a civil case to disclose the fact of participation in the
6 Program or any information acquired or opinions, recommendations, or evaluations acquired or
7 developed solely in the course of participating in any agreementsthe Program pursuant to this
8 section.

9 (f) ~~Peer review~~Program activities conducted in good faith pursuant to any agreement
10 under this section shall not be grounds for civil action under the laws of this State ~~and are~~
11 ~~deemed to be State directed and sanctioned and shall constitute State action for the purposes of~~
12 ~~application of antitrust laws.~~State.

13 (g) Upon written request by a participant, the Program shall provide the participant and,
14 if the participant provides a written request and permission, the participant's legal counsel, with
15 a summary of the substantive information contained in the Program's assessment. Any
16 information furnished to a participant pursuant to this subsection shall be inadmissible in
17 evidence and not subject to discovery in any civil proceeding. However, information,
18 documents, or records otherwise available are not immune from discovery or use in a civil
19 action merely because that information, documents, or records were included in the Program's
20 assessment or were the subject of information furnished to the participant pursuant to this
21 subsection.

22 (h) The Board has authority to adopt, amend, or repeal rules as may be necessary to
23 carry out and enforce the provisions of this section."

24 **SECTION 3.** Sections 2.4 and 2.5 of this act become effective October 1, 2014.
25 The remainder of this act is effective when it becomes law.