

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 746
Apr 2, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40425-NB-53

Short Title: Limited Immunity/Nurses. (Public)

Sponsors: Representative Carson Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE LIMITED IMMUNITY AGAINST MEDICAL MALPRACTICE FOR
3 REGISTERED NURSES ACTING UNDER THE SUPERVISION OF A HEALTH CARE
4 PROVIDER AS ARTICULATED IN BYRD V. MARION GENERAL HOSPITAL, 202
5 N.C. 337 (1932).

6 Whereas, Byrd v. Marion General Hospital, 202 N.C. 337 (1932) established case law
7 in North Carolina, enduring for 90 years, that prevented a registered nurse from being liable when
8 acting under the orders of a physician; and

9 Whereas, that case law was overturned in Connette ex rel. Gullatte v. Charlotte
10 Mecklenburg Hospital Authority, 2022-NCSC-95; and

11 Whereas, both the majority of the court and the dissent in that decision pointed out
12 that the authority to prevent this liability is a function of the North Carolina General Assembly,
13 but the General Assembly has been silent; and

14 Whereas, this General Assembly establishes the prevention from this liability with
15 the enactment of this general law; Now, therefore,
16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** Article 1B of Chapter 90 of the General Statutes is amended by adding
18 a new section to read:

19 **"§ 90-21.15B. Registered nurses; limited immunity.**

20 (a) If a nurse acts at the direction of a supervising health care provider during the course
21 of health care treatment, then the following standards apply:

22 (1) The nurse does not owe a separate duty of care to the patient, independent of
23 the duty of care owed by the health care provider.

24 (2) The nurse is not engaged in a collaborative process with joint responsibility
25 as part of a health care team.

26 (3) The primary duty of a nurse is to diligently execute the orders of a physician.

27 (4) The collaboration of a registered nurse with other supervising health care
28 providers under G.S. 90-18.2 does not create an independent separate duty of
29 care to the patient, unless the registered nurse acts independently of or departs
30 from the supervision of a health care provider as required by
31 G.S. 90-171.20(7) and G.S. 90-18(c)(14).

32 (b) No recovery under a medical malpractice action shall be allowed against a nurse upon
33 the sole grounds that the nurse owed a separate duty of care to the patient if the nurse was acting
34 upon the direction of a health care provider.

35 (c) Nothing in this section shall be construed to exempt nurses from any of the following:



* D R H 4 0 4 2 5 - N B - 5 3 *

- 1 (1) The duty to exhibit professional conduct which is not in accordance with the
2 standards of practice in accordance with G.S. 90-21.12.
3 (2) Acts or omissions that are so obviously negligent as to lead any reasonable
4 person to anticipate that substantial injury would result to the patient by the
5 execution of that act or omission.
6 (3) Acts or omissions constituting gross negligence, wanton conduct, or
7 intentional wrongdoing.
8 (d) This section shall not apply to nurses acting outside of the supervision of a health care
9 provider."

10 **SECTION 2.** This act is effective when it becomes law and applies to acts or
11 omissions occurring on or after that date.