GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H **D**

HOUSE DRH50329-LU-116 (04/13)

Short Title:	Pharmacy Quality Assurance Protection Act.	(Public)
Sponsors:	Representative Cole.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE PHARMACY QUALITY ASSURANCE PROTECTION ACT TO FACILITATE THE CONTINUOUS REVIEW OF THE PRACTICE OF PHARMACY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 4B.

"Pharmacy Quality Assurance Protection Act.

"**§ 90-85.45. Legislative intent.**

It is the intent of the General Assembly to encourage pharmacy quality assurance programs to further contribute to and enhance the quality of health care and reduce medication errors in this State by facilitating a process for the continuous review of the practice of pharmacy.

"**§ 90-85.46. Definitions.**

The following definitions shall apply in this Article:

(1) Board. – The North Carolina Board of Pharmacy.

(2) Pharmacy quality assurance program. – A program pertaining to one of the following:

a. A pharmacy association incorporated under Chapter 55A of the General Statutes that evaluates the quality of pharmacy services and medication errors and makes recommendations to improve the quality of pharmacy services.

b. A program established by a person or entity holding a valid pharmacy permit pursuant to G.S. 90-85.21 to evaluate the quality of pharmacy services and medication errors and make recommendations to improve the quality of pharmacy services.

"**§ 90-85.47. Pharmacy quality assurance program required; limited liability; discovery.**

(a) Every person or entity holding a valid pharmacy permit pursuant to G.S. 90-85.21 or G.S. 90-85.21A, shall establish or participate in a pharmacy quality assurance program as defined under G.S. 90-85.46(2), to evaluate the following:

(1) The quality of the practice of pharmacy.

(2) The cause of medication errors.

(3) Pharmaceutical care outcomes.

(4) Possible improvements for the practice of pharmacy.

(5) Methods to reduce medication error occurrences.

(b) There shall be no monetary liability on the part of, or no cause of action for damages arising against, any member of a duly appointed pharmacy quality assurance program or any pharmacy or pharmacist furnishing information to a pharmacy quality assurance program or any person, including a person acting as a witness or incident reporter to or investigator for a pharmacy quality assurance program, for any act or proceeding undertaken or performed within the scope of the functions of the pharmacy quality assurance program.

(c) This section shall not be construed to confer immunity from liability on any professional association, pharmacy or pharmacist, or health care provider while performing services other than as a member of a pharmacy quality assurance program or upon any person, including a person acting as a witness or incident reporter to or investigator for a pharmacy quality assurance program, for any act or proceeding undertaken or performed outside the scope of the functions of the pharmacy quality assurance program. Except as provided in subsection (a) or (b) of this section, where a cause of action would arise against a pharmacy, pharmacist, or an individual health care provider, the cause of action shall remain in effect.

(d) Except as provided in this subsection, the proceedings and records of a pharmacy quality assurance program shall not be subject to discovery or be introduced into evidence in any civil action or administrative proceeding arising out of matters that are the subject of evaluation and review by the pharmacy quality assurance program; nor shall any person in attendance at a meeting of a pharmacy quality assurance program be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the pharmacy quality assurance program regarding any findings, recommendations, evaluations, opinions, or other actions of a pharmacy quality assurance program or any members of the program. However, the information, documents, or records otherwise available from original sources shall not be construed as prohibited from discovery or use in any civil action merely because they were presented during proceedings of a pharmacy quality assurance program; nor shall any person testifying before a pharmacy quality assurance program or member of a pharmacy quality assurance program be prevented from testifying as to matters within the person or member's knowledge; provided that, the witness shall not be asked about his or her testimony before a pharmacy quality assurance program or opinions formed by the witness as a result of the pharmacy quality

assurance program. Confidential information may be used under the following circumstances:

(1) A pharmacy, pharmacist, or other person or any agent or representative of a pharmacy, pharmacist, or other person participating on a pharmacy quality assurance program may use otherwise privileged, confidential information for legitimate internal business or professional purposes of the pharmacy quality assurance program. This use shall not constitute a waiver of the confidential or privileged nature of pharmacy quality assurance program information, hearings, meetings, proceedings, records, determinations, assessments, analyses, opinions, reports, oral or written communications, testimony, or recommendations.

(2) A pharmacy, pharmacist, other person participating on the committee, or any person or organization named as a defendant in a civil action or administrative proceeding as a result of participation in the pharmacy quality assurance program may use otherwise privileged, confidential information in the pharmacy quality assurance program or person's own defense. A plaintiff in the civil action or administrative proceeding may disclose records or determinations of or communications to the pharmacy quality assurance program in rebuttal to information given by the defendant. Any person or entity seeking access to privileged, confidential information shall plead and prove waiver of the privilege.

(e) Upon written request of the Board, a pharmacy shall provide to the Board documentation of any medication error committed by a pharmacist within the three years preceding the date of the request that the pharmacy has knowledge of, when:

(1) The medication error resulted in: (i) an emergency room visit attributed to the medication error; (ii) hospitalization requiring an overnight stay or longer; or (iii) fatalities.

(2) The pharmacist is the subject of disciplinary action conducted under Article 3A of Chapter 150B of the General Statutes. Unless the documentation relates to a medication error previously adjudged by the Board, the Board may review the documentation only after the Board has reached an official decision pursuant to G.S. 150B-42(a) and may use the documentation in determining the remedial action the pharmacist shall undergo subject to the disciplinary action of the Board. The documentation shall be released only to the Board or its designated employees pursuant to this subsection and shall not otherwise be released except as required by law."

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