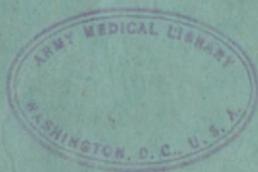


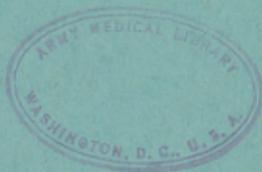
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MANUAL
OF
The Eugenics Board
of North Carolina



Issued by
EUGENICS BOARD OF NORTH CAROLINA
Raleigh, N. C.

MANUAL
OF
The Eugenics Board
of North Carolina



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Raleigh, N. C.

FOREWORD

M A N U A L

The Eugenics Board of North Carolina, desiring to give all possible assistance to persons responsible for administering the State's eugenics program, has prepared a manual of policies and procedures. This manual, which is being sent to State health departments for their use in the public welfare, and is made available to other social or health agencies upon request to the Executive Secretary of the Eugenics Board of North Carolina.

THE EUGENICS BOARD
OF NORTH CAROLINA

It is realized that many questions will arise regarding specific cases. Answers to some of these questions will not be found in this manual. Please feel free to communicate with the Executive Secretary at any time.

Several requests have been received for help in the development of techniques in the interpretation of sterilization to individuals and their families. It is not possible to cover this broad field in a manual of policies and procedures. The Executive Secretary will, however, be available to assist with groups throughout the State for discussions of these or other phases of the eugenics program.

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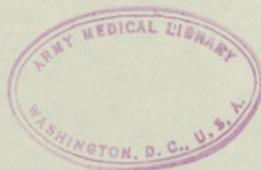
EUGENICS BOARD OF NORTH CAROLINA

Raleigh, N. C.

May 1948

MANUAL
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FOREWORD

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May 1943

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-
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 - Harry McMullan, Attorney General of North Carolina
 - Carl V. Reynolds, M. D., State Health Officer
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May 1948

Action of the Eugenics Board 15

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When necessary consents are not secured.

When changes in original order are needed.

Extension of time for performance of operation.

Change in surgeon.

Non-institutional age entering institution before operation has been performed.

Individual moves to another county after operation is authorized but prior to its performance.

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EUGENICS BOARD OF NORTH CAROLINA

GENERAL INFORMATION

I. Background of Sterilization Legislation in North Carolina.

In 1919 the General Assembly of North Carolina enacted a law ^{1/} which was undoubtedly intended to serve as a sterilization law although the word sterilization does not appear in the text of the act. So far as can be ascertained no sterilizations were performed under this statute.

In 1929 a sterilization act was passed. ^{2/} Under this law 49 persons were sterilized. In February 1933 the North Carolina Supreme Court held that the statute was unconstitutional because there was no provision for notice of hearing or right of appeal.

North Carolina's next sterilization law was passed in 1933. ^{3/} This act provides for notice of hearing, ample opportunity to be heard, and opportunity for appeal to the courts. It is believed, therefore, to be constitutional and also to fulfil the requirements of a good eugenical sterilization law. Supplemental legislation has been passed by subsequent legislatures increasing the effectiveness of the 1933 legislation. Through June 30, 1947, a total of 1842 operations had been performed under this legislation.

II. Purposes of Eugenical Sterilization.

After a survey of the effects of sterilization as practiced in California, the following conclusions were reached. ^{4/} They will serve to make clear the purposes of eugenical sterilization.

- A. Sterilization has one effect only--it prevents parenthood.
- B. It is not a punishment; it is a protection; and therefore carries no stigma or humiliation.
- C. It in no way unsexes the party sterilized.
- D. Sterilization is approved by the families and friends of the sterilized.
- E. It is approved by medical staffs, probation officers, and social workers generally wherever they have come in contact with patients who have been sterilized.

^{1/} Chapter 281, Public Laws of North Carolina, Session 1919.

^{2/} Chapter 34, Public Laws of North Carolina, Session 1929.

^{3/} Article 7, Chapter 35 of the General Statutes.

^{4/} Eugenical Sterilization in North Carolina, 1935, Eugenics Board of North Carolina, pp. 11-12.

- F. It permits patients, who would otherwise be confined to institutions during the fertile period of life, to return to their homes and friends.
- G. The records show that many moron girls paroled from institutions after sterilization have married and are happy and succeeding fairly well. They could never have managed and cared for children, to say nothing of the possible inheritance and fate of such children.
- H. Homes are kept together by sterilization of husband or wife in many mild cases of mental disease, thus removing the dread by the normal spouse of the procreation of a defective child and permitting normal marital companionship.
- I. There is no discovery vitally affecting the life, happiness and well being of the human race in the last quarter of a century about which intelligent people know less than they know about modern sterilization. The operation is simple; it removes no organ or tissue of the body. It has no effect on the patient except to prevent parenthood. Under conservative laws, sanely and equitably administered, these discoveries developed by the medical profession now offer to the mentally ill, feeble-minded, and epileptic the protection of sterilization.

ORGANIZATION

I. Eugenics Board

The Eugenics Board of North Carolina, as specified in the statute, consists of the following five members: (1) Commissioner of Public Welfare, (2) Secretary of the State Board of Health, (3) Chief Medical Officer of the State Hospital at Raleigh, (4) Attorney General, and (5) Chief Medical Officer of an institution for the feeble-minded or mentally ill not located in Raleigh. The latter person is designated from time to time by the other four members.

The Board is authorized to appoint a secretary, not a member of the Board, to conduct the business of the Board between meetings, receive all petitions, keep records, call meetings and act as executive of the Board in such matters as may be delegated by the Board. Communications with the Eugenics Board should be addressed to the Executive Secretary, Eugenics Board of North Carolina, Post Office Box 2599, Raleigh, N. C.

II. Eugenics Board Meetings

The Eugenics Board meets monthly on the fourth Wednesday to act on all petitions which have been filed and to transact other necessary business. In an emergency a special meeting of the Board may be held if all information needed by the Board is filed with the Executive Secretary and the need for such special action has been established.

III. Other Persons Having Legal Responsibility.

The law places a definite responsibility upon each of the persons named below. The various responsibilities of each will be given in the following sections:

- A. Responsible heads of all State penal or charitable institutions.
- B. County Superintendents of public welfare.
- C. Qualified and registered North Carolina physicians or surgeons.

PERSONS WHO MAY BE STERILIZED

The North Carolina law provides specifically for sterilization of three types of cases upon authorization of the Eugenics Board. These are the feebleminded, epileptic, and mentally diseased when it is believed that such an operation would be for the best interests of the individual concerned, or for the public good, or when it is believed a child or children might be born who would have a tendency to serious mental or nervous disease or deficiency.

It is specifically stated that nothing in the law shall prevent the medical or surgical treatment by a physician of an individual for the protection of health. If a county department of public welfare, however, has any part in an operation resulting in sterilization, such as payment of hospital or surgeon's fees or planning and counseling with the family regarding the operation, and the person upon whom the operation is to be performed is feebleminded, epileptic, or mentally ill, full protection can be provided to the county department of public welfare, the physician, and the hospital only by filing a petition with the Eugenics Board. The act specifically provides that no person legally participating in sterilization proceedings under the law shall be liable, either civilly or criminally, on account of such participation except in cases of negligence in performance of the operation. When county departments of public welfare are dealing with mentally incompetent persons, they should conform carefully to the statutory provisions since such persons are easily influenced and their attitudes and actions after the operation is performed cannot be predicted. Persons to be sterilized should also be assured protection of their individual rights through compliance with the statutory procedures. No agency should ask a doctor or hospital to perform a sterilization operation on a mentally ill or mentally deficient person without sanction of the Eugenics Board since the doctor or hospital would be running a grave risk and might be subject to possible suit. The individual or agency attempting to have an operation performed without sanction of the Eugenics Board would also be subject to possible suit.

FILING PETITIONS

I. Duty to Institute Proceedings

The law states that it shall be the duty of the head of a State

penal or charitable institution or of the county superintendent of public welfare to institute proceedings by filing petitions with the Eugenics Board in any or all of the following circumstances:

- A. When in his opinion it is for the best interest of the mental, moral, or physical improvement of the patient, inmate or non-institutional individual, that he or she be sterilized.
- B. When in his opinion it is for the public good that such individual be sterilized.
- C. When in his opinion such individual would be likely unless sterilized to procreate a child or children who would have a tendency to serious physical, mental or nervous disease or deficiency.
- D. When requested to do so in writing by the next of kin or legal guardian of such individual.
- E. When the head of any State or county penal or charitable institution has been requested to do so in writing by any public official or by the legal guardian or next of kin not later than 30 days prior to the date of parole or discharge of such patient.

II. Persons Responsible for Filing Petition.

- A. For operations on individuals in State institutions:

(Use Form No. 1 - Petition for Operation of Sterilization or Asexualization - Inmate of State or County Institution)

1. The executive head of a penal or charitable institution or his duly authorized agent shall act as petitioner.
2. The county superintendent of public welfare may act as petitioner if the individual is on parole from a State institution, or in the case of a person who is an inmate of a State institution when authorized to do so by the superintendent of such institution. In such instances the request should be made in writing by the head of the institution to the county superintendent of public welfare. A copy of the written request should be sent to the Executive Secretary of the Eugenics Board so that the Board may know that the request has been made of the county superintendent. (Some of the State institutions do not have hospital facilities where the operation can be performed and do not have funds to pay the necessary surgeon's fee and care in a private hospital. In such instances the county superintendent of public welfare in the county from which the person was committed will be requested by the superintendent of the State institution to file the petition, since the county department of public welfare is responsible for meeting the necessary medical expenses.)

3. The county superintendent of public welfare acts as petitioner for all persons who are inmates of State institutions not classified as penal or charitable. This includes educational institutions, such as the State School for Blind and Deaf.

B. For operations on individuals in county institutions:

(Use Form No. 1 - Petition for Operation of Sterilization or Asexualization - Inmate of State or County Institution.)

If the individual is an inmate of a charitable or penal institution supported by the county, the executive head of the institution or the county superintendent of public welfare shall act as petitioner. Usually the county superintendent of public welfare will be the petitioner since it will be necessary for his office to arrange for the medical care, secure consents, etc.

C. For operations on all other individuals:

(Use Form No. 2 - Petition for Operation of Sterilization or Asexualization - Non-Institutional Patient.)

The county superintendent of public welfare shall always file the petition if the individual to be sterilized is not an inmate of a State or county institution.

INFORMATION REQUIRED FOR FILING PETITION

The law requires that the petition contain a statement of the mental and physical condition of the person, verified by the affidavit of at least one physician who has had actual knowledge of the case. The following information is specifically required in each case:

I. Information Regarding Physical Condition.

This information is given by the physician in the Medical History section of Form No. 1 or No. 2 - Petition for Operation of Sterilization or Asexualization. The specific information requested in the form should be given.

II. Information Regarding Mental Condition.

The physician giving the information requested in the above paragraph should also give specific information regarding the mental condition of the person. If the person is mentally ill or epileptic, a specific diagnosis of the person's condition should be given. If the person is feebleminded, the physician should indicate this. In the latter case, the petition should also give the intelligence quotient, mental age, or other results of a mental examination of the person to be sterilized. If this information is not already available, the county superintendent of public welfare should make a referral to the Division of Psychiatric and Psychological Services, State

Board of Public Welfare, requesting an appointment for an examination. In a few exceptional cases of extremely low mental deficiency, the mental examination may be waived. Adequate specific factual information will need to be substituted to show conclusively the basis upon which the person is obviously known to be feeble-minded. An example is an adult who has been mentally incapable of learning to dress himself, or a person who, because of his mental condition, has never been permitted to enroll in a public school. A full social history should accompany any petition filed on this basis. The physician's report should also contain specific information showing the findings on which the physician bases his diagnosis of feeble-mindedness.

III. Social History.

The social information presented by the petitioner should contain all of the circumstances surrounding the person's life insofar as they have a bearing upon the following:

- A. The likelihood of the person to procreate a child or children who would have a tendency to serious physical, mental, or nervous disease or deficiency, and
- B. The reasons why it is considered to be for the public good that the individual have the operation.

The personal and family history section of Form 1 or Form 2 should contain only brief, concise answers since, if a hearing is held, a copy of this form must be given by the sheriff to the persons upon whom notice is served. Form No. 7 - Supplement to Petition for Sterilization - should be used for information of a personal or confidential nature which might prove embarrassing to the individual or relatives if contained in papers served by the sheriff. Full case information should be submitted with the petition, supplementing the above information with a letter, if necessary, so that the Eugenics Board can have a basis for action.

CONSENTS FOR STERILIZATION OPERATION

I. Advantages in Securing Consents.

If the consents mentioned below accompany the petition, the Eugenics Board can take action at its first meeting following the receipt of the petition. The operation can also be performed as soon as authorized. If the person to be sterilized and his next of kin are sufficiently familiar with the reasons for requesting the operation to give consent, their cooperation in carrying out the operation, if authorized, is more likely to be secured.

II. Consent of the Individual to be Sterilized.

The consent of the individual on whom the operation is to be performed should be secured on Form No. 6B - Consent for

Operation of Sterilization, unless the individual

- A. Is under 21 years of age;
- B. Is an inmate of one of the four State Hospitals (Raleigh, Morganton, Goldsboro or Camp Butner) or the Caswell Training School; or
- C. Has been declared mentally unsound by a court of competent jurisdiction.

III. Consent of Spouse, Parent, Next of Kin, or Guardian.

Consent of the spouse, parent, next of kin, or guardian should be secured on Form No. 6A - Consent of Parent, Guardian, Spouse or Next of Kin, whenever possible. In securing this consent the following factors should be taken into consideration:

- A. Operation to be performed upon a married individual.
 1. The consent of the spouse should be sought.
 2. If, after due and diligent search, the spouse cannot be located, the consent of the next of kin should be sought. The law does not specify any degree of relationship but consent should be secured from the relative who is the nearest of kin including brothers and sisters, grandparents, uncles and aunts or cousins.
 3. If there is no known next of kin upon whom service can be had, the Clerk of the Superior Court should be petitioned for the appointment of a Guardian ad Litem. The consent of the Guardian ad Litem should be sought.
- B. Operation to be performed upon a single minor.
 1. Consent of at least one of the parents should be sought. If the father is living in the home, the consent should be signed by him since legally the father stands in the relationship of next of kin to a minor child. If the father is not living in the home and the mother is assuming responsibility for the child, the written consent of the mother should be secured. If both parents are living in the home, the attitude of the mother should be determined. This can be through her signature on a consent form or the worker's report of interview with the mother.
 2. If there is no living parent upon whom service can be had, or if a parent cannot be located, after due and diligent search, the Clerk of the Superior Court should be petitioned for the appointment of a Guardian ad Litem. The consent of the Guardian ad Litem should be sought.

3. If there is a legal guardian, his consent should always be sought.

C. Operation to be performed upon an unmarried adult.

1. Consent of a parent, if living, should be sought. (See paragraph B-1 for correct procedure.)
2. If there is no living parent upon whom service can be had, the consent of the next of kin should be sought. The law does not specify any degree of relationship but consent should be secured from the relative who is the nearest of kin including brothers and sisters, grandparents, uncles and aunts or cousins.
3. If there is no living parent or no known next of kin, upon whom service can be had, the Clerk of the Superior Court should be petitioned for the appointment of a Guardian ad Litem. The consent of the Guardian ad Litem should be sought.
4. If there is a legal guardian, his consent should always be sought.

IV. Appointment of Guardian ad Litem.

Under an Act passed by the 1947 Legislature 5/ a guardian ad litem should be appointed under the following conditions; applying to both minors and adults.

- A. If there is no next of kin (for a minor, this is a father or mother)
- B. If the next of kin cannot, after due and diligent search, be found.
- C. If there is no known legal or natural guardian upon whom service can be had.

Form No. 8 - Application for Appointment of Guardian ad Litem, shall be filed with the Clerk of the Superior Court. The application may be filed by the petitioner (county superintendent of public welfare or superintendent of a State institution) or by a relative or interested individual.

Form No. 9 - Appointment of Guardian ad Litem, may be used by the Clerk of the Superior Court to designate the appointment of a guardian ad litem. The petitioner should attach a copy of this form to the petition which is sent to the Executive Secretary of the Eugenics Board. The person who

files the petition for sterilization with the Eugenics Board (or a member of his staff) cannot serve as guardian ad litem since he cannot act in two capacities at the same time.

The guardian ad litem is responsible only for representing the interests of the individual in the proceedings before the Eugenics Board. If the guardian ad litem does not sign a consent, Form No. 6A, a hearing before the Eugenics Board is necessary.

V. Procedure if Consents are not Secured.

If any of the above mentioned consents cannot be secured, the petition should be sent to the Executive Secretary of the Eugenics Board. Accompany it with a letter explaining the reasons for inability to secure the consents. In these instances it will be necessary for a hearing to be held by the Eugenics Board. (See Section regarding Action of Eugenics Board when necessary consents are not secured.)

ACTION OF THE EUGENICS BOARD

I. When Necessary Consents are Filed.

When necessary consents have been filed, the Eugenics Board is able to act on the petition at the first meeting following receipt of the petition. The Board will consider whether the patient is feebleminded, epileptic, or mentally diseased and whether the operation indicated in the petition will be for the best interests of the person named in the petition or for the public good. The Board may:

- A. Order the operation in accordance with the petition;
- B. Postpone action pending receipt of additional information;
- C. Find that the petition does not come within the jurisdiction of the Board; or
- D. Deny the petition.

If the petition is approved the order will be made giving the following:

- A. Specific operation to be performed (sterilization or asexualization)
- B. Designation of a specific physician or the surgeon on the staff of a specific hospital to perform the operation; and
- C. The period of time within which the operation may be performed.

If action is postponed the Executive Secretary will notify the petitioner, indicating the additional information needed or

action to be taken by the petitioner. If the operation is not authorized the Executive Secretary will notify the petitioner indicating the basis for the action taken by the Board.

II. When Necessary Consents are not Secured.

The statute provides that before the Eugenics Board can issue an order in a case where necessary consents have not been secured, it must hold a hearing in which reasons for and against the operation are heard. The party to be sterilized may be present or be represented, if he or she desires. When a petition is received without the necessary consents, the Executive Secretary of the Eugenics Board requests the Sheriff of the county or counties in which the individual to be sterilized and the spouse, parent, next of kin or guardian lives to serve notice upon them of a hearing before the Eugenics Board. The sheriff delivers to each a copy of Form No. 3 - Notice of Hearing, and a certified copy of Form No. 1 or Form No. 2 - Petition for Operation of Sterilization or Asexualization. This service must be made at least 20 days in advance of the time set for the hearing. If individuals appear for the hearing, testimony is taken by the Board and information thus secured is considered along with the information submitted by the petitioner in reaching a final decision.

Notice of the decision will be given as indicated in paragraph I above.

III. When Changes in Original Order are Needed.

As used in this section the word "petitioner" means the person who filed the petition, either the county superintendent of public welfare or superintendent of a State institution.

A. Extension of Time for Performance of Operation.

If an authorized operation cannot be performed during the period designated in the order by the Eugenics Board, the petitioner should write to the Executive Secretary of the Eugenics Board requesting an extension of time and specifying the reason for the request. In most instances the period of time can be extended by the Executive Secretary. A letter will be sent in triplicate to the petitioner authorizing an extension of time to a specified date, usually six months later. The petitioner should attach the original letter to the original order of the Eugenics Board and a copy to the copies of the order intended for the physician and for the petitioner. This letter will authorize the physician to perform the operation within the extended period of time.

If for any reason the time cannot be extended by the Executive Secretary, the request will be presented by the Executive Secretary to the Eugenics Board or the petitioner will be notified of the specific action which must be taken before an extension of time can be given.

B. Change in Surgeon.

If for any reason the operation cannot be performed by the surgeon or member of the staff of a designated hospital, the petitioner should write the Executive Secretary of the Eugenics Board requesting authorization for another specific surgeon or staff member of a specific hospital to perform the operation. The reason for requesting the change should be specified. The request will be handled as in paragraph A, above.

C. Non-Institutional Case entering Institution Before Operation Has Been Performed.

If a non-institutional case enters an institution within a year following the authorization of the operation but prior to its performance, a new petition will not be needed. The petitioner should write to the Executive Secretary of the Eugenics Board requesting a change in authorization of surgeon. (See paragraph B above) If granted, the petitioner should send all three copies of the order of the Eugenics Board with the attached authorized change to the superintendent of the institution to which the person has been admitted. These will serve as authority for the superintendent to designate the newly authorized surgeon to perform the operation. If a year or more has lapsed since the authorization was given by the Eugenics Board, the superintendent of the institution should file a new petition for an institutional case.

D. Individual Moves to Another County After Operation is Authorized but Prior to its Performance.

If the costs are to be paid by the county in which the petitioner is superintendent of public welfare, no additional action is needed except that an extension of time or change of surgeon might be required. If the county to which the individual moved becomes responsible for payment of the costs, the petitioner should write the Executive Secretary of the Eugenics Board, sending a copy of the agreement from the other county. The superintendent of public welfare in the county paying the costs will be authorized to sign Form No. 5 - Authorization of Petitioner to Surgeon.

E. Marriage of Individual after Filing of Petition but Prior to Performance of Operation.

If the petitioner knows that the person married after the petition was filed but prior to performance of the operation, the written consent of the spouse should be secured on Form No. 6A before authorizing the doctor to perform the operation. The consent should be sent to the Executive Secretary of the Eugenics Board. In the case of a woman, authorization will be given to permit the surgeon to perform the operation under her married name.

RIGHT OF APPEAL

After an order is entered by the Eugenics Board in a case on which there has been a hearing, any party to the proceedings may within 15 days from the date of the order give notice of appeal to the Superior Court. An operation, if authorized after a hearing, cannot be performed until 15 days after the date of authorization. In an appeal the person for whom the operation has been ordered is to be deemed the plaintiff. If the court does not sustain the plaintiff's objections, he has 10 days following the court decision in which to file notice of appeal to the Supreme Court. No operation will be performed pending the outcome of any appeal.

PERFORMANCE OF OPERATION

The operation can be performed only by the duly qualified and registered North Carolina physician or surgeon authorized by the Eugenics Board. The physician or surgeon must also have a written order signed by the person instituting the proceedings, either the executive head of the institution or the county superintendent of public welfare. This authorization is given on Form No. 5 - Authorization of Petitioner to Surgeon. (This form is printed on the back of Form No. 4.)

Only the type of operation authorized by the Eugenics Board, sterilization or asexualization, can be performed by the physician.

The physician is responsible for reporting to the Eugenics Board the type of operation performed and the date of the operation. This return is made to the Executive Secretary of the Eugenics Board on the Certificate of Surgeon section of Form No. 4 - Order for Operation of Sterilization or Asexualization.

ASEXUALIZATION

The effects of asexualization are more drastic than those of sterilization. The Eugenics Board authorizes this type of operation only in unusual circumstances. If the examining physician feels that asexualization is desirable, he should specifically recommend it. The county superintendent of public welfare or the superintendent of a State institution, if requesting asexualization, should accompany the petition with a detailed explanation of the circumstances which justify such action.

ADDITIONAL RESPONSIBILITIES OF SUPERINTENDENTS OF INSTITUTIONS

Under the following circumstances an inmate or patient of a penal or charitable State or county institution cannot be released, paroled, or discharged until the superintendent has filed a petition for sterilization with the Eugenics Board and has carried out the order of the Eugenics Board:

- A. If such action has been requested in writing of the superintendent or governing body by any public official, legal guardian, next of kin, or the patient 30 days prior to the parole or discharge.

- B. If the superintendent or governing body thinks that such action is in the best interests of the patient or inmate, for the public good, or when such person is apt to procreate a child having a tendency to serious physical, mental or nervous disease or deficiency.

TEMPORARY ADMISSION OF PATIENTS TO STATE HOSPITALS FOR THE PURPOSE OF
STERILIZATION

An act passed by the 1937 General Assembly 6/ authorizes the admission of individuals to the State hospitals for the purpose of sterilization under the following conditions:

- A. Admission to the hospital is within the discretion of the superintendent of the hospital. Before sending an individual to a State hospital, the superintendent of public welfare should clear the individual case with the superintendent of the hospital and secure approval. Since the extent of surgical services available at the State Hospitals is based on the needs of regular patients, the number of such admissions will be limited and will vary by hospitals.
- B. The order from the Eugenics Board must authorize a surgeon on the regular or consulting staff of the particular State hospital to perform the operation. Such an order will be made only when it meets with the approval of the superintendent of the State hospital.
- C. The State hospital may collect a fee from the county which shall not be greater than the cost of the operation and the cost of care and maintenance for the time that the patient is in the hospital.
- D. The order of the Eugenics Board and the agreement of the superintendent of the hospital to accept the patient is sufficient authority for the sheriff of the county to deliver a patient to the proper State hospital. This procedure is the only way in which the patient can forceably be taken to any hospital for the purpose of sterilization.

USE OF FORMS

Form No. 1 - Petition for Operation of Sterilization or Asexualization - Inmate of State or County Institution, and Form No. 2 - Petition for Operation of Sterilization or Asexualization - Non-Institutional Patient.

Fill out all sections of the appropriate petition, Form No. 1, for persons who are inmates of State or county institutions, or Form No. 2 for non-institutional persons, or persons who are inmates of private institutions. The petitioner must be either the administrative head of a State institution or a county superintendent of public welfare. (See Section "Filing Petitions".) The petitioner must sign the first page before a notary public, justice of the peace, or a Clerk of the Superior Court.

Personal and Family History. Fill out carefully and accurately all sections of this page. All addresses requested should be the correct mailing address since copies of orders made by the Eugenics Board must be mailed to the person to be sterilized and the next of kin or guardian.

Name of Physician. It is necessary that the Eugenics Board authorize a specific physician to perform the operation. The petition must give the name of a specific physician who will perform the operation or state that the operation will be performed by a staff member of a specific hospital. In the latter case the name and address of the hospital must be given.

Medical History. This page must be filled out by a physician licensed to practice medicine in the State of North Carolina. In addition to the specific information requested, the physician should state specifically if he recommends sterilization or asexualization. The physician must sign his statements before a notary public, justice of the peace, or a clerk of the Superior Court.

Certificate of Secretary of Eugenics Board. If a hearing before the Eugenics Board is necessary, the Secretary must have a copy of the petition served on the person upon whom the operation is to be performed and on the spouse, parent, next of kin or guardian. Page 4 of the petition is used by the Secretary of the Eugenics Board to certify to the correctness of the copies served with the notice of hearing.

Form No. 1 - Petition for Operation of Sterilization or Asexualization.
Inmate of State or County Institution.

NORTH CAROLINA,)
)
) COUNTY.) Before the
) EUGENICS BOARD OF NORTH CAROLINA.
)
 IN RE: STERILIZATION OR)
 ASEXUALIZATION OF) PETITION FOR OPERATION OF
)
) STERILIZATION OR ASEXUALIZATION
)

TO THE EUGENICS BOARD OF NORTH CAROLINA: Greetings -

YOUR PETITIONER,, having made investigation of the case of, hereinafter designated as the patient or inmate; and having made a study of the medical history of the said inmate of (Institution), wherein the inmate has been and is at present confined; and having made a study of the social case history of the circumstances surrounding the inmate's life relative to the likelihood of the said inmate to procreate a child or children,

AND WHEREAS, it appears to your Petitioner that (1) it is for the best interest of the mental, moral and physical improvement of the inmate that he (or she) undergo an operation for sterilization or asexualization; (2) that it is for the public good that such inmate undergo such operation; and (3) that said inmate would be likely, unless operated upon, to procreate a child or children who would have a tendency to serious physical, mental or nervous disease or deficiency;

NOW THEREFORE, Your Petitioner prays that an order be entered by the Eugenics Board of North Carolina requiring your Petitioner to perform, or to have performed by some competent physician or surgeon as may be designated by the Board in such order, upon the inmate named in this Petition, one of the operations specified in Section 1, Chapter 224, Public Laws of North Carolina, 1933, which in the discretion of the Board, shall be best suited to the interests of the said inmate or to the public good.

SIGNED:

This . . . day of, 194. . .

VERIFICATION

NORTH CAROLINA
. COUNTY.

., the Petitioner herein, being duly sworn, says that the foregoing and the following statements made in this Petition are true to his (her) own knowledge, except as to those matters

stated upon information and belief, and as to those, he (she) believes it to be true.

..... Petitioner

Sworn to before me, this day of 194. .

(N.P.; J.P.; or Clerk Superior Court)

(Seal) My commission expires.

PERSONAL AND FAMILY HISTORY

Name. Age. Race. Sex.
Home Address. County of.
Present location.
Date of Birth. Place of Birth.
Legitimate. Illegitimate.
Marital Status: Single. . . Married. . . Widowed. . . Separated. . . Divorced. . .
Education: Illiterate. . . Reads. . . Writes. . . Public School Grade
Completed.
College Work.

GIVE NAMES, AGES AND PRESENT LOCATION OF CHILDREN OF PATIENT (INMATE)

NAME	AGE	PRESENT LOCATION
.....
.....
.....

Father's name. Address.
If dead give: Age at death. . . . Cause of death.
Mother's name. Address.
If dead give: Age at death. . . . Cause of death.
If married give: Name of husband or wife.
Address.
If father and mother are dead and subject is not married give:
Next of kin. Address.
Has guardian been appointed for this person? . . . If so give Name.
. Address.

INSTITUTIONAL RECORD OF PATIENT:

INSTITUTION	CAUSE	DATE ADMITTED	DATE DISCHARGED
.....

.....

Has patient been given mental examination? If so give:
 Name of Examiner. Result of examination.

If petition is granted, give name and address of physician or surgeon who will perform operation:

MEDICAL HISTORY

Record of Defects

Check in front of defects exhibited by patient and indicate in space after each defect if exhibited by patient's children, brothers, sisters, parents, uncles, aunts, or grandparents. If any of these persons have had institutional care and treatment, give name of institution.

- Mental disease.
- Feeble-mindedness.
- Epilepsy.
- Convulsions.
- Paralysis.
- Sexual promiscuity.
- Syphilis.
- Gonorrhoea.
- Tuberculosis.
- Alcoholism.
- Criminality.
- Suicidal tendency.
- Pauper.
- Drug Addict.
- Congenital blindness.
- Acquired blindness.
- Congenital deafness.
- Acquired deafness.
- Dumbness.
- Extreme nervousness.
- Chorea (Sydenhams).
- Chorea (Huntingtons).

The Eugenics Board has jurisdiction only in cases of mental disease, feeble-mindedness, and epilepsy.

What is your diagnosis of the patient's mental and physical condition?
 Use the following space for any medical history contained in your records not given above:

Form No. 2 - Petition for Operation of Sterilization or Asexualization. Non-Institutional Patient

NORTH CAROLINA,)
.County.) Before the
EUGENICS BOARD OF NORTH CAROLINA
IN RE: STERILIZATION OR)
ASEXUALIZATION OF) PETITION FOR OPERATION OF
) STERILIZATION OR ASEXUALIZATION

TO THE EUGENICS BOARD OF NORTH CAROLINA: Greetings -

YOUR PETITIONER,, having made investigation of the case of, hereinafter designated as the patient, who resides at in the State and County aforesaid; and having made a study of the medical history of the case of said patient, and having made a study of the social case history of the circumstances surrounding the patient's life relative to the likelihood of the said patient to procreate a child or children,

AND WHEREAS, it appears to your Petitioner that (1) it is for the best interest of the mental, moral and physical improvement of the patient that he (or she) undergo an operation for sterilization or asexualization; (2) that it is for the public good that such patient undergo such operation; and (3) that said patient would be likely, unless operated upon, to procreate a child or children who would have a tendency to serious physical, mental, or nervous disease or deficiency;

NOW THEREFORE, Your Petitioner prays that an order be entered by the Eugenics Board of North Carolina requiring your Petitioner to perform, or to have performed by some competent physician or surgeon as may be designated by the Board in such order, upon, the patient named in this Petition, one of the operations specified in Section 1, Chapter 224, Public Laws of North Carolina, 1933, which in the discretion of the Board, shall be best suited to the interests of the said patient or to the public good.

SIGNED: (Petitioner (Supt. of Public Welfare))

Thisday of, 194. . .

VERIFICATION

NORTH CAROLINA,

.....County.

....., the Petitioner herein, being duly sworn, says that the foregoing and the following statements made in this Petition are true to his (her) own knowledge, except as to those matters stated upon information and belief, and as to those, he (she) believes it to be true.

Petitioner (Supt. of Public Welfare)

Sworn to before me, this. . . . day of.194. . . .

(N.P.; J.P.; or Clerk Superior Court)

(Seal) My commission expires.

(NOTE: The remaining part of Form No. 2 is identical with Form No. 1)

II. Form No. 3 - Notice of Hearing.

This form is sent by the Executive Secretary of the Eugenics Board to the Sheriff when a hearing before the Eugenics Board is necessary.

Form No. 3 - Notice of Hearing.

NORTH CAROLINA,

WAKE COUNTY.

IN RE: STERILIZATION OR ASEXUALIZATION
OF

} Before the
} EUGENICS BOARD OF NORTH CAROLINA.
} NOTICE OF HEARING
} (To patient and next of kin
} or guardian)
}

TO., patient.

TAKE NOTICE, that there has been instituted before the Eugenics Board of North Carolina, by (Petitioner), a Petition, (copy of which duly certified by the Secretary of the Eugenics Board of North Carolina to be correct, is attached to this Notice), which prays for an order to be entered by the Eugenics Board of North Carolina requiring the aforesaid Petitioner to perform or that said Petitioner have performed by some competent physician or surgeon as may be designated by the Board in such order, upon you patient, one of the operations specified in Section 1, Chapter 224, Public Laws of North Carolina 1933, which in the discretion of the Board shall be best suited to the interests

of you, the said patient or to the public good.

TAKE FURTHER NOTICE THEREFORE, that on, at P. M. o'clock, at, in Raleigh, Wake County, the aforesaid Petition shall be presented to the Eugenics Board of North Carolina, at which time and at which place, aforesaid, the said Board will hear and consider such Petition and evidence offered in support of and against the same, and will act upon the same. You are hereby given notice that you will be given opportunity, if desired, to attend the said hearing in person, and that you may be represented at such hearings by counsel.

SIGNED.
Secretary of the Eugenics Board of North Carolina.

This.day of.

OFFICER'S RETURN

SERVICE OF PETITION AND NOTICE OF HEARING

SERVED., 194., by delivering a copy of the above Notice, together with a copy of the "Petition for Operation of Sterilization or Asexualization," certified by the Secretary of the Eugenics Board of North Carolina to be a correct copy, to each of the following:

Note: The attached copies of this notice and petition must be served not less than 20 days before the time set for hearing. After service fill out "Officer's Return" and forward this entire sheet to Secretary of Eugenics Board, Box 2599, Raleigh, N.C.

.
(Patient or Inmate)

.
(Legal or Natural Guardian or Next of Kin of Patient or Inmate)

.
(If no guardian or next of kin; to the solicitor of the county in which the inmate or patient resides.)

SIGNED:
Sheriff of. County.

III. Form No. 4 - Order for Operation of Sterilization or Asexualization and Form No. 5 - Authorization of Petitioner to Surgeon.

Six copies of this form are filled out by the Executive Secretary of the Eugenics Board for each case on which an operation is authorized by the Board. The individual members of the Eugenics Board personally sign the original copy and one carbon copy of each order. The Executive Secretary certifies to the correctness of the other four copies. The original and two certified copies are sent to the petitioner. One certified copy is mailed to the individual upon whom the operation is

to be performed and one copy is mailed to the next of kin. The signed carbon copy is retained in the files of the Eugenics Board.

The Petitioner fills out Form No. 5 - Authorization of Petitioner to Surgeon on the original and the certified copies. The name of the surgeon, type of operation to be performed, and period of time during which it may be performed must correspond with the authorization given in Form No. 4. All copies should be sent to the surgeon.

After the operation is performed, the surgeon fills out the Certificate of Surgeon on Form No. 4 sending the original to the Executive Secretary of the Eugenics Board, one certified copy to the petitioner and retains one copy for his file.

Form No. 4 - Order for Operation of Sterilization or Asexualization

NORTH CAROLINA, WAKE COUNTY.	}	Before the
IN RE: STERILIZATION OR ASEQUALIZATION		EUGENICS BOARD OF NORTH
OF		CAROLINA.
.....	}	<u>ORDER FOR OPERATION OF</u>
		<u>STERILIZATION OR</u>
		<u>ASEQUALIZATION</u>

WHEREAS, on....., a Petition for Operation of Sterilization or Asexualization to be performed upon..... was instituted with this Board by....., the Petitioner, and

WHEREAS, on....., the Secretary of the Eugenics Board of North Carolina, did issue a Notice of Hearing in this matter, which Notice together with a certified copy of the Petition was duly served upon the patient;..... and others, to wit:..... together, with a copy of the aforesaid Petition certified by the Secretary of the Eugenics Board to be a true and correct copy; and

WHEREAS, this Board at the place and time designated in the aforesaid Notice of Hearing, did consider the said Petition, and a medical history of the patient, a social case history of the circumstances surrounding the said patient's life relative to the likelihood of the said patient to procreate a child or children, and did hear and consider various other evidence duly offered in support of and against the said Petition, and patient not being present or represented,

AND it being the opinion and judgment of this Board that this case falls within the intent and meaning of one or more of the circumstances mentioned in Section Four, Chapter 224, Public Laws of North Carolina, 1933, and that an operation of asexualization or sterilization will be for the best interest of the mental, moral and physical improvement of the said patient, and/or for the public good,

NOW, THEREFORE, IT IS CONSIDERED, ADJUDGED, AND ORDERED THAT the Petitioner, proceed to have performed upon (patient), the operation of such operation to be performed by on any day between the day of 19. . . . and the day of, 19. . . . ; Provided, that nothing in this order shall prevent or interfere in any manner with the right of the patient or guardian or next of kin of such patient to select competent physicians of their own choice to perform such operation at the patient's expense.

Provided further, that nothing contained in this order shall be construed to authorize the interruption or termination of pregnancy in any case where the same is known to exist.

SIGNED:

Members of the Eugenics Board of North Carolina.

This . . . day of 19. . . .

CERTIFICATE OF SURGEON

THIS IS TO CERTIFY that I have this day sterilized, or asexualized (name of patient) by doing a (type of operation).

Signed:, M.D.

Date.

NOTE: File with Secretary of Eugenics Board of North Carolina, Box 2599, Raleigh, N. C.

Petitioner: Please fill in form on back of this sheet.

Sterilization does not mean castration, nor sterilization by X-Ray.

Form No. 5 - Authorization of Petitioner to Surgeon.

NORTH CAROLINA,)
COUNTY.) Before the
IN RE: STERILIZATION OR ASEXUALIZATION) EUGENICS BOARD OF NORTH CAROLINA
OF) LETTER OF AUTHORIZATION
TO SURGEON

In accordance with the provisions of Section 3, Chapter 224, Public Laws of N. C., 1933, and of the order of the Eugenics Board, I hereby authorize. . . . (name of surgeon) to perform the operation of upon said on any day between. . . . and. . . .

Signed. . . .
Title. . . .
Petitioner.

Date. . . .

IV. Form No. 6A - Consent for Operation of Sterilization, Consent of Parent, Guardian, Spouse, or Next of Kin, and Form No. 6B - Consent for Operation of Sterilization, Consent of Patient.

The petitioner should assist the patient and next of kin in filling out these forms. Superintendents of State institutions will frequently need to request county departments of public welfare to interview the next of kin to interpret the advantages of the operation and secure the written consent. Instructions printed on the forms should be followed.

Form 6-A - Consent for Operation of Sterilization.

NORTH CAROLINA,)
. COUNTY.) Before the
IN RE: STERILIZATION) EUGENICS BOARD OF NORTH CAROLINA
OF.) CONSENT OF PARENT, GUARDIAN, SPOUSE
OR NEXT OF KIN

I, the undersigned. . . . (name and relationship to patient), do hereby petition. . . . (Name and title, as Supt. of Public Welfare or Supt. of State Institution where patient is an inmate.) to institute proceedings before the Eugenics Board of North Carolina for the sterilization of , and I do hereby give my consent to the performance of such operation, said operation to be performed in accordance with the authorization of said Board.

Signed:
(Signature of parent, guardian, spouse, or next of kin)

VERIFICATION

NORTH CAROLINA,

..... COUNTY.

.....being duly sworn, deposes and says that he (or she) has read or has heard read the foregoing petition and knows the contents thereof; that the same is true of his (or her) own knowledge except as to those matters and things therein stated upon information and belief, as to those he (or she) believes it to be true. Deponent further says that the above was signed of his (or her) own free will and accord.

Signed:.....
(Signature of parent, guardian, spouse, or next of kin)

Sworn to and subscribed before me, this

.....day of.....

N.P.; J.P.; or Clerk Superior Court

(Seal) My commission expires.....

NOTE: Under the provisions of the 1935 amendment to Section 9 of the 1933 sterilization law, the usual procedure of having the Sheriff serve notice of hearing and a certified copy of the petition will not be necessary if consent as provided for on this form is obtained.

If patient is 21 years of age and is not an inmate of one of the State Hospitals or Caswell Training School and if the said patient has not been declared mentally unsound by a court of competent jurisdiction, the patient's consent must also be obtained.

Form No. 6-B - Consent for Operation of Sterilization.

NORTH CAROLINA,

..... COUNTY.

IN RE: STERILIZATION

of.....

} Before the
EUGENICS BOARD OF NORTH CAROLINA

} CONSENT OF PATIENT

I, the undersigned.....patient, do hereby petition
.....(Name and title, as Supt. of
Public Welfare or Supt. of State Institution where patient is an inmate.)

to institute proceedings before the Eugenics Board of North Carolina for my sterilization; and I do hereby give my consent to the performance of such operation, said operation to be performed in accordance with the authorization of said Board.

Signed:

VERIFICATION

NORTH CAROLINA,

. County.

. being duly sworn, deposes and says that he (or she) has read or has heard read the foregoing petition and knows the contents thereof; that the same is true of his (or her) own knowledge except as to those matters and things therein stated upon information and belief, as to those he (or she) believes it to be true. Deponent further says that the above was signed of his (or her) own free will and accord.

Signed.

Sworn to and subscribed before me, this

. day of.

. N.P.; J.P.; or Clerk Superior Court

(Seal) My commission expires.

NOTE: Under the provisions of the 1935 amendment to Section 9 of the 1933 sterilization law, the usual procedure of having the Sheriff serve a notice of hearing and a certified copy of the petition will not be necessary if consent as provided for on this form is obtained.

If patient is 21 years of age and is not an inmate of one of the State Hospitals or Caswell Training School and if the said patient has not been declared mentally unsound by a court of competent jurisdiction, the patient's consent must also be obtained.

V. Form No. 7 - Supplement to Petition for Sterilization or Asexualization.

Each section of this form should contain pertinent information, concisely worded. If space is insufficient to present complete information, use the reverse side of the form or attach additional sheets.

Present all information having a bearing on the case so that the Eugenics Board will have a basis for intelligent action.

Form No. 7 - Supplement to Petition for Sterilization or Asexualization.

NOTE: Use this form as a supplement to petition for sterilization or asexualization. Copies of this form will not be served on patient or relatives.

Name of Patient.

Social and economic status in community.

BEHAVIOR: Give any evidence of abnormal or anti-social behavior or harmful habits:

.

COURT RECORD

Name and Location of Court	Date	Charge	Disposition
.
.
.

Give in full reasons for requesting sterilization or asexualization:
.

What is the attitude of patient toward operation recommended?

What is attitude of parents, husband, wife, etc.?
.

Additional history or remarks.
.
.
.

(The back of this sheet or other sheets may be used for additional history if necessary.)

Submitted by.

Date.

VI. Form No. 8 - Application for Appointment of Guardian ad Litem.

This form will be filed with the clerk of the Superior Court if it is necessary to secure a guardian ad litem. Usually the superintendent of public welfare will need to file this application but in some instances a relative or interested individual may be willing to do so.

Strike out (A) or (B), whichever does not apply.

Form No. 8 - Application for Appointment of Guardian ad Litem

NORTH CAROLINA)	In The Superior Court
_____ COUNTY)	Before the Clerk
In the Matter of _____)	
(A) A Minor Orphan)	APPLICATION FOR APPOINTMENT
or)	
(B) A Mentally Incompetent or Epileptic Person)	OF GUARDIAN AD LITEM
Proceeding for Sterilization)	

TO THE CLERK OF SUPERIOR COURT OF _____ COUNTY:

_____, the petitioner in the above entitled proceeding, respectfully submits to the Court that _____ is (A) a minor orphan, or (B) a mentally incompetent or epileptic person without a general guardian to represent and defend h_____ rights and interests in a proceeding to be held before the Eugenics Board of North Carolina relating to the sterilization of said person and therefore the said petitioner hereby makes application to the Court for the appointment of some suitable and competent person to act as guardian ad litem for the said _____ and to represent h_____ rights and interests in the said proceeding.

This _____ day of _____, 19____.

Petitioner

Sworn to and subscribed before me this _____ day of _____ 19____.

Clerk Superior Court

Strike out (A) or (B), whichever does not apply.

VII. Form No. 9 - Appointment of Guardian ad Litem.

The petitioner should have the clerk of the Superior Court complete this form in duplicate. The original should be attached to the petition sent to the Executive Secretary of the Eugenics Board. The copy should be retained by the petitioner.

Form No. 9 - Appointment of Guardian Ad Litem

NORTH CAROLINA

_____ COUNTY

In The Superior Court

In the Matter of _____)

Before the Clerk

(A) A Minor Orphan
or

(B) A Mentally Incompetent or
Epileptic Person

) APPOINTMENT OF GUARDIAN AD LITEM

Proceeding for Sterilization)

It appearing from the application of _____, the petitioner in the above entitled proceeding, that _____ is (A) a minor orphan, or (B) a mentally incompetent or epileptic person without general guardian to represent and defend h__ rights in a sterilization proceeding before the Eugenics Board of North Carolina, and that _____, after due inquiry, has been found by the Court to be a suitable and competent person to act as guardian ad litem and who has signified his willingness to represent said person in the proceeding; now therefore,

IT IS ORDERED AND ADJUDGED that _____ be, and he is hereby appointed as guardian ad litem of the said _____, for the purpose of this proceeding and is authorized and directed to represent h__ interests in accordance with the provisions of the sterilization law of North Carolina.

This ____ day of _____, 19____.

Clerk Superior Court _____ County

Strike out (A) or (B), whichever does not apply.

NORTH CAROLINA STERILIZATION STATUTE

CHAPTER 35. PERSONS WITH MENTAL DISEASES AND INCOMPETENTS.

ART. 7. STERILIZATION OF PERSONS MENTALLY DEFECTIVE.

35-36. State Institutions authorized to sterilize mental defectives
The governing body or responsible head of any penal or charitable institution supported wholly or in part by the State of North Carolina, or any subdivision thereof, is hereby authorized and directed to have the necessary operation for asexualization, or sterilization performed upon any mentally diseased, feeble minded or epileptic inmate or patient thereof, as may be considered best in the interest of the mental, moral, or physical improvement of the patient or inmate, or for the public good. Provided, however, that no operation described in this section shall be lawful unless and until provisions of this article shall first be complied with. (1933, c. 224, s. 1.)

35-37. Operations on mental defectives not in institutions. It shall be the duty of the board of commissioners of any county of North Carolina, at the public cost and expense, to have one of the operations described in 35-36, performed upon any mentally diseased, feeble minded or epileptic resident of the county, not an inmate of any public institution, upon the request and petition of the superintendent of public welfare or other similar public official performing in whole or in part the functions of such superintendent, or of the next of kin, or the legal guardian of such mentally defective person. Provided, however, that no operation described in this section shall be lawful unless and until the provisions of this article shall be first complied with. (1933, c. 224, s. 2.)

35-38. Restrictions on such operations. No operation under this article shall be performed by other than a duly qualified and registered North Carolina physician or surgeon, and by him only upon a written order signed after complete compliance with the procedure outlined in this article by the responsible executive head of the institution or board, or the superintendent of public welfare, or other similar official performing in whole or in part the functions of such superintendent, or the next of kin or legal guardian having custody or charge of the feeble minded, mentally defective, or epileptic inmate, patient or non-institutional individual. (1933, c. 224, s. 3.)

35-39. Prosecutors designated; duties. If the person upon whom the operation is to be performed is an inmate or patient of one of the institutions mentioned in 35-36, the executive head of such institution or his duly authorized agent shall act as prosecutor of the case. The county superintendent of public welfare may act as prosecutor or petitioner in instituting sterilization proceedings in the case of any feeble minded, epileptic, or mentally diseased person who is on parole from a state institution, and in the case of any such person who is an inmate of a state institution when authorized to do so by the superintendent of such institution. If the person upon whom the operation is to be performed is an inmate, or patient of a charitable or penal institution supported by the county, the executive head of such institution or his duly authorized agent, or the county superintendent of welfare or such other official performing in whole or in part the functions of such superintendent of the county in which such county

institution is situated, shall act as petitioner in instituting proceedings before the Eugenics Board. If the person to be operated upon is not an inmate of any such public institution, then the superintendent of welfare or such other official performing in whole or in part the functions of such superintendent of the county of which said inmate, patient, or non-institutional individual to be sterilized is a resident, shall be the prosecutor. It shall be the duty of such prosecutor promptly to institute proceedings as provided by this article in any or all of the following circumstances.

1. When in his opinion it is for the best interest of the mental, moral or physical improvement of the patient, inmate, or non-institutional individual, that he or she be operated upon.

2. When in his opinion it is for the public good that such patient, inmate or non-institutional individual be operated upon.

3. When in his opinion such patient, inmate or non-institutional individual would be likely, unless operated upon to procreate a child or children who would have a tendency to serious physical, mental or nervous disease or deficiency.

4. When requested to do so in writing by the next of kin or legal guardian of such patient, inmate or non-institutional individual.

5. In all cases as provided for in 35-55. (1933, c. 224, s. 4; 1935, c. 463, s. 1; 1937, c. 243.)

35-40. Eugenics Board of N. C. created. There is hereby created the Eugenics Board of North Carolina. All proceedings under this article shall be begun before the said Eugenics Board. This board shall consist of five members and shall be composed of (1) The Commissioner of Public Welfare of North Carolina; (2) the secretary of the State Board of Health of North Carolina; (3) the chief medical officer of an institution for the feeble minded or mentally defective of the State of North Carolina, not located in Raleigh; (4) the chief medical officer of the State Hospital at Raleigh; (5) the Attorney General of the State of North Carolina. Any one of these officials may for the purpose of a single hearing delegate his power to act as a member of said board to an assistant, provided said delegation is made in writing, to be included as a part of the permanent record in said case. The said board shall from time to time elect a chairman from its own membership and adopt and from time to time modify rules governing the conduct of proceedings before it, and from time to time select the member of the said board designated above as the chief medical officer of an institution for the feeble minded or mentally defective of the State of North Carolina not located in Raleigh. (1933, c. 224, s. 5.)

35-40.1. Eugenics Board authorized to accept gifts. The Eugenics Board of North Carolina is hereby authorized and empowered to accept gifts from any source to be used by the Board for the furtherance of the purposes for which said board was created. (1945, c. 784.)

35-41. Quarterly meetings. The Board of Eugenics shall meet at

least quarterly in each year in Raleigh for the purpose of hearing all cases that may be brought before it and shall continue in session with appropriate adjournments until all current applications and other pending business have been disposed of. The members shall receive no additional compensation for their services. (1933, c. 224, s. 6.)

35-42. Secretary of board and duties. The board shall appoint a secretary not a member of the board who shall conduct the business of the board between the times of the regular meetings. Such secretary shall receive all petitions, keep the records, call meetings, and in general act as the executive of said board in such matters as may be delegated to him by said board. (1933, c. 224, s. 7)

35-43. Proceedings before board. Proceedings under this article shall be instituted by the petition of said petitioner to the Eugenics Board. Such petition shall be in writing, signed by the petitioner and duly verified by his affidavit to the best of his knowledge and belief. It shall set forth the facts of the case and the grounds of his opinion. The petition shall also contain a statement of the mental and physical status of the patient verified by the affidavit of at least one physician who has had actual knowledge of the case and who in the cases of inmates or patients of institutions described in 35-36 may be a member of the medical staff of said institution. The Eugenics Board may require that the petitioner submit additional social and medical history in regard to the inmate, patient or individual resident and his family. The prayer of said petition shall be that an order be entered by said board authorizing the petitioner to perform, or to have performed by some competent physician or surgeon to be designated by him in the petition or by said board in its order upon said inmate, patient or individual resident named in said petition in its discretion that the operation of sterilization or asexualization as specified in 35-36 which shall be best suited to the interests of the said inmate or patient or to the public good. (1933, c. 224, s. 8; 1935, c. 463, s. 2.)

35-44. Copy of petition served on patient. (a) A copy of said petition, duly certified by the secretary of the said board to be correct, must be served upon the inmate, patient or individual resident, together with a notice in writing signed by the secretary of the said board designating the time and place not less than twenty days before the presentation of such petition to said board when and where said board will hear and pass upon such petition. It shall be sufficient service if the copy of said petition and notice in writing be delivered to said inmate, patient or individual resident, and it shall not be necessary to read the above mentioned document to said patient, inmate or individual resident.

(b) A copy of said petition, duly certified to be correct, and the said notice must also be served upon the legal or natural guardian or next of kin of the inmate, patient or individual resident.

(c) If there is no next of kin, or if next of kin cannot after due and diligent search be found, or if there is no known legal or natural guardian of said inmate, patient or individual resident and the said inmate, patient, or individual resident is of such mental

condition as not to be competent reasonably to conduct his own affairs, then the said prosecutor shall petition the clerk of the superior court or the resident judge of the district or the judge presiding at a term of superior court of the county in which the inmate, patient or individual resident resides, who shall appoint some suitable person to act as guardian ad litem of the said inmate, patient or individual resident during and for the purpose of proceedings under this article, to defend the rights and interests of said inmate, patient or individual resident. And such guardian ad litem shall be served likewise with a copy of the aforesaid petition and notice, and shall under all circumstances be given at least twenty days' notice of said hearing. Such guardian ad litem may be removed or discharged at any time by the said court or the judge thereof either in term or in vacation and a new guardian ad litem appointed and substituted in his place.

(d) If the said inmate, patient or individual resident be under twenty-one years of age and has a living parent or parents whose names and addresses are known or can by reasonable investigation be learned by said prosecutor, they or either of them, as the case may be, shall be served likewise with a copy of said petition and notice and shall be entitled to at least twenty days' notice of the said hearing: Provided, that the procedure described in this section shall not be necessary in the case of any operation for sterilization or asexualization provided for in this article if the parent, legal or natural guardian, or spouse or next of kin of the inmate, patient or non-institutional individual shall submit to the superintendent of the institution of which the subject is a patient or inmate, or to the Superintendent of Public Welfare of the county in which this subject is residing, regardless of whether the subject is a legal resident of such county, a duly witnessed petition requesting that sterilization or asexualization be performed upon said inmate, patient or non-institutional individual, provided the other provisions of this article are complied with. Any operation authorized in accordance with this proviso may be performed immediately upon receipt of the authorization from the eugenics board. (1947, c. 93)

35-45. Consideration of matter by board. The said board at the time and place named in said notice with such reasonable continuances from time to time and from place to place as the said board may determine, shall proceed to hear and consider the said petition and evidence offered in support of and against the same, provided that the said board shall give opportunity to said inmate, patient or individual resident to attend the said hearings in person if desired by him or if requested by his guardian or next of kin or the solicitor.

The said board may receive and consider as evidence at the said hearings the commitment papers and other records of the said inmate or patient with or in any of the aforesaid institutions as certified by the superintendent or executive official, together with such other evidence as may be offered by any party to the proceedings.

Any member of the said board shall have power for the purposes of this article to administer oaths to any witnesses at such hearing.

Depositions may be taken, as in other civil cases, by any party after due notice and read in evidence, if otherwise pertinent.

Any party to the said proceedings shall have the right to be represented by counsel at such hearings.

A stenographic transcript of the proceedings at such hearings duly certified by the petitioner and the inmate, patient or individual resident, or his guardian or next of kin, or the solicitor, shall be made and preserved as part of the records of the case. (1933, c. 234, s. 10.)

35-46. Board may deny or approve petition. The said board may deny the prayer of the said petition or if in the judgment of the board, the case falls within the intent and meaning of one or more of the circumstances mentioned in 35-39, and an operation of asexualization or sterilization seems to said board to be for the best interest of the mental, moral or physical improvement of the said patient, inmate or individual resident or for the public good, it shall be the duty of the board to approve said recommendation in whole or in part or to make such order as under all the circumstances of the case may seem appropriate, within fifteen days after the conclusion of said hearings, and to send to the prosecutor a written order, signed by at least three members of the board, directing him to proceed with the operation as provided in this article. Said order shall contain the name of the specific operation which is to be performed and the date when said operation is to be performed.

If the board disapproves the petition, the case may not be brought up again except on the request of the inmate, patient or individual resident, or his guardian or one or more of his next of kin, husband, wife, father, mother, brother, or sister, until one year has elapsed.

Nothing in this article shall be construed to empower or authorize the board to interfere in any manner with the right of the patient, inmate, or individual resident, or his guardian or next of kin to select a competent physician of his own choice for consultation or operation at his own expense. (1933, c. 224, s. 11.)

35-47. Orders may be sent parties by registered mail; consenting to operation. Any order granting the prayer of the petition, in whole or in part, may be delivered to the petitioner by registered mail, return receipt demanded, to all parties in the case, including the legal guardian, the solicitor and the next of kin of the inmate, patient, or individual resident. It shall be the duty of the said guardian, the solicitor and the next of kin to protect, by such measures as may seem to them in their sole discretion sufficient and appropriate, the rights and best interests of the said inmate, patient, or individual resident.

If the inmate, patient, or individual resident or the next of kin, legal guardian, solicitor of the county, and guardian appointed as herein provided, after the said hearing but not before shall

consent in writing to the operation as ordered by the board, such operation shall take place at such time as the said prosecutor petitioning shall designate. (1933, c. 224, s. 12)

35-48. Right of appeal to Superior Court. If it appears to the inmate, patient, or individual resident, or to his or her representative, guardian, parent or next of kin, or to the solicitor, that the proceedings taken are not in accordance with law, or that the reasons given for asexualization or sterilization are not adequate or well founded, or for any other reason the order is not legal, or is not legal as applied to this inmate, patient or individual resident, he or she may within fifteen days from the date of such order have an appeal of right to the Superior Court of the county in which said inmate or patient resided prior to admission to the institution, or the county in which the non-institutional individual resides. This appeal may be taken by giving notice in writing to any member of the board and to the other parties to the proceeding, including the doctor who is designated to perform the said operation. Upon the giving of this notice the petitioner within fifteen days thereafter shall cause a copy of the petition, notice, evidence and orders of the said board certified by any member thereof to be sent to the clerk of the said court, who shall file the same and docket the appeal to be heard and determined by the said court as soon thereafter as may be practicable.

The presiding judge of said Superior court may hear the appeal upon affidavit or oral evidence and in determining such an appeal may consider the record of the proceedings before the Eugenics Board, including the evidence therein appearing together with such other legal evidence as may be offered to the said judge by any party to the appeal. In hearing such an appeal the general public may be excluded and only such persons admitted thereto as have direct interest in the case.

Upon such appeal the said Superior court may affirm, revise or reverse the orders of the said board appealed from and may enter such order as it deems just and right and which it shall certify to the said board.

The pendency of such appeal shall automatically and without more, stay proceedings under the order of the said board until the appeal be completely determined. Should the decision of the Superior court uphold the plaintiff's objection, such decision, unless appealed from, will annul the order of the board to proceed with the operation and the matter may not be brought up again until one year has elapsed except by the consent of the plaintiff or his next of kin, or his legal representative. Should the court affirm the order of the board, then, if no notice of appeal to the Supreme Court is filed within ten days after such decision, said board's recommendation as affirmed shall be put into effect at a time by the original prosecutor or his successor in office and the inmate, patient or individual shall be asexualized or sterilized as provided in this article.

In this appeal the person for whom an order of asexualization or sterilization has been issued shall be designated as the plaintiff,

and the prosecutor presenting the original petition shall be designated as defendant. (1933, c. 224, s. 13; 1935, c. 463, s. 4)

35-49. Appeal costs. The cost of appeal, if any, to the Superior or higher courts, shall be taxed as in civil cases. If the case is finally determined in favor of the plaintiff, the cost shall be paid by the county. (1933, c. 224, s. 14; 1935, c. 463, s. 5.)

35-50. Appeal to supreme court. Any party to such appeal to the Superior Court may within ten days after the date of the final order therein, apply for an appeal to the Supreme court, which shall have jurisdiction to hear and determine the same upon the record of the proceedings in the Superior court and to enter such order as it may find the Superior court should have entered.

The pendency of an appeal in the Supreme court shall operate as a stay of proceedings under any orders of the said board and the Superior court until the appeal be determined by the said Supreme court. (1933, c. 224, s. 15.)

35-51. Civil or criminal liability of parties limited. Neither the said petitioner nor any other person legally participating in the execution of the provisions of this article shall be liable, either civilly or criminally, on account of such participation, except in case of negligence in the performance of said operation. (1933, c. 224, s. 16.)

35-52. Necessary medical treatment unaffected by article. Nothing contained in this article shall be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person in this state by a physician or surgeon licensed in this state, which treatment may incidentally involve the nullification or destruction of the reproductive functions. (1933, c. 224, s. 17.)

35-53. Permanent records of proceedings before board. Records in all cases arising under this article shall be filed permanently with the secretary of the said Eugenics Board. Such records shall not be open to public inspection except for such purposes as the court may from time to time approve. (1933, c. 224, s. 18.)

35-54. Construction of terms. Where the inmates, patients, or non-institutional individuals are referred to in this article as the masculine or feminine gender, the same shall be construed to include the feminine or masculine gender as well. Wherever the term individual resident appears in this article it shall be construed to mean non-institutional individual. (1933, c. 224, s. 19.)

35-55. Discharge of patient from institution. Before any inmate or patient designated in 35-36 and 35-39, shall be released, paroled, or discharged, it shall be the duty of the governing body or responsible head of any institution above mentioned to comply with the procedure set out in this article, whenever a written request for the asexualization or sterilization of said inmate or patient is filed with the governing body or responsible head of the institution in which such inmate or patient has been legally confined. This written request may be made by any public official or

by the legal guardian or next of kin of any inmate, or patient not later than thirty days prior to date of said parole or discharge. Upon the receipt of the signed approval of the Eugenics Board as described in this article, it shall be the duty of said governing board or responsible head to issue an order for the performance of the operation upon said inmate, or patient, and the operation must be performed before the release, parole or discharge of any such inmate or patient. (1933, c. 224, s. 20.)

35-36. Existing rights of surgeons unaffected. Nothing in Public Laws 1935, chapter 463 shall, in any way, interfere with any surgeon in the removal of diseased pathological tissue from any patient. (1935, c. 463, s. 7.)

35-57. Temporary admission to state hospitals for sterilization. Any feeble-minded, epileptic, or mentally diseased person for whom the Eugenics Board of North Carolina has authorized sterilization, may be admitted to the appropriate state hospital for the performance of such operation. The order of the Eugenics Board authorizing a surgeon on the regular or consulting staff of the hospital to perform the operation will be sufficient authority to the superintendent of such hospital to receive, restrain and control the patient until such time as it is deemed wise to release such patient. All such admissions shall be at the discretion of the superintendent of the state hospital and in making any agreement with any county or any state institution to perform such operations, the state hospital may collect a fee which shall not be greater than the cost of such operation and the cost of care and maintenance for the duration of the operation and the time required for the patient to recuperate.

The order of the Eugenics Board and the agreement of the superintendent of the state hospital to admit such patient shall be full and sufficient authority for the prosecutor or sheriff of the county to deliver such patient to the proper state hospital. (1937, c. 221.)

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