



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 287

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

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S287-ALN-67 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
FIFTH EDITION

Date APR 14 2009, 2009

Representative Blust

FAILED

1 moves to amend the bill on page 14. line 9,
2 by inserting between lines 9 and 10, the following:

3 **"PART 8. TRANSFER STATE HEALTH PLAN ADMINISTRATION TO THE OFFICE**
4 **OF STATE BUDGET AND MANAGEMENT.**

5 **SECTION 8.(a)** The administration and management of the North Carolina State
6 Health Plan for Teachers and State Employees is transferred to the Office of State Budget and
7 Management by a Type 1 transfer as defined in G.S. 143A-6.

8 **SECTION 8.(b).** G.S. 135-43.1 and G.S. 135-43.2 are repealed.

9 **SECTION 8.(c)** G.S. 135-43.3 reads as rewritten:

10 **'§ 135-43.3. Oversight team.**

11 (a) ~~The Committee on Employee Hospital and Medical Benefits may use employees of~~
12 ~~the Legislative Services Office and may employ contractual services as approved by the~~
13 ~~Legislative Services Commission to monitor the Executive Administrator and Board of~~
14 ~~Trustees, the Claims Processor, and the Comprehensive Major Medical Plan [State Health Plan~~
15 ~~for Teachers and State Employees]. The Director of the Budget may use employees of the~~
16 ~~Office of State Budget and Management to monitor the Executive Administrator and Board of~~
17 ~~Trustees, the Claims Processor, and the State Health Plan for Teachers and State Employees.~~
18 ~~Employees authorized by the Legislative Services Commission and the Director of the Budget~~
19 ~~to provide assistance to the Committee on Employee Hospital and Medical Benefits and to the~~
20 ~~Director of the Budget shall comprise an oversight team.~~

21 (b) The oversight team shall, jointly or individually, have access to all records of the
22 Board of Trustees, the Executive Administrator, the Claims Processor, and the Plan. The
23 oversight team shall, jointly or individually, be entitled to attend all meetings of the Board of
24 Trustees.

25 (c) ~~The oversight team shall report to the Committee on Employee Hospital and~~
26 ~~Medical Benefits when requested by the Committee.'~~

27 **SECTION 8.(d)** G.S. 135-43(a) reads as rewritten:

28 **'§ 135-43. Confidentiality of information and medical records; provider contracts.**

29 (a) Any information as herein described in this section which is in the possession of the
30 Executive Administrator and the Board of Trustees of the State Health Plan for Teachers and
31 State Employees or its Claims Processor under the Plan or the Predecessor Plan shall be
32 confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or
33 any other provision requiring information and records held by State agencies to be made public



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1 or accessible to the public. This section shall apply to all information concerning individuals,
2 including the fact of coverage or noncoverage, whether or not a claim has been filed, medical
3 information, whether or not a claim has been paid, and any other information or materials
4 concerning a plan participant. Provided, however, such information may be released to the
5 Office of State Budget and Management, the State Auditor, or to the Attorney General, or to
6 the persons designated under G.S. 135-43.3 in furtherance of their statutory duties and
7 responsibilities, or to such persons or organizations as may be designated and approved by the
8 Executive Administrator and Board of Trustees of the Plan, but any information so released
9 shall remain confidential as stated above and any party obtaining such information shall assume
10 the same level of responsibility for maintaining such confidentiality as that of the Executive
11 Administrator and Board of Trustees of the State Health Plan for Teachers and State
12 Employees.

13 **SECTION 8.(e)** G.S. 135-45(b), as amended by section 5(f) of this act, reads as
14 rewritten:

15 '(b) Notwithstanding the provisions of this Article, the Executive Administrator and
16 Board of Trustees of the State Health Plan for Teachers and State Employees may contract with
17 providers of institutional and professional medical care and services to establish preferred
18 provider networks. The terms of a contract between the Plan and its third party administrator or
19 between the Plan and its pharmacy benefit manager are a public record except that the terms in
20 those contracts that contain trade secrets or proprietary or competitive information are not a
21 public record under Chapter 132 of the General statutes and any such proprietary or
22 competitive information and trade secrets contained in the contract shall be redacted by the
23 Plan prior to making it available to the public. This subsection shall not be construed to
24 prevent or restrict the release of any information made not a public record under this subsection
25 to the Office of State Budget and Management, the State Auditor, the Attorney General, the
26 Director of the State Budget, the Plan's Executive Administrator, ~~the Committee on Employee~~
27 ~~Hospital and Medical Benefits~~ solely and exclusively for their use in the furtherance of their
28 duties and responsibilities, and to the Department of Health and Human Services solely for the
29 purpose of implementing the transition of NC Health Choice from the Plan to the Department
30 of Health and Human Services. The design, adoption, and implementation of the preferred
31 provider contracts, networks, and optional alternative comprehensive health benefit plans, and
32 programs available under the optional alternative plans, as authorized under G.S. 135-45 are
33 not subject to the requirements of Chapter 143 of the General Statutes. The Executive
34 Administrator and Board of Trustees shall make reports as requested to the President of the
35 Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives,
36 and the Committee on Employee Hospital and Medical Benefits.'

37 **SECTION 8.(f)** G.S. 135-44.2 reads as rewritten:

38 **'§ 135-44.2. Executive Administrator.**

39 (a) The Plan shall have an Executive Administrator and a Deputy Executive
40 Administrator. The Executive Administrator and the Deputy Executive Administrator positions
41 are exempt from the provisions of Chapter 126 of the General Statutes as provided in G.S.
42 126-5(c1).

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1 (b) The Executive Administrator shall be appointed by the ~~State Health Plan~~
2 ~~Administrative Commission~~. Governor upon the recommendation of the Office of State Budget
3 and Management. The term of employment and salary of the Executive Administrator shall be
4 set by the ~~State Health Plan Administrative Commission upon the advice of an executive~~
5 ~~committee of the Committee on Employee Hospital and Medical Benefits~~. Governor upon the
6 recommendation of the Office of State Budget and Management. The Executive Administrator
7 may be removed from office by the ~~State Health Plan Administrative Commission, upon the~~
8 ~~advice of an executive committee of the Committee on Employee Hospital and Medical~~
9 ~~Benefits~~, Governor upon the advice of the Office of State Budget and Management, and any
10 vacancy in the office of Executive Administrator may be filled by the ~~State Health Plan~~
11 ~~Administrative Commission with the term of employment and salary set upon the advice of an~~
12 ~~executive committee of the Committee on Employee Hospital and Medical Benefits~~. Governor
13 upon the advice of the Office of State Budget and Management.

14 (c) The Executive Administrator shall appoint the Deputy Executive Administrator and
15 may employ such clerical and professional staff, and such other assistance as may be necessary
16 to assist the Executive Administrator and the Board of Trustees in carrying out their duties and
17 responsibilities under this Article. The Executive Administrator may designate managerial,
18 professional, or policy-making positions as exempt from the State Personnel Act. The
19 Executive Administrator may also negotiate, renegotiate and execute contracts with third
20 parties in the performance of the Executive Administrator's duties and responsibilities under
21 this Article; ~~provided any contract negotiations, renegotiations and execution with a Claims~~
22 ~~Processor, with an optional alternative comprehensive health benefit plan, or program~~
23 ~~thereunder, authorized under G.S. 135-45, with a preferred provider of institutional or~~
24 ~~professional hospital and medical care, or with a pharmacy benefit manager shall be done only~~
25 ~~after consultation with the Committee on Employee Hospital and Medical Benefits~~. Article.

26 (d) The Executive Administrator shall be responsible for:

- 27 (1) Cost management programs;
- 28 (2) Education and illness prevention programs;
- 29 (3) Training programs for Health Benefit Representatives;
- 30 (4) Membership functions;
- 31 (5) Long-range planning;
- 32 (6) Provider and participant relations; and
- 33 (7) Communications.

34 Managed care practices used by the Executive Administrator in cost management programs
35 are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240,
36 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.

37 (e) The Executive Administrator shall make reports and recommendations on the Plan
38 to the Governor, the Office of State Budget and Management, the President of the Senate, the
39 Speaker of the House of Representatives and the Committee on Employee Hospital and
40 Medical Benefits.

41 **SECTION 8.(g).** G.S. 135-44.4(8) and (9) read as rewritten:

42 **'§ 135-44.4. Powers and duties of the Executive Administrator and Board of Trustees.**

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1 The Executive Administrator and Board of Trustees of the Teachers' and State Employees'
2 Comprehensive Major Medical Plan shall have the following powers and duties:

3 ...

4 (8) Preparing and submitting to the ~~Governor~~ Governor, the Office of State
5 Budget and Management, and the General Assembly cost estimates for the
6 Plan, including those required by Article 15 of Chapter 120 of the General
7 Statutes.

8 (9) Recommending to the ~~Governor~~ Governor, the Office of State Budget and
9 Management, and the General Assembly changes or additions to the health
10 benefits programs and health care cost containment programs offered under
11 the Plan, together with statements of financial and actuarial effects as
12 required by Article 15 of Chapter 120 of the General Statutes.

13 ...'; and

14 **SECTION 8.(h)** G.S. 135-45.11 reads as rewritten:

15 **'§ 135-45.11. Cost-savings initiatives and incentive programs authorized.**

16 (a) Cost-Saving Initiatives. – Coverage of Over-the-Counter Medications. – The
17 Executive Administrator and Board of Trustees may authorize coverage for over-the-counter
18 medications as recommended by the Plan's pharmacy and therapeutics committee. In approving
19 for coverage one or more over-the-counter medications, the Executive Administrator and Board
20 of Trustees shall ensure that each recommended over-the-counter medication has been analyzed
21 to ensure medical effectiveness and Plan member safety. The analysis shall also address the
22 financial impact on the Plan. The Executive Administrator and Board of Trustees may impose a
23 co-payment to be paid by each covered individual for each packaged over-the-counter
24 medication. The Executive Administrator and Board of Trustees may adopt policies
25 establishing limits on the amount of coverage available for over-the-counter medications for
26 each covered individual over a 12-month period. Prior to implementing policy and co-payment
27 changes authorized under this section, the Executive Administrator and Board of Trustees shall
28 submit the proposed policies and co-payments to the ~~Committee on Employee Hospital and~~
29 ~~Medical Benefits for its review.~~ Office of State Budget and Management for review.

30 (b) Incentive Programs. – For the purposes of helping Plan members to achieve and
31 maintain a healthy lifestyle without impairing patient care, and to increase cost effectiveness in
32 Plan coverage, the Executive Administrator and Board of Trustees may adopt programs
33 offering incentives to Plan members to encourage changes in member behavior or lifestyle
34 designed to improve member health and promote cost-efficiency in the Plan. Participation in
35 one or more incentive programs is voluntary on the part of the Plan member. Before adopting
36 an incentive program, the Executive Administrator and Board of Trustees shall conduct an
37 impact analysis on the proposed incentive program to determine (i) whether the program is
38 likely to result in significant member satisfaction, (ii) that it will not adversely affect quality of
39 care, and (iii) whether it is likely to result in significant cost savings to the Plan. The impact
40 analysis may be conducted by a committee of the Plan, in conjunction with the Plan's
41 consulting actuary, provided that the Plan's medical director participates in the analysis. An
42 approved incentive plan may provide for a waiver of deductibles, co-payments, and
43 coinsurance required under this Article in order to determine the effectiveness of the incentive

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1 program in promoting the health of members and increasing cost-effectiveness to the Plan. The
2 Executive Administrator and Board of Trustees shall, before implementing incentive programs
3 authorized under this section, submit the proposed programs to the ~~Committee on Employee~~
4 ~~Hospital and Medical Benefits for review.~~ Office of State Budget and Management for review.'

5 **SECTION 8.(h)** This section becomes effective July 1, 2010."; and
6

7 Further moves to amend the bill on page 14, lines 10 and 11, by deleting "**EIGHT:**" on line
8 10 and substituting "**EIGHT:**" and on line 11 by deleting "**SECTION 8.**" and substituting
9 "**SECTION 9.**"
10
11
12

SIGNED *John M. Blust*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 50-64 EV 50-65 EV(adi) Tabled _____
Denise Weeks

APR 14 2009

FAILED