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SESSION 2015

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HOUSE BILL 20
Committee Substitute Favorable 4/27/15
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PROPOSED SENATE COMMITTEE SUBSTITUTE H20-PCS10418-TY-2

Short Title: Reagan's Rule/Enforce Pharm. Ben. Mgt.

(Public)

Sponsors:

Referred to:

January 29, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO (1) ENCOURAGE PARENT EDUCATION DURING WELL-CHILD VISITS
3 AT SPECIFIC AGE INTERVALS REGARDING TYPE I DIABETES AND (2) TO
4 AMEND THE LAW PERTAINING TO PHARMACY BENEFIT MANAGERS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Part 3 of Article 7 of Chapter 130A of the General Statutes is
7 amended by adding a new section to read:

8 "**§ 130A-221.5. Diabetes education as part of well-child care.**

9 Each physician, physician assistant, or certified nurse practitioner who provides well-child
10 care is encouraged to educate and discuss the warning signs of Type I diabetes and symptoms
11 with each parent for each child under the care of the physician, physician assistant, or certified
12 nurse practitioner at least once at the following age intervals:

- 13 (1) Birth.
14 (2) Twelve months of age.
15 (3) Twenty-four months of age.
16 (4) Thirty-six months of age.
17 (5) Forty-eight months of age.
18 (6) Sixty months of age."

19 **SECTION 2.** G.S. 58-2-70 reads as rewritten:

20 "**§ 58-2-70. Civil penalties or restitution for violations; administrative procedure.**

21 (a) This section applies to any person who ~~is subject to licensure or certification under~~
22 ~~this Chapter~~ is either of the following:

- 23 (1) Subject to licensure or certification under this Chapter; or
24 (2) A pharmacy benefits manager as defined in G.S. 58-56A-1.

25 (b) ~~Whenever the Commissioner has reason to believe that any person has violated any~~
26 ~~of the provisions of this Chapter, and the violation subjects the license or certification of that~~
27 ~~person to suspension or revocation, the Commissioner may, after notice and opportunity for a~~
28 ~~hearing, proceed under the appropriate subsections of this section.~~ The Commissioner may, after
29 notice and opportunity for a hearing, proceed under the appropriate subsections of this section
30 whenever the Commissioner has reason to believe either of the following:

- 31 (1) That any person has violated any of the provisions of this Chapter, and the
32 violation subjects the license or certification of that person to suspension or
33 revocation; or
34 (2) That a pharmacy benefits manager has violated G.S. 58-56A-5.



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1 (c) If, under subsection (b) of this section, the Commissioner finds a violation of this
2 Chapter, the Commissioner may, in addition to or instead of suspending or revoking the license
3 or certification, order the payment of a monetary penalty as provided in subsection (d) of this
4 section or petition the Superior Court of Wake County for an order directing payment of
5 restitution as provided in subsection (e) of this section, or both. Each day during which a
6 violation occurs constitutes a separate violation.

7 (d) If the Commissioner orders the payment of a monetary penalty pursuant to
8 subsection (c) of this section, the penalty shall not be less than one hundred dollars (\$100.00)
9 nor more than one thousand dollars (\$1,000). In determining the amount of the penalty, the
10 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
11 of money that inured to the benefit of the violator as a result of the violation, whether the
12 violation was committed willfully, and the prior record of the violator in complying or failing
13 to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the
14 penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
15 G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to
16 payment of any other penalty for a violation of the criminal laws of this State.

17 (d1) In the case of a monetary penalty imposed upon a pharmacy benefits manager found
18 to have violated G.S. 58-56A-5, the Commissioner may, at the Commissioner's discretion,
19 impose an additional penalty of up to one thousand dollars (\$1,000) per prescription for each
20 prescription found to have been improperly reimbursed as a result of the pharmacy benefits
21 manager's failure to comply with G.S. 58-56A-5. This subsection shall apply only to pharmacy
22 benefits managers as defined in G.S. 58-56A-1.

23 (e) Upon petition of the Commissioner the court may order the person who committed a
24 violation specified in subsection (c) of this section to make restitution in an amount that would
25 make whole any person harmed by the violation. The petition may be made at any time and
26 also in any appeal of the Commissioner's order.

27 (f) Restitution to any State agency for extraordinary administrative expenses incurred
28 in the investigation and hearing of the violation may also be ordered by the court in such
29 amount that would reimburse the agency for the expenses.

30 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
31 acceptable agreement with any person as to the status of the person's license or certificate or as
32 to any civil penalty or restitution.

33 (h) Unless otherwise specifically provided for, all administrative proceedings under this
34 Chapter are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's
35 orders under this section shall be governed by G.S. 58-2-75."

36 **SECTION 3.** Section 1 of this act becomes effective October 1, 2015. The
37 remaining sections of this act are effective when this act becomes law.