

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 20
Committee Substitute Favorable 4/27/15
Third Edition Engrossed 4/29/15
Senate Health Care Committee Substitute Adopted 7/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H20-PCS40510-TY-6

Short Title: Rural Access to Health Care Act.

(Public)

Sponsors:

Referred to:

January 29, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENCOURAGE PARENT EDUCATION DURING WELL-CHILD VISITS AT
3 SPECIFIC AGE INTERVALS REGARDING TYPE I DIABETES; AMEND THE LAW
4 PERTAINING TO PHARMACY BENEFIT MANAGERS; AMEND THE
5 REQUIREMENTS FOR A MUNICIPALITY OR HOSPITAL AUTHORITY TO
6 APPROVE THE SALE OR LEASE OF A PUBLIC HOSPITAL; CLARIFY THE
7 DEFINITION OF "EXISTING HOSPITAL" FOR PURPOSES OF THE HOSPITAL
8 LICENSURE ACT; AND REPEAL NORTH CAROLINA'S CERTIFICATE OF PUBLIC
9 ADVANTAGE LAWS.

10 The General Assembly of North Carolina enacts:

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

13 **"§ 130A-221.5. Diabetes education as part of well-child care.**

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

- 18 (1) Birth.
- 19 (2) Twelve months of age.
- 20 (3) Twenty-four months of age.
- 21 (4) Thirty-six months of age.
- 22 (5) Forty-eight months of age.
- 23 (6) Sixty months of age."

24 **SECTION 2.** Article 56A of Chapter 58 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 58-56A-10. Civil penalties for violations; administrative procedure.**

27 (a) Whenever the Commissioner has reason to believe that a pharmacy benefits
28 manager has violated any of the provisions of this Article with such frequency as to indicate a
29 general business practice, the Commissioner may, after notice and opportunity for a hearing,
30 proceed under the appropriate subsections of this section.

31 (b) If, under subsection (a) of this section, the Commissioner finds a violation of this
32 Article, the Commissioner may order the payment of a monetary penalty as provided in
33 subsection (c) of this section or petition the Superior Court of Wake County for an order



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1 directing payment of restitution as provided in subsections (d) and (e) of this section, or both.
2 Each day during which a violation occurs constitutes a separate violation.

3 (c) If the Commissioner orders the payment of a monetary penalty pursuant to
4 subsection (b) of this section, the penalty shall not be less than one hundred dollars (\$100.00)
5 nor more than one thousand dollars (\$1,000) per day per prescription drug for each prescription
6 found to have been improperly reimbursed as a result of the pharmacy benefits manager's
7 failure to comply with G.S. 58-56A-5. In determining the amount of the penalty, the
8 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
9 of money that inured to the benefit of the violator as a result of the violation, whether the
10 violation was committed willfully, and the prior record of the violator in complying or failing
11 to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the
12 penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
13 G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to
14 payment of any other penalty for a violation of the criminal laws of this State.

15 (d) Upon petition of the Commissioner the court may order the pharmacy benefits
16 manager who committed a violation specified in subsection (b) of this section to make
17 restitution in an amount that would make whole any pharmacist harmed by the violation. The
18 petition may be made at any time and also in any appeal of the Commissioner's order.

19 (e) Upon petition of the Commissioner the court may order the pharmacy benefits
20 manager who committed a violation specified in subsection (b) of this section to make
21 restitution to the Department for administrative expenses, including expenses under subsection
22 (f) of this section, incurred in the investigation, hearing, and any appeals associated with the
23 violation in such amount that would reimburse the agency for the expenses. The petition may
24 be made at any time and also in any appeal of the Commissioner's order.

25 (f) The Commissioner may contract with consultants and other professionals with
26 relevant expertise as necessary and appropriate to conduct investigation, hearing, and appeals
27 activities as provided in this section. Such contracts shall not be subject to G.S. 114-2.3,
28 G.S. 147-17, or Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, together with rules
29 and procedures adopted under those Articles concerning procurement, contracting, and contract
30 review.

31 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
32 acceptable agreement with any pharmacy benefits manager as to any civil penalty or restitution.

33 (h) Unless otherwise specifically provided for, all administrative proceedings under this
34 Article 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.** G.S. 131E-13 is amended by adding a new subsection to read:

37 "(h) A municipality or hospital authority that has complied with the requirements of
38 subdivisions (1) through (6) of subsection (d) of this section but has not, following good faith
39 negotiations, approved any lease, sale, or conveyance as required by subdivisions (7) and (8) of
40 subsection (d) of this section may, not less than 120 days following the public hearing required
41 by subdivision (5) of subsection (d) of this section, solicit additional prospective lessees or
42 buyers not previously solicited as required by subdivision (2) of subsection (d) of this section
43 and may approve any lease, sale, or conveyance without the necessity to repeat compliance
44 with the requirements of subdivisions (1) through (6) of subsection (d) of this section, except
45 for the following:

46 (1) Before considering any proposal to lease or purchase the hospital facility or
47 part thereof, the municipality or hospital authority shall require information
48 on charges, services, and indigent care at similar facilities leased, owned, or
49 operated by the proposed lessee or buyer.

50 (2) The municipality or hospital authority shall declare its intent to approve any
51 lease or sale in the manner authorized by this subsection at a regular or

1 special meeting held on 10 days' public notice. Such notice shall state that
2 copies of the lease, sale, or conveyance proposed for approval will be
3 available 10 days prior to the regular or special meeting required by
4 subdivision (3) of this subsection, and that the lease, sale, or conveyance
5 shall be considered for approval at a regular or special meeting not less than
6 10 days following the regular or special meeting required by this subsection.
7 Notice shall be given by publication in one or more papers of general
8 circulation in the affected area describing the intent to lease, sell, or convey
9 the hospital facility involved and the potential buyer or lessee.

10 (3) Not less than 10 days following the regular or special meeting required by
11 subdivision (2) of this subsection, the municipality or hospital authority shall
12 approve any lease, sale, or conveyance by a resolution at a regular or special
13 meeting.

14 (4) At least 10 days before the regular or special meeting at which any lease,
15 sale, or conveyance is approved, the municipality or hospital authority shall
16 make copies of the proposed contract available to the public."

17 **SECTION 4.(a)** G.S. 131E-76 is amended by adding a new subdivision to read:

18 "(1c) "Existing hospital" means a hospital that currently or within the last 24
19 months meets all the following conditions:

- 20 a. Holds or voluntarily surrendered a hospital license issued under
21 G.S. 131E-77.
22 b. Serves or served patients.
23 c. Is or was staffed.
24 d. Has or had appropriate equipment."

25 **SECTION 4.(b)** An existing hospital as defined in G.S. 131E-76(1c), as enacted by
26 subsection (a) of this section, shall be deemed operational for purposes of Article 5 of Chapter
27 131E of the General Statutes and is exempted from certificate of need review under Article 9 of
28 Chapter 131E of the General Statutes if the Division of Health Service Regulation receives
29 written notice from any operator that the hospital will be opening within 36 months of the
30 notice.

31 **SECTION 5.** Article 1E of Chapter 90 of the General Statutes and Article 9A of
32 Chapter 131E of the General Statutes are repealed.

33 **SECTION 6.** Section 1 of this act becomes effective October 1, 2015. Section 2 of
34 this act becomes effective July 1, 2016. Section 5 of this act becomes effective January 1, 2017.
35 The remainder of this act is effective when it becomes law.