

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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**HOUSE BILL 512
Committee Substitute Favorable 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H512-PCS40761-BCf-42**

Short Title: Monitor Implementation of TBI Waiver.

(Public)

Sponsors:

Referred to:

March 29, 2017

A BILL TO BE ENTITLED

1 AN ACT REGARDING IMPLEMENTATION OF THE 1915(C) MEDICAID WAIVER FOR
2 INDIVIDUALS WITH TRAUMATIC BRAIN INJURY; AUTHORIZING TOWNSHIP
3 HOSPITALS STILL OPERATING UNDER PRE-1983 PUBLIC HOSPITAL LAWS TO
4 EXERCISE SOME OF THE ADDITIONAL POWERS AND AUTHORITIES GRANTED
5 TO PUBLIC HOSPITALS OPERATING UNDER ARTICLE 2 OF CHAPTER 131E OF
6 THE GENERAL STATUTES; REDEFINING THE TERM "LEGACY CARE MEDICAL
7 FACILITY" FOR PURPOSES OF CERTIFICATE OF NEED REVIEW; REQUIRING
8 THAT LEGACY MEDICAL CARE FACILITIES EXEMPTED FROM CERTIFICATE OF
9 NEED REVIEW OPERATE WITHIN THE SAME SERVICE AREA AS THE FACILITY
10 THAT CEASED CONTINUOUS OPERATIONS; AND PROVIDING FOR AN
11 EXTENSION OF THE TIME BY WHICH A FACILITY MUST BE OPERATIONAL IN
12 ORDER TO QUALIFY FOR CERTIFICATE OF NEED EXEMPTION AS A LEGACY
13 MEDICAL CARE FACILITY.
14

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** Beginning October 1, 2018, the Department of Health and Human
17 Services (DHHS) shall report quarterly to the Joint Legislative Oversight Committee on
18 Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and
19 Human Services, the chairs of the Senate Appropriations Committee on Health and Human
20 Services, the chairs of the House of Representatives Appropriations Committee on Health and
21 Human Services, and the Fiscal Research Division on the status and implementation of the
22 1915(c) waiver for individuals with traumatic brain injury (TBI) that has been submitted to the
23 Centers for Medicare and Medicaid Services in accordance with Section 12H.6 of S.L. 2015-241.

24 As part of the process of implementing the TBI waiver, DHHS shall adopt rules or
25 medical coverage policies relating to service programs for individuals with traumatic brain
26 injury, including setting standards that ensure that individuals with brain injuries who require
27 residential treatment receive appropriate, effective, and high-quality treatment in
28 community-based residential settings. Additionally, DHHS shall develop a best practice model
29 system that includes a comprehensive continuum of care and an array of short-term and long-term
30 treatments, rehabilitation options, and home and community support services as part of the TBI
31 waiver. Finally, DHHS shall strive to maintain adequate reimbursement rates for residential and
32 community-based care programs that serve individuals with traumatic brain injury, which will
33 aid in attracting and retaining quality and highly specialized providers and programs into North
34 Carolina.



1 **SECTION 2.(a)** All hospitals that continue to operate under Article 2 of Chapter 131
2 of the General Statutes pursuant to Section 3 of Chapter 775 of the 1983 Session Laws may, in
3 addition to the powers and authorities set forth in said Article 2 of Chapter 131 of the General
4 Statutes, exercise each of the powers, authorities, and exemptions set forth in the following
5 provisions of Chapter 131E of the General Statutes, singly or in combination:

- 6 (1) G.S. 131E-7(a)(1), (3), (5), and (6).
- 7 (2) G.S. 131E-7(b).
- 8 (3) G.S. 131E-7(c).
- 9 (4) G.S. 131E-7(f).
- 10 (5) G.S. 131E-7.1.
- 11 (6) G.S. 131E-8.
- 12 (7) G.S. 131E-10.
- 13 (8) G.S. 131E-11.
- 14 (9) G.S. 131E-13.
- 15 (10) G.S. 131E-14.1.
- 16 (11) G.S. 131E-23(a)(1) through (38).
- 17 (12) G.S. 131E-23(b).
- 18 (13) G.S. 131E-23(d).
- 19 (14) G.S. 131E-26.
- 20 (15) G.S. 131E-27.
- 21 (16) G.S. 131E-32.
- 22 (17) G.S. 131E-47.1.

23 **SECTION 2.(b)** This act amends and adds to the powers and authorities previously
24 conveyed by Section 3 of S.L. 1999-377 to hospitals that continue to operate under Article 2 of
25 Chapter 131 of the General Statutes. This act is not intended to alter or amend the remaining
26 provisions of S.L. 1999-377.

27 **SECTION 3.(a)** G.S. 131E-176(14f) reads as rewritten:

28 "(14f) "Legacy Medical Care Facility" means ~~an institution~~ a facility that meets all of
29 the following requirements:

- 30 a. Is not presently operating.
- 31 b. Has not continuously operated for at least the past six months.
- 32 c. Within the last 24 months:
 - 33 1. Was operated by a person holding a license under
34 G.S. 131E-77; and
 - 35 2. Was primarily engaged in providing to ~~inpatients~~ inpatients or
36 outpatients, by or under supervision of physicians, (i)
37 diagnostic services and therapeutic services for medical
38 diagnosis, treatment, and care of injured, disabled, or sick
39 persons or (ii) rehabilitation services for the rehabilitation of
40 injured, disabled, or sick persons."

41 **SECTION 3.(b)** G.S. 131E-184(h) reads as rewritten:

42 "(h) The Department shall exempt from certificate of need review the acquisition or
43 reopening of a Legacy Medical Care Facility. The person seeking to operate a Legacy Medical
44 Care Facility ~~must~~ shall give the Department written notice ~~(i) of its~~ of all of the following:

- 45 (1) Its intention to acquire or reopen a Legacy Medical Care Facility and (ii) that
46 within the same county and the same service area as the facility that ceased
47 continuous operations. If the Legacy Medical Facility will become operational
48 in a new location within the same county and the same service area as the
49 facility that ceased continuous operations, then the person responsible for
50 giving the written notice required by this section shall notify the Department,
51 as soon as reasonably practicable and prior to becoming operational, of the

1 new location of the Legacy Medical Care Facility. For purposes of this
2 subdivision, "service area" means the service area identified in the North
3 Carolina State Medical Facilities Plan in effect at the time the written notice
4 required by this section is given to the Department.

5 (2) That the ~~hospital~~ facility will be operational within 36 months of the notice.

6 The Department shall extend the time by which a facility must be operational in order to be
7 exempt from certificate of need review under this subsection by one additional 36-month period
8 if the person seeking to reopen or acquire the Legacy Medical Care Facility gives the Department
9 written notice of extension within 36 months of the original notice of intent to acquire or reopen
10 the Legacy Medical Care Facility. The written notice of extension must notify the Department
11 (i) that the person has undertaken all reasonable efforts to make the facility operational within 36
12 months of the notice of intent, (ii) that, despite these reasonable efforts, the person does not
13 anticipate the facility will be operational within that time, and (iii) of its intention that the facility
14 will be operational within 36 months of the notice of extension."

15 **SECTION 4.** This act is effective when it becomes law.