

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Nov 28, 2018
S.B. 825
PRINCIPAL CLERK

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SENATE BILL DRS35383-MMza-168*

Short Title: PED/Inmate Pharmacy Purchasing/Monitoring. (Public)

Sponsors: Senator B. Jackson (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY INMATE PHARMACY PURCHASING AND MONITORING, AS
3 RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION
4 OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

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7 **MODIFICATION AND EXPANSION OF 340B PROGRAM TO PROVIDE FOR THE**
8 **PURCHASING OF CERTAIN INMATE MEDICATIONS**

9 **SECTION 1.(a)** The University of North Carolina Health Care System (hereinafter
10 "UNCHCS") in cooperation with the Department of Public Safety, Health Services Section
11 (hereinafter "DPS Health Services") shall modify its 340B program regarding its qualification as
12 a Disproportionate Share Hospital. In collaboration with DPS Health Services, UNCHCS shall
13 acquire the necessary approval, if any, from the United States Health Resources and Services
14 Administration (hereinafter "HRSA") to provide inmate medications to inmates with HIV/AIDS
15 and Hepatitis C. UNCHCS and DPS Health Services shall also enter into a Memorandum of
16 Understanding, modifying and creating policies and procedures to guide the processes by which
17 these medications will be obtained. UNCHCS and DPS Health Services shall use telemedicine
18 and the existing infectious disease clinics already housed at Central Prison Healthcare Complex
19 to treat offenders.

20 **SECTION 1.(b)** To facilitate implementation of subsection (a) of this section, the
21 Office of State Budget and Management shall transfer the sum of twenty-five thousand dollars
22 (\$25,000) for the 2018-2019 fiscal year from DPS to UNCHCS to fund a legal consultant to assist
23 with program design. In addition, seven thousand dollars (\$7,000) of DPS Health Services'
24 annual operating budget shall be allocated for program auditing as required by HRSA. It is the
25 intent of the General Assembly that the recurring expenditure for program auditing shall be offset
26 by the savings achieved from 340B participation. In addition, UNCHCS and DPS Health Services
27 shall develop a plan for obtaining additional medications through the 340B program including
28 drugs for treating cancer, neurological conditions, rheumatic diseases, and other costly medical
29 conditions.

30 **SECTION 1.(c)** Beginning October 1, 2019, and quarterly thereafter until a 340B
31 program is in operation for purchasing HIV/AIDS and Hepatitis C medications, UNCHCS and
32 DPS Health Services shall report to the Joint Legislative Oversight Committee on Justice and
33 Public Safety and the Fiscal Research Division on planned actions and accomplishments related
34 to implementing subsections (a) and (b) of this section.

35 **SECTION 1.(d)** Part 2 of Article 13 of Chapter 143B of the General Statutes is
36 amended by adding a new section to read:



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1 **"§ 143B-707.5 Annual reports on medication.**

2 Beginning July 1, 2020, and annually thereafter, the University of North Carolina Health
3 Care System and the Department of Public Safety, Health Services Section shall jointly report to
4 the Joint Legislative Oversight Committee on Justice and Public Safety on annual savings
5 achieved from purchasing inmate medications through a 340B program for Disproportionate
6 Share Hospitals as well as any activities conducted or planned to maintain and expand the number
7 of medications purchased through the program."

8
9 **REVISION TO MEDICATION ADMINISTRATION PROTOCOL**

10 **SECTION 2.** The DPS Health Services Section shall revise its policies and
11 procedures to reflect that any supply of a prescription for the treatment of conditions other than
12 HIV with a per-supply value of one thousand dollars (\$1,000) or more be designated as Direct
13 Observation Therapy. The Department shall report to the Joint Legislative Oversight Committee
14 on Justice and Public Safety by October 1, 2019, regarding the revised policies and procedures.

15
16 **COLLECTION OF DATA ON MEDICATIONS LOST DURING INMATE TRANSFER**
17 **AND ESTABLISHMENT OF INTERNAL CONTROLS TO LIMIT THESE LOSSES**

18 **SECTION 3.(a)** Part 2 of Article 13 of Chapter 143B of the General Statutes is
19 amended by adding a new section to read:

20 **"§ 143B-707.6. Medication losses related to inmate transfer.**

21 (a) The Health Services Section shall collect data on medication losses that occur during
22 inmate transfer. The collection methods shall provide, at a minimum, for all of the following:

23 (1) A mechanism to easily summarize medication losses across all identified
24 reasons for the loss.

25 (2) Information on the prison from which an inmate was transferred.

26 (3) Identification of custody officials involved in the transfer.

27 (b) The Department shall develop internal controls related to the oversight of medications
28 lost during inmate transfers based on the data collected under subsection (a) of this section. In
29 addition, the Department's Internal Audit unit shall establish an internal oversight function to
30 investigate any medication losses valued at greater than two hundred dollars (\$200.00).

31 (c) The Department shall also establish disciplinary actions for staff who are found to be
32 responsible for inmate medication losses during transfer. The Health Services Section shall be
33 responsible for addressing disciplinary actions for DPS Health Services prison staff who are
34 found to be responsible for medications lost during inmate transfers and shall refer incidents
35 involving custody staff to the appropriate unit for action."

36 **SECTION 3.(b)** DPS shall initiate an internal audit of its processes for transporting
37 medications during inmate transfer. The audit shall examine all medication losses incurred during
38 Fiscal Year 2018–2019 and shall include recommendations to improve controls and promote
39 accountability for medication losses. DPS shall submit the audit to the Joint Legislative Oversight
40 Committee on Justice and Public Safety by December 1, 2019.

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42 **CONTRACT WITH STATEWIDE RETAIL PHARMACIES, DATA COLLECTION,**
43 **AND OVERSIGHT MECHANISM**

44 **SECTION 4.(a)** Part 2 of Article 13 of Chapter 143B of the General Statutes is
45 amended by adding a new section to read:

46 **"§ 143B-707.7. Contract for limited use of local purchase of inmate pharmacy needs.**

47 (a) By October 31, 2019, the Health Services Section shall award a statewide contract to
48 a private pharmacy for local purchases of limited quantities of medicine and require prison health
49 services staff to use this pharmacy except under extenuating circumstances and with the written
50 approval of the Director of Central Pharmacy.

1 **(b)** The Health Services Section shall obtain monthly electronic invoices of prescriptions
2 filled by each prison from the vendor chosen under subsection (a) of this section and shall develop
3 a mechanism to collect information on purchases made outside the contract. At a minimum, the
4 following information shall be collected for each prescription: (i) the inmate's prison, (ii) the
5 requesting provider, (iii) the medication requested, (iv) the quantity of the medication requested,
6 and (v) the total value of the prescription.

7 **(c)** The Department shall establish a formal oversight mechanism to ensure prescriptions
8 written by providers to be filled at local pharmacies do not exceed the quantities specified in the
9 Department's policy. The Health Services Section central office shall be responsible for
10 implementing the oversight function, shall use the data collected under subsections (a) and (b) of
11 this section to implement the function, and shall implement corrective and disciplinary actions
12 as needed."

13 **SECTION 4.(b)** The Department shall report to the Joint Legislative Oversight
14 Committee on Justice and Public Safety by November 1, 2019, on its efforts to award the contract
15 required under subsection (a) of this section.

16 **SECTION 5.** This act becomes effective July 1, 2019.