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PROPOSED SENATE COMMITTEE SUBSTITUTE H106-PCS30492-SH-18

Short Title: Inmate Health Care & 340B Program.

(Public)

Sponsors:

Referred to:

February 20, 2019

A BILL TO BE ENTITLED

AN ACT TO IMPROVE INMATE HEALTH CARE REIMBURSEMENT AND INTERNAL PROCESSES AND TO ESTABLISH A TELEMEDICINE PILOT PROGRAM; IN ADDITION TO DIRECTING THE DEPARTMENT OF PUBLIC SAFETY TO PARTNER WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE PURCHASE OF CERTAIN MEDICATIONS FOR INMATES, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE REQUESTS FOR PROPOSALS FOR PARTNERSHIPS BETWEEN NORTH CAROLINA 340B PROGRAM ENTITIES AND THE FOUR NORTH CAROLINA PRISON REGIONS, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO PARTNER WITH THE UNIVERSITY OF NORTH CAROLINA HEALTH SYSTEM TO SHIFT PRESCRIBING AUTHORITY ON CERTAIN MEDICATIONS, AND TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO SUBMIT VARIOUS REPORTS TO THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY AND THE FISCAL RESEARCH DIVISION.

The General Assembly of North Carolina enacts:

PART I. INMATE HEALTH CARE REIMBURSEMENT AND INTERNAL PROCESSES AND TELEMEDICINE PILOT

SECTION 1.(a) To contain medical costs for inmates as required by G.S. 143B-707.3(b), the Department of Public Safety shall develop a plan to increase the use of the Central Prison Healthcare Complex (hereinafter "CPHC") which shall include all of the following:

- (1) Strategies, policies, and oversight mechanisms to ensure that non-life-threatening emergencies for male inmates within a 60-mile radius of Raleigh are treated at the CPHC urgent care facility. As part of this effort, DPS shall consider the use of telemedicine.
- (2) A cost comparison of health care services performed at CPHC and the North Carolina Correctional Institution for Women (hereinafter "NCCIW") and health care services performed by outside contracted providers. The cost comparison shall include the cost of transporting inmates to and from outside contracted providers.



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1 (3) A comprehensive review of the current usage of health care facilities at CPHC
2 and NCCIW and the potential to maximize usage of those facilities through
3 (i) increasing the usage of CPHC's facilities for general anesthesia procedures
4 and increasing usage of existing on-site equipment, (ii) selling equipment no
5 longer in use or not in use due to staffing changes, (iii) increasing the provision
6 of health care services available at CPHC to female inmates, and (iv)
7 identifying potential CPHC expenditures that would ultimately result in
8 demonstrated cost savings.

9 (4) Methods to contain costs for palliative and long-term health care services for
10 inmates.

11 **SECTION 1.(b)** By December 1, 2019, the Department of Public Safety shall submit
12 the plan required by subsection (a) of this section to the Joint Legislative Oversight Committee
13 on Justice and Public Safety. The Department of Public Safety shall also submit its progress made
14 in achieving cost savings under the plan, the amount of any actual and estimated cost savings,
15 and any obstacles to increasing the usage of the health services facilities at CPHC and NCCIW.

16 **SECTION 2.(a)** G.S. 143B-707.3(c) reads as rewritten:

17 "(c) The Department of Public Safety shall report quarterly to the Joint Legislative
18 Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives
19 and Senate Appropriations Committees on Justice and Public Safety on:

20 ...
21 (10) The reimbursement rate for contracted providers. The Department shall
22 randomly audit high-volume contracted providers to ensure adherence to
23 billing at the contracted rate.

24 Reports submitted on August 1 shall include totals for the previous fiscal year for all the
25 information requested."

26 **SECTION 2.(b)** By February 1, 2020, the Department of Public Safety, Health
27 Services Section, shall report to the Joint Legislative Oversight Committee on Justice and Public
28 Safety and to the chairs of the House of Representatives and Senate Appropriations Committees
29 on Justice and Public Safety on alternative methods for reimbursing providers and facilities that
30 provide approved medical services to inmates, including Medicare rates.

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

33 "**§ 143B-707.5. Medicaid services for inmates.**

34 (a) The Department of Public Safety and the Department of Health and Human Services
35 shall work together to enable social workers in the Department of Public Safety, Health Services
36 Section, to qualify for and receive federal reimbursement for performing administrative activities
37 related to Medicaid eligibility for inmates. The Department of Public Safety, Health Services
38 Section, shall develop policies and procedures to account for the time social workers in the Health
39 Services Section spend on administrative activities related to Medicaid eligibility for inmates.
40 All social workers in the Health Services Section who perform administrative activities related
41 to Medicaid eligibility shall be required to receive eligibility determination training provided by
42 the Department of Health and Human Services at least quarterly.

43 (b) The Department of Public Safety, Health Services Section, shall require each social
44 worker performing administrative activities related to Medicaid eligibility for inmates to
45 document the following:

46 (1) The criteria used by the social worker when deciding to submit an application
47 for Medicaid and when deciding not to submit an application for Medicaid,
48 including any information the social worker believes disqualifies the inmate
49 for Medicaid benefits.

50 (2) An indication in the social worker's data entry of an inmate's Medicaid
51 eligibility as determined by the inmate's county department of social services.

1 (3) The number of 24-hour community provider stays prescreened for potential
2 applications, the number of applications submitted, and the number and
3 percentage of applications approved, denied, and withdrawn, which shall be
4 reported to the Health Services Section Director on a monthly basis.

5 (c) In addition to the requirements in subsection (b) of this section, each Department of
6 Public Safety, Health Services Section, social workers performing administrative activities
7 related to Medicaid eligibility for inmates shall submit Medicaid applications and any supporting
8 documents electronically through the ePass portal in the Department of Health and Human
9 Services or through other electronic means, unless paper copies are required by federal law or
10 regulation."

11 **SECTION 3.(b)** By October 1, 2019, and quarterly thereafter until full
12 implementation is achieved, the Department of Public Safety and the Department of Health and
13 Human Services shall jointly report to the Joint Legislative Oversight Committee on Justice and
14 Public Safety and the Joint Legislative Oversight Committee on Medicaid and North Carolina
15 Health Choice on progress in receiving federal reimbursement for performing administrative
16 activities related to Medicaid eligibility for inmates.

17 **SECTION 3.(c)** By October 1, 2019, the Department of Public Safety shall report to
18 the Joint Legislative Oversight Committee on Justice and Public Safety on the implementation
19 of the documentation of criteria for the submission of Medicaid applications and the electronic
20 submission of Medicaid applications.

21 **SECTION 3.(d)** This section becomes effective October 1, 2019.

22 **SECTION 4.** The Department of Public Safety, Health Services Section, shall issue
23 two requests for proposals (RFP) to develop an electronic supply inventory management system.
24 One RFP shall be for a system to be used at all prison facilities and one RFP shall be for a system
25 to be used exclusively at the Central Prison Healthcare Complex and the North Carolina
26 Correctional Institution for Women. The RFPs shall be for an electronic supply inventory
27 management system that is capable of all of the following:

- 28 (1) Recording the arrival and departure of each medical supply in use or for future
29 use from the point of order, including all methods of requisition and main
30 storage locations (e.g., warehouse, secondary storage location, prison unit, or
31 infirmary).
- 32 (2) Recording the dates on which a medical supply was physically at each
33 transition point, including the date of use or disposal.
- 34 (3) Identifying Department employees who have custody of or control over a
35 medical supply at each transition point, including at the time of use or
36 disposal.
- 37 (4) Ensuring that medical supplies are used prior to their expiration date.
- 38 (5) Ensuring an adequate supply of each medical product currently being used or
39 obtained for future use at each facility. Adequate supply level shall be based
40 on usage of each medical product by each facility.
- 41 (6) Biannually assessing the need for particular medical supplies and the accuracy
42 of records through an audit of the system.

43 The Department shall report the results of the RFPs to the Joint Legislative Oversight
44 Committee on Justice and Public Safety and the chairs of the House of Representatives and
45 Senate Appropriations Committees on Justice and Public Safety by December 1, 2019.

46 **SECTION 5.(a)** The Department of Public Safety, Health Services Section, and the
47 Office of State Human Resources shall jointly study the salaries of all in-prison health services
48 employees to determine what adjustments are necessary to increase the salaries of new hires and
49 existing employees of the Health Services Section to market rates.

1 **SECTION 5.(b)** The Department of Public Safety shall establish a vacancy rate
2 benchmark for each correctional facility and shall create a plan to reduce the vacancy rates. The
3 Department shall consider initiatives to reduce vacancy rates, including the following:

- 4 (1) Increasing salaries to market rates.
- 5 (2) Creating a student loan forgiveness program for the Health Services Section.
- 6 (3) Offering signing bonuses and annual cash incentives.
- 7 (4) Increasing the use of telemedicine positions.
- 8 (5) Creating dual appointment opportunities for doctors currently employed by
9 the State.
- 10 (6) Offering differential pay for health services workers employed in
11 difficult-to-staff facilities.
- 12 (7) Streamlining and potentially eliminating duplicative or unnecessary steps in
13 the hiring process.

14 **SECTION 5.(c)** The Department of Public Safety shall establish methods to measure
15 the effectiveness of the initiatives to reduce vacancy rates required in subsection (b) of this
16 section and estimate the budgetary impact and anticipated savings from the Department's reduced
17 reliance on outside contracted providers. By February 1, 2020, the Department shall submit its
18 findings on salaries and vacancy rates, including any proposed legislation and the need for
19 assistance required from the Office of Human Resources and the Office of Rural Health in the
20 Department of Health and Human Services to accomplish the objectives outlined in subsections
21 (a) and (b) of this section to the Joint Legislative Oversight Committee on Justice and Public
22 Safety.

23 **SECTION 6.(a)** By August 1, 2019, the Department of Public Safety, Health
24 Services Section, shall report to the Joint Legislative Oversight Committee on Justice and Public
25 Safety and the chairs of the House of Representatives and Senate Appropriations Committees on
26 Justice and Public Safety on the feasibility study of telehealth services referenced in the February
27 2019 Memorandum of Agreement between the Department and UNC Health Care.

28 **SECTION 6.(b)** The Department of Public Safety, Health Services Section, shall
29 establish a telemedicine pilot program to provide physical health services to inmates in remote
30 correctional facilities. The pilot program shall be established with consideration of the results of
31 the study referenced in subsection (a) of this section. The goal of the pilot program is to assess
32 whether the use of telemedicine decreases costs for inmate transportation, custody, and outside
33 providers while improving access to care. While designing the telemedicine pilot program, the
34 Department of Public Safety, Health Services Section, shall consult UNC Health Care; the 2012
35 University of North Carolina, Kenan-Flagler Business School report on telemedicine; and
36 Finding 6, Report Number 2018-08, from the Joint Legislative Program Evaluation Oversight
37 Committee. The telemedicine pilot program shall initially be established in two correctional
38 facilities serving male inmates. One pilot site shall be located in a correctional facility in the
39 eastern portion of the State and one pilot site shall be located in a correctional facility in the
40 western portion of the State. The pilot program design must connect the two correctional facility
41 pilot sites with the Central Prison Healthcare Complex and its contracted providers' facilities and
42 shall be operational on or before January 1, 2020.

43 **SECTION 6.(c)** The ability to assess, measure, and evaluate the telemedicine pilot
44 program shall be integral to the pilot program design. Assessment of the pilot program shall
45 include, but is not limited to, the following measures for each correctional facility pilot site:

- 46 (1) Number and cost of telemedicine encounters by service area.
- 47 (2) Comparison of the number and cost of telemedicine encounters, by service
48 area, to:
 - 49 a. The number of in-person encounters provided the previous year to
50 inmates housed at that facility; and

- 1 b. The number of in-person encounters provided during the pilot period
2 at similar correctional facilities not participating in the pilot.
- 3 (3) Comparison of the number of days lapsed between referral date and treatment
4 date, by service area, to:
- 5 a. The number of days lapsed the previous year in that facility; and
6 b. The number of days lapsed during the pilot period at similar
7 correctional facilities not participating in the pilot.
- 8 (4) Amount of inmate transportation and custody costs avoided from receiving
9 telemedicine.
- 10 (5) Amount of provider transportation costs avoided from providing
11 telemedicine.
- 12 (6) Cost of initial telemedicine equipment and other related costs with
13 descriptions.
- 14 (7) Obstacles and concerns related to expanding telemedicine to other
15 correctional facilities.

16 **SECTION 6.(d)** On or before January 1, 2020, the Department of Public Safety,
17 Health Services Section, shall provide an interim report on the assessment criteria outlined in
18 subsection (c) of this section, including any additional findings and recommendations, to the
19 Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative
20 Oversight Committee on Health and Human Services. On or before January 1, 2021, the
21 Department of Public Safety, Health Services Section, shall report to the Joint Legislative
22 Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee
23 on Health and Human Services on the assessment criteria outlined in subsection (c) of this
24 section, including any additional findings, and shall make recommendations on whether to
25 expand the telemedicine pilot program to additional sites, including accompanying costs and
26 anticipated savings, and recommendations on which correctional facilities would be most
27 advantageous to include in the pilot due to lack of access or costs associated with transportation
28 and custody.

30 **PART II. FEDERAL 340B PROGRAM**

31 **SECTION 7.(a)** The Department of Public Safety (DPS) shall establish and implement
32 a partnership with the Department of Health and Human Services (DHHS) in order for DPS to
33 be eligible to operate as a 340B covered entity. The Department of Public Safety shall contract
34 for consultant services in order to implement this section. In order to implement the requirements
35 of this section, DPS shall do all of the following:

- 36 (1) Submit an application during the next registration period to enroll in the
37 federal 340B Program found in section 340B of the Public Health Service Act
38 (the "340B Program") to be able to access 340B Program pricing for
39 medications used to treat the human immune deficiency virus (HIV), the
40 hepatitis C virus (HCV), and eligible sexually transmitted diseases (STD).
- 41 (2) Provide DHHS all data and necessary documentation as frequently as such
42 information is needed by DHHS for the implementation of this section.
- 43 (3) Ensure that the DPS Apex Central Pharmacy, and any other DPS pharmacies
44 necessary, are compliant dispensing pharmacies under the 340B Program.
- 45 (4) Coordinate with one or more vendors to purchase STD 340B Program
46 medications that result in the greatest overall cost savings available to the
47 State, whether such savings are achieved by 340B Program pricing, non-340B
48 Program volume discounts, or a combination of both.
- 49 (5) Develop a separate inventory to track 340B Program medications.

1 **SECTION 7.(b)** The Department of Public Safety shall report to the Joint Legislative
2 Oversight Committee on Justice and Public Safety and the Fiscal Research Division by October
3 1, 2019, regarding the implementation of this section.

4 **SECTION 8.(a)** The Department of Public Safety shall develop a plan by December
5 1, 2019, to issue Requests for Proposals (RFP) as required by this section. The plan to issue RFPs
6 shall, at a minimum, address the following:

- 7 (1) The hiring of a consultant to manage the RFP process from issuance to
8 conclusion.
- 9 (2) The hiring of the same consultant hired for the RFP process to work with the
10 selected 340B Program entities and DPS to implement the requirements of
11 this section.
- 12 (3) The estimated costs for DPS to hire the consultant, issue the RFPs, evaluate
13 RFP proposals, and implement the 340B Program correctional partnerships.

14 **SECTION 8.(b)** Regarding the RFPs in subsection (a) of this section, the Department
15 of Public Safety shall issue one RFP for each of the four prison regions. The RFPs shall seek
16 partnerships between the prison regions and one or more 340B Program entities in the State in
17 order to provide specialty treatment for high-cost medical conditions, and shall express a
18 preference for bidding entities that would use DPS as a contract pharmacy for 340B Program
19 medications. Entities interested in providing telemedicine services may bid on more than one
20 prison region. Each RFP shall, at a minimum, require that an entity's bid include the following:

- 21 (1) An explanation of the bidding entity's ability to purchase the following:
 - 22 a. Medications that treat chronic obstructive pulmonary disease (COPD),
23 asthma, rheumatology, multiple sclerosis, mental health conditions,
24 epilepsy, and cardiovascular disease or hypertension.
 - 25 b. Factor products for inmates with hemophilia.
 - 26 c. Oral suppressive therapy medications for inmates with cancer.
 - 27 d. Biologics for inmates with inflammatory diseases such as Crohn's
28 disease, irritable bowel syndrome, and rheumatoid arthritis.
 - 29 e. Brand name inhalers for inmates with COPD and asthma.
 - 30 f. Psychotropic drugs for inmates with schizophrenia, bipolar disorder,
31 and other mental health conditions.
- 32 (2) A commitment, as a 340B Program covered entity, to purchase medications
33 under the 340B Program on behalf of DPS and to pass all related savings on
34 to the State.
- 35 (3) A description of the 340B Program correctional partnership model the bidding
36 entity would use based on the seven correctional partnership models provided
37 in Appendix C of the North Carolina General Assembly Report on
38 Recommendations for a 340B Correctional Partnership on North Carolina
39 issued on May 20, 2019. This description should also include, to the extent
40 possible, potential savings and costs that would be realized under the chosen
41 model.
- 42 (4) An explanation of the manner in which specialty care and 340B pharmacy
43 services will be provided. Services shall be provided in a manner that
44 improves or maintains quality and continuity of patient care.

45 **SECTION 8.(c)** The Department of Public Safety shall report to the Joint Legislative
46 Oversight Committee on Justice and Public Safety and the Fiscal Research Division by December
47 1, 2019, on the plan described in subsection (a) of this section, and quarterly thereafter until RFPs
48 for all prison regions are awarded, regarding the implementation of this section.

49 **SECTION 9.(a)** The Department of Public Safety shall partner with the University
50 of North Carolina Health Care System (UNC-HCS) by October 1, 2019, to begin receiving all
51 340B Program savings realized from medications prescribed to inmates, but not administered, at

1 a 340B Program-registered UNC-HCS site for non-HIV and non-HCV medications pursuant to
2 subsections (b) and (c) of this section.

3 **SECTION 9.(b)** Pursuant to subsection (c) of this section, DPS shall direct that the
4 prescribing authority of DPS providers be transferred to UNC-HCS providers for identified
5 inmates treated at a 340B Program-registered UNC-HCS site.

6 **SECTION 9.(c)** By October 1, 2019, DPS and UNC-HCS shall:

- 7 (1) Identify the UNC-HCS inmate patients for whom shifting prescriptive
8 authority to UNC-HCS is feasible and appropriate.
- 9 (2) Establish a method for improving or maintaining quality and continuity of
10 patient care once the prescriptive authority has shifted to UNC-HCS.
- 11 (3) Develop mechanisms to ensure that the communication between the
12 UNC-HCS prescriber and the DPS physician maintains the quality and
13 continuity of care that inmates currently receive.
- 14 (4) Select the UNC-HCS pharmacy, the DPS Apex Central Pharmacy, or a
15 combination of both, as the pharmacy through which medications will be
16 dispensed pursuant to this section.

17 **SECTION 9.(d)** The Department of Public Safety and UNC-HCS shall establish a
18 Memorandum of Agreement to require UNC-HCS to pass through all of the 340B Program
19 savings for medications referenced in this section.

20 **SECTION 9.(e)** The Department of Public Safety and UNC-HCS shall report to the
21 Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research
22 Division by October 1, 2019, and monthly thereafter until implementation, regarding the progress
23 made toward implementing the requirements of this section.

24 **SECTION 10.** Article 13 of Chapter 143B of the General Statutes is amended by
25 adding a new section to read:

26 "**§ 143B-707.5. Reports related to the federal 340B Program.**

27 (a) The Department of Public Safety shall report to the Joint Legislative Oversight
28 Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2020,
29 and annually thereafter, regarding:

- 30 (1) Savings achieved from its partnership with the Department of Health and
31 Human Services for the purchasing of certain medications for inmates under
32 the federal 340B Program.
- 33 (2) Savings achieved from its partnership with the University of North Carolina
34 Health Care System for the provision of inmate medications and services
35 under the federal 340B Program.

36 (b) The Department of Public Safety shall report to the Joint Legislative Oversight
37 Committee on Justice and Public Safety and the Fiscal Research Division by October 1, 2021,
38 and annually thereafter, on savings achieved from the partnerships between the four prison
39 regions and North Carolina 340B Program entities for the provision of inmate medications and
40 services under the federal 340B Program."

41 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
42 law.