

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 395  
Committee Substitute Favorable 5/4/21  
PROPOSED SENATE COMMITTEE SUBSTITUTE H395-PCS30430-SH-36

Short Title: HIE Deadline Extension & Patient Protection.

(Public)

Sponsors:

Referred to:

March 25, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT EXEMPTING AMBULATORY SURGICAL CENTERS FROM THE  
3 REQUIREMENT TO SUBMIT DEMOGRAPHIC AND CLINICAL DATA, EXTENDING  
4 FOR CERTAIN PROVIDERS AND ENTITIES THE DEADLINES FOR MANDATORY  
5 PARTICIPATION IN THE STATEWIDE HEALTH INFORMATION EXCHANGE  
6 NETWORK KNOWN AS NC HEALTHCONNEX, AND INSTITUTING REFORMS TO  
7 PROTECT PATIENTS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 90-414.4(a) reads as rewritten:

10 "§ 90-414.4. Required participation in HIE Network for some providers.

11 (a) Findings. – The General Assembly makes the following findings:

12 (1) That controlling escalating health care costs of the Medicaid program and  
13 other State-funded health care services is of significant importance to the  
14 State, its taxpayers, its Medicaid recipients, and other recipients of  
15 State-funded health care services.

16 (2) That the State and covered entities in North Carolina need timely access to  
17 certain demographic and clinical information pertaining to services rendered  
18 to Medicaid and other State-funded health care program beneficiaries and paid  
19 for with Medicaid or other State-funded health care funds in order to assess  
20 performance, improve health care outcomes, pinpoint medical expense trends,  
21 identify beneficiary health risks, and evaluate how the State is spending  
22 money on Medicaid and other State-funded health care services. The  
23 Department of Information Technology, the Department of State Treasurer,  
24 State Health Plan Division, and the Department of Health and Human  
25 Services, Division of Health Benefits, have an affirmative duty to facilitate  
26 and support participation by covered entities in the statewide health  
27 information exchange network.

28 (3) That making demographic and clinical information available to the State and  
29 covered entities in North Carolina by secure electronic means as set forth in  
30 subsection (b) of this section will improve care coordination within and across  
31 health systems, increase care quality for such beneficiaries, enable more  
32 effective population health management, reduce duplication of medical  
33 services, augment syndromic surveillance, allow more accurate measurement  
34 of care services and outcomes, increase strategic knowledge about the health  
35 of the population, and facilitate health care cost containment."



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1           **SECTION 2.** G.S. 90-414.4(a1) reads as rewritten:

2           "(a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of  
3 the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to  
4 the HIE Network and begin submitting data through the HIE Network pertaining to services  
5 rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries  
6 and paid for with Medicaid or other State-funded health care funds in accordance with the  
7 following time line:

8           ...  
9           (2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other  
10 providers of Medicaid and State-funded health care services and their  
11 affiliated entities shall begin submitting demographic and clinical data by  
12 ~~October 1, 2021~~ January 1, 2023.

13           (3) The following entities shall submit encounter and claims data, as appropriate,  
14 in accordance with the following time line:  
15           a. Prepaid Health Plans, as defined in G.S. 108D-1, by the  
16 commencement date of a capitated contract with the Division of  
17 Health Benefits for the delivery of Medicaid and NC Health Choice  
18 services as specified in Article 4 of Chapter 108D of the General  
19 Statutes.  
20           b. Local management entities/managed care organizations, as defined in  
21 G.S. 122C-3, by June 1, 2020.

22           If authorized by the Authority in accordance with this Article, the Department  
23 of Health and Human Services may submit the data required by this subsection  
24 on behalf of the entities specified in this subdivision.

25           (4) The following entities shall begin submitting demographic and clinical data  
26 by ~~June 1, 2021~~ January 1, 2023:

27           a. Ambulatory Physicians who perform procedures at ambulatory  
28 surgical centers as defined in G.S. 131E-146.  
29           b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.  
30           c. Licensed physicians whose primary area of practice is psychiatry.  
31           d. The State Laboratory of Public Health operated by the Department of  
32 Health and Human Services.

33           (5) The following entities shall begin submitting claims data by ~~June 1,~~  
34 ~~2021~~ January 1, 2023:

35           a. Pharmacies registered with the North Carolina Board of Pharmacy  
36 under Article 4A of Chapter 90 of the General Statutes.  
37           b. State health care facilities operated under the jurisdiction of the  
38 Secretary of the Department of Health and Human Services, including  
39 State psychiatric hospitals, developmental centers, alcohol and drug  
40 treatment centers, neuro-medical treatment centers, and residential  
41 programs for children such as the Wright School and the Whitaker  
42 Psychiatric Residential Treatment Facility."

43           **SECTION 3.** G.S. 90-414.4(a2) reads as rewritten:

44           "(a2) Extensions of Time for Establishing Connection to the HIE Network. – The  
45 Department of Information Technology, in consultation with the Department of Health and  
46 Human Services and the State Health Plan for Teachers and State Employees, may establish a  
47 process to grant limited extensions of the time for providers and entities to connect to the HIE  
48 Network and begin submitting data as required by this section upon the request of a provider or  
49 entity that demonstrates an ongoing good-faith effort to take necessary steps to establish such  
50 connection and begin data submission as required by this section. The process for granting an  
51 extension of time must include a presentation by the provider or entity to the Department of

1 Information Technology, the Department of Health and Human Services, and the State Health  
2 Plan for Teachers and State Employees on the expected time line for connecting to the HIE  
3 Network and commencing data submission as required by this section. Neither the Department  
4 of Information Technology, the Department of Health and Human Services, nor the State Health  
5 Plan for Teachers and State Employees shall grant an extension of time (i) to any provider or  
6 entity that fails to provide this information to both Departments, and the State Health Plan for  
7 Teachers and State Employees, (ii) that would result in the provider or entity connecting to the  
8 HIE Network and commencing data submission as required by this section later than ~~October 1,~~  
9 ~~2021,~~ or (iii) ~~that would result in any provider or entity specified in subdivisions (4) and (5) of~~  
10 ~~subsection (a1) of this section connecting to the HIE Network and commencing data submission~~  
11 ~~as required by this section later than June 1, 2022.~~ January 1, 2023. The Department of  
12 Information Technology shall consult with the Department of Health and Human Services and  
13 the State Health Plan for Teachers and State Employees to review and decide upon a request for  
14 an extension of time under this section within 30 days after receiving a request for an extension."

15 **SECTION 4.** G.S. 90-414.4(b) reads as rewritten:

16 "(b) **Mandatory Submission of Demographic and Clinical Data.** – Notwithstanding the  
17 voluntary nature of the HIE Network under G.S. 90-414.2 and, except as otherwise provided in  
18 subsection (c) of this section, as a condition of receiving State funds, including Medicaid funds,  
19 the following entities shall submit at least twice daily, through the HIE network, demographic  
20 and clinical information pertaining to services rendered to Medicaid and other State-funded  
21 health care program beneficiaries and paid for with Medicaid or other State-funded health care  
22 funds, solely for the purposes set forth in subsection (a) of this section:

- 23 (1) Each hospital, as defined in G.S. 131E-176(13) that has an electronic health  
24 record system.
- 25 (2) Each Medicaid ~~provider~~ provider, unless the provider is an ambulatory  
26 surgical center as defined in G.S. 131E-146, however, a physician who  
27 performs a procedure at the ambulatory surgical center must be connected to  
28 the HIE Network.
- 29 (3) Each provider that receives State funds for the provision of health  
30 ~~services~~ services, unless the provider is an ambulatory surgical center as  
31 defined in G.S. 131E-146, however, a physician who performs a procedure at  
32 the ambulatory surgical center must be connected to the HIE Network.
- 33 (4) Each local management entity/managed care organization, as defined in  
34 G.S. 122C-3."

35 **SECTION 6.** G.S. 90-414.6 reads as rewritten:

36 **"§ 90-414.6. State ownership of HIE Network data.**

37 Any data pertaining to services rendered to Medicaid and other State-funded health care  
38 program beneficiaries submitted through and stored by the HIE Network pursuant to  
39 G.S. 90-414.4 or any other provision of this Article shall be and will remain the sole property of  
40 the State. Any data or product derived from the aggregated, de-identified data submitted to and  
41 stored by the HIE Network pursuant to G.S. 90-414.4 or any other provision of this Article, shall  
42 be and will remain the sole property of the State. The Authority shall not allow data it receives  
43 pursuant to G.S. 90-414.4 or any other provision of this Article to be used or disclosed by or to  
44 any person or entity for commercial purposes or for any other purpose other than those set forth  
45 in G.S. 90-414.4(a) or G.S. 90-414.2. To the extent the Authority receives requests for electronic  
46 health information as the term is defined in 45 C.F.R. § 171.102, or other medical records from  
47 an individual, an individual's personal representative, or an individual or entity purporting to act  
48 on an individual's behalf, the Authority (i) shall not fulfill the request and (ii) shall make available  
49 to the requester and the public, via the Authority's website, educational materials about how to  
50 access such information from other sources."

1           **SECTION 7.** On or before December 1, 2022, the NC HIE Advisory Board shall  
2 submit to the Joint Legislative Oversight Committee on Health and Human Services  
3 recommendations regarding appropriate features or actions to support enforcement of the  
4 Statewide Health Information Exchange Act contained in Article 29B of Chapter 90 of the  
5 General Statutes.

6           **SECTION 8.** This act is effective when it becomes law.