



Bill Draft 2019-MWz-3: Inmate Pharmacy Purchasing/Monitoring.

2019-2020 General Assembly

Committee: Joint Legislative Program
Evaluation Oversight Committee

Date: September 26, 2018

Introduced by:

Prepared by: Joshua Freeman

Analysis of: 2019-MWz-3

Staff Attorney

OVERVIEW: *The Joint Legislative Program Evaluation Oversight Committee directed the Program Evaluation Division to examine the efficiency and economy of inmate healthcare. This bill focuses on pharmaceutical-related expenditures for inmates, which totaled \$72.7 million in Fiscal Year 2016–17, an 88% (\$33.9 million) increase from five years ago.*

BILL ANALYSIS:

Section 1: Directs the University of North Carolina Health Care System (UNCHCS) to modify and expand its 340B program to provide for the purchasing of inmate medications for HIV/AIDS and Hepatitis C in cooperation with the Department of Public Safety (DPS). To facilitate the partnership, DPS shall transfer twenty five thousand dollars (\$25,000) to UNCHCS to fund a legal consultant to assist with program design and spend seven thousand dollars (\$7,000) annually for program auditing as required by U.S. Health Resources and Services Administration (HRSA). UNCHCS and DPS Health Services are to report to the Joint Legislative Oversight Committee on Justice and Public Safety and the Fiscal Research Division.

Section 2: Directs DPS Health Services to revise its medication administration protocol to require supplies of certain medications worth more than \$1,000 to be designated as Direct Observation Therapy. DPS Health Services is to report to the Joint Legislative Oversight Committee on Justice and Public Safety on this change in policy.

Section 3: Directs DPS to collect additional data on medications lost during the inmate transfer process, establish internal oversight, controls, and audit activities to limit such losses, and report to the Joint Legislative Oversight Committee on Justice and Public Safety.

Section 4: Directs DPS Health Services to contract with statewide retail pharmacies for local purchasing of limited quantities of medications and develop a data collection and oversight mechanism to ensure adherence to the short-supply policy for local medication purchases. DPS Health Services is to report to the Joint Legislative Oversight Committee on Justice and Public Safety on efforts to award this contract.

EFFECTIVE DATE: This act is effective when it becomes law.

Kory Goldsmith
Director



Legislative Drafting
919-733-6660

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

U

D

BILL DRAFT 2019-MWz-3 [v.6]

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
10/04/2018 01:06:47 PM**

Short Title: PED/Inmate Pharmacy Purchasing/Monitoring.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY INMATE PHARMACY PURCHASING AND MONITORING, AS
3 RECOMMENDED BY A PROGRAM EVALUATION DIVISION REPORT.

4 The General Assembly of North Carolina enacts:

5
6 **MODIFICATION AND EXPANSION OF 340B PROGRAM TO PROVIDE FOR THE**
7 **PURCHASING OF CERTAIN INMATE MEDICATIONS.**

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

18 **SECTION 1.(b)** To facilitate the partnership between DPS and UNCHCS, DPS shall
19 transfer twenty five thousand dollars (\$25,000) to UNCHCS to fund a legal consultant to assist
20 with program design and spend seven thousand dollars (\$7,000) annually for program auditing
21 as required by HRSA. This recurring expenditure shall be offset by the savings achieved from
22 340B participation. In addition, UNCHCS and DPS Health Services shall develop a plan for
23 obtaining additional medications through the 340B program in the future, including but not
24 limited to drugs for treating cancer, neurological conditions, rheumatic diseases, and other costly
25 medical conditions.

26 **SECTION 1.(c)** Beginning October 1, 2019 and quarterly thereafter until a 340B
27 program is in operation for purchasing HIV/AIDS and Hepatitis C medications, UNCHCS and
28 DPS Health Services shall report to the Joint Legislative Oversight Committee on Justice and
29 Public Safety and the Fiscal Research Division on related activities conducted to date and
30 activities planned. In addition, by July 1, 2020 and annually thereafter, UNCHCS and DPS Health
31 Services shall report to the Joint Legislative Oversight Committee on Justice and Public Safety
32 on annual savings achieved from purchasing inmate medications through the established 340B
33 program as well as any activities conducted or planned to maintain and expand the number of
34 medications purchased through the program.



**REVISION TO DPS HEALTH SERVICES MEDICATION ADMINISTRATION
PROTOCOL.**

SECTION 2. DPS Health Services shall revise its policies and procedures to reflect that any supply of a prescription for the treatment of conditions other than HIV with a per-supply value of one thousand dollars (\$1,000) or more be designated as Direct Observation Therapy (DOT). DPS Health Services shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2019 on this change in policy.

**COLLECTION OF DATA ON MEDICATIONS LOST DURING INMATE TRANSFER
AND TO ESTABLISH INTERNAL CONTROLS TO LIMIT THESE LOSSES.**

SECTION 3.(a) DPS Health Services shall revise its methods of collecting data on medication losses by: (i) developing a mechanism to easily summarize medication losses across the 15 reasons identified in its policy; (ii) collecting data on the prison from which an inmate was transferred in any cases of medication loss; (iii) tracking information on custody officials involved in the transfer process.

SECTION 3.(b) DPS shall develop internal controls related to the oversight of medications lost during inmate transfers, including establishing disciplinary actions for staff responsible for such losses, based on the data collected under subsection (a) of this section. In addition DPS shall initiate an internal audit of its processes for transporting medications during inmate transfer. This report shall examine all medication losses incurred during Fiscal Year 2018–19 and shall include recommendations to improve controls and promote accountability for medication losses. This report shall be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2019.

SECTION 3.(c) The Internal Audit unit of DPS shall establish an internal oversight function to investigate any medication losses with a value greater than \$200. Central DPS Health Services staff shall be responsible for identifying and implementing corrective action for trends in medication losses. Further, central DPS Health Services staff shall be responsible for issuing any disciplinary actions for DPS Health Services prison staff or referring any custody staff to the appropriate DPS unit for such action.

SECTION 3.(d). Beginning December 1, 2019 and annually thereafter, the General Assembly should require DPS to report to the Joint Legislative Oversight Committee on Justice and Public Safety on medication losses for the preceding fiscal year with the information obtained from these additional data collection efforts. This report should summarize medications lost and include the name and quantity of each medication lost, its purchase price and total value, the reason(s) for loss, and the entities responsible for losses. The first report shall summarize actions DPS plans to take to identify, investigate, and develop corrective actions to limit medication losses during inmate transfers.

**CONTRACT WITH STATEWIDE RETAIL PHARMACIES AND DEVELOP DATA
COLLECTION AND OVERSIGHT MECHANISM.**

SECTION 4.(a) By October 31, 2019, DPS Health Services shall award a statewide contract to a private pharmacy for local purchases of limited quantities of medicine and require prison health services staff to use this pharmacy except under extenuating circumstances and with the written approval of the Director of Central Pharmacy in Apex. DPS shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by November 1, 2019 on its efforts to award this contract.

SECTION 4.(b) DPS Health Services shall obtain monthly electronic invoices of prescriptions filled by each prison from the chosen vendor and shall develop a mechanism to collect information on purchases made outside the contract. At a minimum, the following

1 information shall be collected for each prescription: (i) the inmate's prison, (ii) the requesting
2 provider, (iii) the medication, (iv) quantity, and (v) the total value.

3 **SECTION 4.(c)** DPS shall establish a formal oversight mechanism to ensure
4 prescriptions written by providers to be filled at local pharmacies do not exceed the quantities
5 specified in DPS Health Services policy. This oversight mechanism shall be headed by the DPS
6 Health Services central office and should use the data discussed above and include corrective
7 actions and disciplinary actions as necessary.

8 **SECTION 5.** This act is effective when it becomes law.