



# HOUSE BILL 20: Rural Access to Health Care Act

2015-2016 General Assembly

<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	September 16, 2015
<b>Introduced by:</b>	Rep. C. Graham	<b>Prepared by:</b>	Jan Paul
<b>Analysis of:</b>	Fifth Edition		Augustus Willis Committee Counsel

**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 20 would require parent education during well-child visits at specific age intervals regarding Type I Diabetes; amend the law pertaining to Pharmacy Benefits Managers (PBMs); make various changes in hospital licensure and certificate of need (CON) laws; and repeal laws governing the Certificate of Public Advantage (COPA).*

[As introduced, this bill was identical to S27, as introduced by Sen. Smith, which is currently in Senate Health Care.]

### CURRENT LAW and BILL ANALYSIS:

**Section 1** of the PCS would create a new G.S. 130A-221.5, "Diabetes education as part of well-child care," to encourage physicians, physician's assistants, or certified nurse practitioners who provide well-child care to educate and discuss the warning signs and symptoms of Type I diabetes with the parents of each child under their care at birth, and at yearly intervals until the child reaches the age of five.

**Section 2:** Currently, Pharmacy Benefits Managers (PBMs) process prescriptions for groups that pay for drugs, e.g., insurance companies or corporations, by acting as an intermediary between the payor and other members of the health system. Under Article 56A of Chapter 58, PBMs may place a particular drug on a "Maximum Allowable Cost" (MAC) price list, provided the drug meets certain criteria. Once a PBM places a drug on a MAC list, it is required to conduct a review of the MAC prices for potential removal or modification at least once every seven business days and, if necessary, modify the MAC price of the drug or remove it from the MAC price list within seven business days of the review.

**Section 2** of the PCS would create a new G.S. 56-56A-10 to give the Commissioner of Insurance ("Commissioner") enforcement authority over PBMs. The Commissioner of Insurance could impose monetary penalties as described in the statute and/or petition the Superior Court of Wake County for an order directing restitution from PBMs who violate the statute. The Commissioner would have discretion to determine the amount of monetary penalty in an amount of between \$100 and \$1,000 per day per prescription drug, for each prescription found to be improperly reimbursed as a result of the PBM's failure to comply with the requirements of G.S. 58-56A-5 pertaining to Maximum Allowable Cost.

**Section 3:** Under current law, before a municipality or hospital authority may lease, sell, or convey any hospital facility, it must comply with the procedures set forth in G.S. 131E-13(d), including giving notice of its intent, soliciting additional buyers or lessees, holding public hearings, and approving any sale or lease at a regular meeting by resolution.

**Section 3** of the PCS would allow a municipality or hospital authority that has otherwise complied with the requirements of G.S. 131E-13(d)(1)-(6), but has not, following good faith negotiations, approved a lease, sale or conveyance in accordance with (d)(7)-(8) to solicit additional prospective lessees or buyers that were not previously solicited as required by (d)(2) and then approve the lease, sale, or conveyance

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without the necessity to repeat compliance of (d)(1)-(6), except that the municipality or hospital authority must:

- Prior to considering any proposal, require information on charges, services, and indigent care at similar facilities leased, owned or operated by the proposed lessee or buyer
- Declare its intent to approve any lease or sale at a regular or special meeting held on 10 days public notice
- Approve any lease, sale, or conveyance by a resolution at a regular or special meeting held not less than 10 days following the regular or special meeting at which it declared its intent to approve the sale or lease
- Make available to the public copies of the proposed contract at least 10 days prior to the regular or special meeting at which any lease, sale, or conveyance is approved.

**Section 4** of the PCS would amend certain provisions of Chapter 131E of the General Statutes, "*Health Care Facilities.*"

Article 5 of Chapter 131E establishes the State's hospital licensing requirements. Article 9 of Chapter 131E governs the issuance of Certificates of Need (CON). The CON law\* provides the process by which persons may apply for a license to construct or expand health care facilities or to provide services in accordance with the determined need. The State's CON law provides, "No person shall offer or develop a new institutional health service is required without first obtaining a certificate of need from the Department of Health and Human Services ("Department"). G.S. 131E-178.

**Section 4(a)** of the PCS for House Bill 20 would create a definition of "existing hospital" in the Hospital Licensure Act. An "existing hospital" would be a hospital that currently or within the last 24 months meets all of the following conditions:

- Holds or voluntarily surrendered a hospital license under G.S. 131E-77.
- Serves or served patients.
- Is or was staffed.
- Has or had appropriate equipment.

**Section 4(b)** would provide that an "existing hospital" is deemed operational for purposes of licensure and is exempted from CON review under Article 9 of Chapter 131E if the Department's Division of Health Service Regulation receives written notice from any operator that the hospital will be opening within 36 months of the notice.

**Section 5:** Article 1E of Chapter 90 and Article 9A of Chapter 131E govern the Certificate of Public Advantage (COPA). The issuance of a COPA\* allows hospitals and other persons to enter into cooperative agreements for the provision of health care that would otherwise be subject to antitrust scrutiny and possible liability. The COPA spells out conditions of operation imposed upon the parties to the agreement.

**Section 5** of the PCS would end the COPA by repealing Article 1E of Chapter 90 and Article 9A of Chapter 131E.

**EFFECTIVE DATE:** Section 1 becomes effective October 1, 2015. Section 2 becomes effective July 1, 2016. Section 5 of this act becomes effective January 1, 2017. The remainder of this act is effective when this act becomes law.

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\*For further background and information on the State's CON and COPA laws, see the following reports:

- [http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON final report 4-23.pdf](http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON_final_report_4-23.pdf)
- <http://ncleg.net/Library/studies/2013/st11925.pdf>.