



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 250: Department of Health & Human Svcs. Revisions.

2019-2020 General Assembly

<b>Committee:</b>	House Health. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	March 8, 2019
<b>Introduced by:</b>	Reps. Dobson, Lambeth, Potts, Black	<b>Prepared by:</b>	Theresa Matula Committee Staff
<b>Analysis of:</b>	PCS to First Edition H250-CSSHf-1		

**OVERVIEW:** *The Proposed Committee Substitute for House Bill 250 is an agency bill for the Department of Health and Human Services (DHHS) that does the following: 1) makes technical and clarifying changes to Medicaid Subrogation; 2) to conform with federal law it allows electronic communication and internet service providers to furnish DHHS specific information for the purposes of collecting child; 3) modifies the name of the Vocational Rehabilitation Council to conform with federal law; 4) requires DHHS to certify that an assisted living administrator applicant does not have a substantiated finding on the Health Care Personnel Registry; 5) amends appointments for the State Consumer and Family Advisory Committee due to the dissolution of an appointment authority; 6) repeals the Employee Assistance Professionals licensure article at the request of DHHS and the Board; 7) removes information from the adoption preplacement assessment review to conform with federal law; and 8) provides specific immunity for individuals who provide information and assistance, including medical evaluations, in connection with a report of child abuse or neglect in order to conform to federal law.*

## BILL ANALYSIS:

### PART I: CLARIFICATIONS TO MEDICAID SUBROGATION STATUTE

G.S. 108A-57 governs Medicaid subrogation, which occurs when (i) a Medicaid beneficiary has been injured by a third party, (ii) Medicaid paid for services to the beneficiary as a result of the injury, and (iii) the beneficiary later receives compensation from the third party for the injury. Under these circumstances, G.S. 108A-57 requires the beneficiary to return a portion of the recovery from the third party to the Medicaid program, as required by federal law 42 U.S.C. 1396k(1)(A). G.S. 108A-57 establishes a presumption that the amount the beneficiary must return to the Medicaid program is either one-third of the beneficiary’s recovery from the third party, or the total amount of Medicaid payments related to the injury, whichever is less. G.S. 108A-57 also establishes a process for a beneficiary to dispute the presumed amount of Medicaid’s share of the recovery.

**Section 1.1(a)** makes the following technical and clarifying changes to the current subrogation law:

- Defines “beneficiary” to also include the beneficiary’s parent, legal guardian, or personal representative.
- Replaces references to a “personal injury of wrongful death claim” against a third party, to “any claim” against a third party, consistent with federal law 42 U.S.C. 1396k(1)(A).

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# House PCS 250

Page 2

- Clarifies, in cases where a beneficiary receives recoveries from multiple parties for the same injury, that Medicaid's combined share from all the recoveries cannot exceed the total amount of Medicaid payments related to the injury.
- Clarifies that disputes under the statute must be filed with a court in this State.
- Extends, from 30 to 60 days, the amount of time within which a court must hold the evidentiary hearing when a beneficiary disputes the presumed amount of Medicaid's share of the recovery.
- Strikes an unnecessary reference to DHHS.

**Section 1.1(b)** provides that this section is effective when it becomes law and applies to claims brought by medical assistance beneficiaries against third parties on or after that date.

## **PART II: CHILD SUPPORT ENFORCEMENT COMPLIANCE**

**Section 2.1** amends G.S. 110-139, pertaining to the location of absent parents for child support, to include "electronic communications or Internet service provider" in the list of entities that must provide the Department of Health and Human Services (DHHS) specified information needed to locate a parent for the purpose of collecting child support or to establish or enforce an order for child support. DHHS reports this is needed to comply with federal law.

## **PART III: WORKFORCE INNOVATION AND OPPORTUNITY ACT COMPLIANCE/ VOCATIONAL REHABILITATION**

**Section 3.1** amends G.S. 143-548 to change the name of the "Vocational Rehabilitation Council" to the "Vocational State Rehabilitation Council." DHHS reports this aligns the term with the federal Workforce Innovation and Opportunity Act.

## **PART IV: MODIFICATIONS PERTAINING TO HEALTH AND SAFETY OF ASSISTED LIVING RESIDENTS**

**Section 4.1** amends G.S. 90-288.14 pertaining the certification of assisted living administrators to require DHHS to certify an assisted living administrator applicant does not have a substantiated finding of neglect, abuse, misappropriation of property, diversion of drugs, or fraud listed on the Health Care Personnel Registry (G.S. 131E-256).

## **PART V: MODIFICATION TO THE STATE CONSUMER AND FAMILY ADVISORY COMMITTEE APPOINTMENTS**

**Section 5.1(a)** amends G.S. 122C-171, to eliminate the three appointments by the Council of Community Programs to the State Consumer and Family Advisory Committee due to the dissolution of the Council for Community Programs. The three appointments are being redistributed – one to each of the three remaining appointment authorities (President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the NC Association of County Commissioners). **Section 5.1(b)** provides instructions pertaining to the current members appointed by the Council of Community Programs to allow them to serve out the remainder of their terms and to provide staggering of the new appointments.

## **PART VI: REPEAL EMPLOYEE ASSISTANCE PROFESSIONALS ARTICLE**

**Section 6.1** repeals Article 32 of Chapter 90, enacted in 1995, which provides for the Employee Assistance Professionals board and licensure process. G.S. 90-500(5) defines an "employee assistance professional" as a person who provides the following services to the public in a program designed to assist in the identification and resolution of job performance problems in the workplace:

- Expert consultation and training of appropriate persons in the identification and resolution of job performance issues.
- Confidential and timely assessment of problems.
- Short-term problem resolution for issues that do not require clinical counseling or treatment.

# House PCS 250

Page 3

- Referrals for appropriate diagnosis, treatment, and assistance to certified or licensed professionals when clinical counseling or treatment is required.
- Establishment of linkages between workplace and community resources that provide such services.
- Follow-up services for employees and dependents who use such services.

DHHS reports that NC is the only state that licenses these professionals and the national certification process is already part of the current NC licensure requirement in Article 32. The Board of Employee Assistance Professionals, created under Article 32, has agreed to dissolve. In anticipation of the repeal, DHHS reports the Board is not currently issuing licenses.

## **PART VII: MULTI-ETHNIC PLACEMENT ACT COMPLIANCE ADOPTION PREPLACEMENT ASSESSMENT MODIFICATIONS**

**Section 7.1** amends G.S. 48-3-303 to provide that in the preplacement adoption assessment, the agency must review the information obtained pursuant to subsections (c)(2) through (c)(13) which excludes: nationality, race, or ethnicity and any religious preference. DHHS reports the federal Multi-Ethnic Placement Act (MEPA) prohibits the items in G.S. 48-3-303(c)(1) from being reviewed when making placement decisions and evaluating prospective adoptive placements.

## **PART VIII: CHILD ABUSE PREVENTION AND TREATMENT ACT COMPLIANCE/EXPAND IMMUNITY FOR COOPERATING IN CHILD ABUSE AND NEGLECT REPORTS AND ASSESSMENTS**

**Section 8.1(a)** amends G.S. 7B-309 which provides immunity for persons who report child abuse and neglect and cooperate with the county department of social services in a protective services report or assessment. The amendment adds immunity for individuals who provide information or assistance, including medical evaluations or consultation in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect. DHHS reports the federal Child Abuse Prevention and Treatment Act (CAPTA) requires states to be compliant with provisions to prevent children from being abused/neglected and as a condition of funding. **Section 8.1(b)** provides that this section becomes effective July 1, 2019.

**EFFECTIVE DATE:** Except as otherwise provided, the bill would become effective when it becomes law.

*\*Jennifer Hillman, Legislative Analysis Division, contributed the information pertaining to Medicaid Subrogation.*