GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2018-76
SENATE BILL 750

AN ACT TO ADDRESS HEALTH ISSUES IN LOCAL CONFINEMENT FACILITIES AND TO ENSURE THAT STATE PRISONS ARE FULL PARTICIPANTS IN THE NC HEALTH INFORMATION EXCHANGE KNOWN AS NC HEALTHCONNEX, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES; TO AMEND THE DUTIES OF LAW ENFORCEMENT OFFICERS PERTAINING TO INVOLUNTARY COMMITMENT; TO AMEND THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES REPORTING SYSTEM PERTAINING TO THE PRACTICE OF VETERINARY MEDICINE; TO REQUIRE CONTINUING EDUCATION FOR VETERINARIANS ON ABUSE OF CONTROLLED SUBSTANCES; TO INCLUDE THE NORTH CAROLINA VETERINARY MEDICAL BOARD ON THE PRESCRIPTION DRUG ABUSE ADVISORY COMMITTEE; AND TO AMEND VARIOUS BUDGET PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-225 reads as rewritten:

"**§ 153A-225. Medical care of prisoners.**

(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan:

(1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;

(2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;

(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases; and

(4) May utilize Medicaid coverage for inpatient hospitalization or for any other Medicaid services allowable for eligible prisoners, provided that the plan includes a reimbursement process which pays to the State the State portion of the costs, including the costs of the services provided and any administrative costs directly related to the services to be reimbursed, to the State's Medicaid program.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars ($20.00) per incident for the provision of nonemergency medical care to prisoners and a fee of not more than ten dollars ($10.00) for a 30-day supply or less of a prescription drug. In establishing fees

pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners.

(b) If a prisoner in the custody of a local confinement facility dies, the medical examiner and the coroner shall be notified ~~immediately.~~ immediately, regardless of the physical location of the prisoner at the time of death. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Secretary of Health and Human Services. The report shall be made on forms developed and distributed by the Department of Health and Human Services.

(b1) Whenever a local confinement facility transfers a prisoner from that facility to another local confinement facility, the transferring facility shall provide the receiving facility with any health information or medical records the transferring facility has in its possession pertaining to the transferred prisoner.

(c) If a person violates any provision of this section (including the requirements regarding G.S. 130-97 and 130-121), he is guilty of a Class 1 misdemeanor."

SECTION 2. Consistent with the requirements of G.S. 153A-216(3) and G.S. 153A-221, the Department of Health and Human Services shall study how to improve prisoner health screening with a goal of improving the determination that a prisoner in a local confinement facility has been prescribed life-saving prescription medications and a process to ensure the timely administration of those prescription medications by appropriate personnel. On or before November 1, 2018, the Department shall provide a report on this study to the Joint Legislative Oversight Committee on Health and Human Services.

SECTION 3.(a) The Department of Health and Human Services and the Government Data Analytics Center within the Department of Information Technology shall jointly collaborate with organizations representing local government and local law enforcement to explore participation by local confinement facilities in the North Carolina Health Information Exchange Network (HIE Network), known as NC HealthConnex, in order to facilitate the secure electronic transmission of individually identifiable health information pertaining to prisoners in the custody of local confinement facilities.

SECTION 3.(b) The Department of Public Safety, the Department of Health and Human Services, and the Government Data Analytics Center within the Department of Information Technology shall work collaboratively to ensure North Carolina prison facilities are full participants in the HIE Network, known as NC HealthConnex, in order to facilitate the secure electronic transmission of individually identifiable health information pertaining to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

SECTION 3.(c) On or before October 1, 2018, the Department of Health and Human Services and the Government Data Analytics Center within the Department of Information Technology shall provide an interim report to the Joint Legislative Oversight Committee on Health and Human Services on the actions required by this section. On or before October 1, 2019, the Department of Health and Human Services and the Government Data Analytics Center within the Department of Information Technology shall provide a final report to the Joint Legislative Oversight Committee on Health and Human Services on the actions required by this section.

SECTION 3.1. Section 35.21 of S.L. 2018-5, as amended by Section 8.2(a) of Senate Bill 335, 2017 Regular Session, if it becomes law, reads as rewritten:

"**SECTION 35.21.(a)** Effective July 1, 2018, the annual salaries of ~~Correctional Officers and other staff certified by the Criminal Justice Education and Training Standards Commissionin the Department of Public Safety, Division of Adult Correction (Division), in effect on June 30, 2018, shall be legislatively increased by four percent (4%). Employees in the following positions are eligible to receive the increases provided by this section:~~all State employees employed in positions based in State adult correctional facilities in effect on June 30, 2018, shall be legislatively increased by four percent (4%).

~~(1) Correctional officers.~~
~~(2) Custody supervisors.~~
~~(3) Prison facility administrators.~~
~~(4) Food service officers and managers.~~
~~(5) Case managers.~~
~~(6) Correctional Programs personnel.~~

"**SECTION 35.21.(a1)** ~~Effective July 1, 2018, the annual salaries of facility maintenance and technician personnel in the Division budgeted in Fund Code 14550-1310, in effect on June 30, 2018, shall be legislatively increased by four percent (4%).~~

"**SECTION 35.21.(a2)** The budgeted salaries of vacant positions in the categories listed above are eligible to receive the four percent (4%) increase and the budgeted salaries shall be adjusted accordingly. There is appropriated from the General Fund to the Department of Public Safety, Division of Adult Correction, the sum of ~~one million two hundred forty-seven thousand four hundred eighty-eight dollars ($1,247,488)~~ four million eight hundred thirteen thousand one hundred eighty-four dollars ($4,813,184) for the 2018-2019 fiscal year to support these increases.

"**SECTION 35.21.(b)** The Division shall establish the following minimum salaries for Correctional Officer position classifications, effective July 1, 2018:

(1) Correctional Officer I – $33,130.
(2) Correctional Officer II – $34,220.
(3) Correctional Officer III – $36,598."

SECTION 3.2.(a) If Senate Bill 630, 2018 Regular Session, becomes law, then G.S. 122C-263(a), as enacted by Section 24 of that bill, reads as rewritten:

"(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated ~~by the clerk~~ or ~~magistrate under G.S. 122C-251(g)~~ required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to ~~an area~~ a facility ~~for examination by a physician or eligible psychologist; if a physician or eligible psychologist.~~ or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not ~~available in the area facility,~~available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to ~~any physician or eligible psychologist locally available.~~a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a ~~physician or eligible psychologist~~ commitment examiner is not immediately ~~available~~ available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services."

SECTION 3.2.(b) If Senate Bill 630, 2018 Regular Session, becomes law, then G.S. 122C-283(a), as enacted by Section 34 of that bill, reads as rewritten:

"(a) Without unnecessary delay after assuming custody, the ~~law enforcement~~ law enforcement officer or the individual designated ~~by the clerk or magistrate~~ or required to provide transportation under G.S. 122C-251(g) ~~to provide transportation~~ shall take the respondent to ~~an~~

~~area~~ a facility ~~for examination by a physician or eligible psychologist if a physician or eligible psychologist is not available in the area facility, he shall take the respondent to any physician or eligible psychologist locally available.~~ or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a ~~physician or eligible psychologist~~ commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, he may be detained under appropriate supervision, in his home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services."

SECTION 3.2.(c) This section becomes effective October 1, 2019, and applies to proceedings initiated on or after that date.

SECTION 4. G.S. 90-113.74C reads as rewritten:

"**§ 90-113.74C. Practitioner use of controlled substances reporting system; mandatory reporting of violations.**

(a) Prior to initially prescribing a targeted controlled substance to a patient, a practitioner shall review the information in the controlled substances reporting system pertaining to the patient for the 12-month period preceding the initial prescription. For every subsequent three-month period that the targeted controlled substance remains a part of the patient's medical care, the practitioner shall review the information in the controlled substances reporting system pertaining to the patient for the 12-month period preceding the determination that the targeted controlled substance should remain a part of the patient's medical care. Each instance in which the practitioner reviews the information in the controlled substances reporting system pertaining to the patient shall be documented in the patient's medical record. In the event the practitioner is unable to review the information in the controlled substances reporting system pertaining to the patient because the system is not operational or there is some other temporary electrical or technological failure, this inability shall be documented in the patient's medical record. Once the electrical or technological failure has been resolved, the practitioner shall review the information in the controlled substances reporting system pertaining to the patient and the review shall be documented in the patient's medical record.

(b) A practitioner may, but is not required to, review the information in the controlled substances reporting system pertaining to a patient prior to prescribing a targeted controlled substance to the patient in any of the following circumstances:

(1) The controlled substance is to be administered to a patient in a health care setting, hospital, nursing home, outpatient dialysis facility, or residential care facility, as defined in G.S. 14-32.2.

(2) The controlled substance is prescribed for the treatment of cancer or another condition associated with cancer.

(3) The controlled substance is prescribed to a patient in hospice care or palliative care.

(c) The Department shall conduct periodic audits of the review of the controlled substances reporting system by prescribers. The Department shall determine a system for selecting a subset of prescriptions to examine during each auditing period. The Department shall report to the appropriate licensing board any prescriber found to be in violation of this section. A violation of this section may constitute cause for the licensing board to suspend or revoke a prescriber's license.

(d) For purposes of this section, a "practitioner" does not include a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes."

SECTION 5. G.S. 90-106(a1) reads as rewritten:

"(a1) Electronic Prescription Required; Exceptions. – Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe all targeted controlled substances. This subsection does not apply to prescriptions for targeted controlled substances issued by any of the following:

(1) A practitioner, other than a pharmacist, who dispenses directly to an ultimate user.

(2) A practitioner who orders a controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility, as defined in G.S. 14-32.2.

(3) A practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; provided, however, that the practitioner documents the reason for this exception in the patient's medical record.

(4) A practitioner who writes a prescription to be dispensed by a pharmacy located on federal property; provided, however, that the practitioner documents the reason for this exception in the patient's medical record.

(5) A person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes. A person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes may continue to prescribe targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws."

SECTION 6. G.S. 90-113.73 reads as rewritten:

"**§ 90-113.73. Requirements for controlled substances reporting system; civil penalties for failure to properly report.**

(a) The Department shall establish and maintain a reporting system of prescriptions for all Schedule II through V controlled substances. Each dispenser shall submit the information in accordance with transmission methods and frequency established by rule by the Commission. The Department may issue a waiver to a dispenser who is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required of electronically submitted data is submitted. The dispenser shall report the information required under this section no later than the close of the next business day after the prescription is delivered; however, dispensers are encouraged to report the information no later than 24 hours after the prescription was delivered. The information shall be submitted in a format as determined annually by the Department based on the format used in the majority of the states operating a controlled substances reporting system. In the event the dispenser is unable to report the information within the time frame required by this section because the system is not operational or there is some other temporary electrical or technological failure, this inability shall be documented in the dispenser's records. Once the electrical or technological failure has been resolved, the dispenser shall promptly report the information.

(b) The Commission shall adopt rules requiring dispensers to report the following information. The Commission may modify these requirements as necessary to carry out the purposes of this Article. The dispenser shall report:

(1) The dispenser's DEA number.

(2) The name of the patient for whom the controlled substance is being dispensed, and the patient's:

a. Full address, including city, state, and zip code,

b. Telephone number, and

c. Date of birth.

(3) The date the prescription was written.

(4) The date the prescription was filled.

(5) The prescription number.

(6) Whether the prescription is new or a refill.

(7) Metric quantity of the dispensed drug.

(8) Estimated days of supply of dispensed drug, if provided to the dispenser.

(9) National Drug Code of dispensed drug.

(10) Prescriber's DEA number.

(11) Method of payment for the prescription.

(c) A dispenser shall not be required to report instances in which a controlled substance is provided directly to the ultimate user and the quantity provided does not exceed a 48-hour supply.

(d) A dispenser shall not be required to report instances in which a Schedule V non-narcotic, non-anorectic Schedule V controlled substance is provided directly to the ultimate user for the purpose of assessing a therapeutic response when prescribed according to indications approved by the United States Food and Drug Administration.

(e) The Department shall assess, against any pharmacy that employs dispensers found to have failed to report information in the manner required by this section within a reasonable period of time after being informed by the Department that the required information is missing or incomplete, a civil penalty of not more than one hundred dollars ($100.00) for a first violation, two hundred fifty dollars ($250.00) for a second violation, and five hundred dollars ($500.00) for each subsequent violation if the pharmacy fails to report as required under this section, up to a maximum of five thousand dollars ($5,000) per pharmacy per calendar year. Each day of a continuing violation shall constitute a separate violation. A pharmacy acting in good faith that attempts to report the information required by this section shall not be assessed any civil penalty. The clear proceeds of penalties assessed under this section shall be deposited to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the General Statutes. The Commission shall adopt rules to implement this subsection that include factors to be considered in determining the amount of the penalty to be assessed.

(f) For purposes of this section, a "dispenser" includes a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes when that person dispenses any Schedule II through V controlled substances. Notwithstanding subsection (b) of this section, the Commission shall adopt rules requiring the information to be reported by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.

(g) A person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes may submit prescription information by paper form or other means, provided all information required of electronically submitted data is submitted."

SECTION 7. G.S. 90-106 reads as rewritten:

"**§ 90-106. Prescriptions and labeling.**

…

(a3) Limitation on Prescriptions Upon Initial Consultation for Acute Pain. – A practitioner may not prescribe more than a five-day supply of any targeted controlled substance upon the initial consultation and treatment of a patient for acute pain, unless the prescription is for post-operative acute pain relief for use immediately following a surgical procedure. A practitioner shall not prescribe more than a seven-day supply of any targeted controlled substance for post-operative acute pain relief immediately following a surgical procedure. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new prescription for a targeted controlled substance. This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in a hospital, nursing home licensed under Chapter 131E of the General Statutes, hospice facility, or residential care facility, as defined in G.S. 14-32.2(c1). This subsection does not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in an emergency facility, veterinary hospital, or animal hospital, as defined in G.S. 90-181.1. A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection shall be immune from any civil liability or disciplinary action from the practitioner's occupational licensing agency for acting in accordance with this subsection.

(a4) Definitions. – As used in this subsection, the following terms have the following meanings:

(1) Acute pain. – Pain, whether resulting from disease, accident, intentional trauma, or other cause, that the practitioner reasonably expects to last for three months or less. The term does not include chronic pain or pain being treated as part of cancer care, hospice care, palliative care, or medication-assisted treatment for substance use disorder. The term does not include pain being treated as part of cancer care, hospice care, or palliative care provided by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.

(2) Chronic pain. – Pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

(3) Surgical procedure. – A procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of ~~medicine.~~medicine or a procedure that is performed for the purpose of structurally altering the animal body by incision or destruction of tissues as part of the practice of veterinary medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human ~~tissue~~ tissue, or live animal tissue in the practice of veterinary medicine, by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.

…."

SECTION 8. Section 12F.16(b) of S.L. 2015-241 reads as rewritten:

"**SECTION 12F.16.(b)** The following health care provider occupational licensing boards shall require continuing education on the abuse of controlled substances as a condition of license renewal for health care providers who prescribe controlled substances:

(1) North Carolina Board of Dental Examiners.
(2) North Carolina Board of Nursing.
(3) North Carolina Board of Podiatry Examiners.
(4) North Carolina Medical Board.
(5) North Carolina Veterinary Medical Board."

SECTION 9. Section 12F.16(m) of S.L. 2015-241, as amended by Section 4.5 of S.L. 2015-268, reads as rewritten:

"**SECTION 12F.16.(m)** There is hereby created the Prescription Drug Abuse Advisory Committee, to be housed in and staffed by the Department of Health and Human Services (DHHS). The Committee shall develop and, through its members, implement a statewide strategic plan to combat the problem of prescription drug abuse. The Committee shall include representatives from the following, as well as any other persons designated by the Secretary of Health and Human Services:

(1) The Division of Medical Assistance, DHHS.
(2) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, DHHS.
(3) The Division of Public Health, DHHS.
(4) The Office of Rural Health, DHHS.
(5) The State Bureau of Investigation.
(6) The Attorney General's Office.
(7) The following health care regulatory boards with oversight of prescribers and dispensers of prescription drugs:
    a. North Carolina Board of Dental Examiners.
    b. North Carolina Board of Nursing.
    c. North Carolina Board of Podiatry Examiners.
    d. North Carolina Medical Board.
    e. North Carolina Board of Pharmacy.
    f. North Carolina Veterinary Medical Board.
(8) The UNC Injury Prevention Research Center.
(9) The substance abuse treatment community.
(10) Governor's Institute on Substance Abuse, Inc.
(11) The Department of Insurance's drug take-back program.

After developing the strategic plan, the Committee shall be the State's steering committee to monitor achievement of strategic objectives and receive regular reports on progress made toward reducing prescription drug abuse in North Carolina."

SECTION 9.2. Section 35.28(a) of S.L. 2016-94 reads as rewritten:

"**SECTION 35.28.(a)** Notwithstanding G.S. 136-18(8) and any other State law to the contrary, the Department of Transportation shall designate the portion of Interstate 40 in North Carolina from mile marker ~~385~~380 to mile marker ~~390~~385 the "Senator Wendell Holmes Murphy, Sr. Freeway."

SECTION 9.5. Section 38.9(b) of S.L. 2018-5 reads as rewritten:

"**SECTION 38.9.(b)** This section is effective for taxes imposed for taxable years beginning on or after July 1, ~~2018.~~2017."

SECTION 10. Section 5 of this act becomes effective January 1, 2020. Section 6 of this act becomes effective January 1, 2019. G.S. 90-113.73(g), as enacted by Section 6 of this act, expires effective October 1, 2019. Section 8 of this act is effective when it becomes law and applies to renewal applications received in 2020. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Bill Rabon
Presiding Officer of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:42 a.m. this 25th day of June, 2018