

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1072
Health Care Committee Substitute Adopted 4/13/05

Short Title: Hospital License Changes.-AB

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO CHANGE THE DEFINITION OF "CRITICAL ACCESS HOSPITAL" TO CONFORM TO FEDERAL CHANGES; TO AUTHORIZE THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SUSPEND ADMISSIONS OR SERVICES IN HOSPITALS AS PART OF TAKING ADVERSE ACTION AGAINST A HOSPITAL'S LICENSE; AND TO AUTHORIZE THE MEDICAL CARE COMMISSION TO ESTABLISH STAFF QUALIFICATIONS FOR HOSPITAL STAFF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-76(1a) reads as rewritten:

"§ 131E-76. Definitions.

As used in this article, unless otherwise specified:

...

(1a) "Critical access hospital" means a hospital which has been designated as a critical access hospital by the North Carolina Department of Health and Human Services, Office of Research, Demonstrations and Rural Health Development. To be designated as a critical access hospital under this subdivision, the hospital must ~~meet the requirements of federal law for certification as a critical access hospital~~ be certified as a critical access hospital pursuant to 42 CFR Part 485 Subpart F. The North Carolina Department of Health and Human Services, Office of Research, Demonstrations, and Rural Health Development may designate a hospital located in a federally designated Metropolitan Statistical Area as a rural hospital for the purposes of the critical access hospital program if the hospital is located in a county with twenty-five percent (25%) or more rural residents as defined by the most recent United States decennial census."

1 **SECTION 2.** G.S. 131E-78 reads as rewritten:

2 "**§ 131E-78. Adverse action on a license.**

3 (a) The Department shall have the authority to deny, suspend, revoke, annul,
4 withdraw, recall, cancel, or amend a license in any case when it finds a substantial
5 failure to comply with the provisions of this Part or any rule promulgated under this
6 Part.

7 ~~(b) The Department shall conduct a hearing in accordance with Chapter 150A of~~
8 ~~the General Statutes, the Administrative Procedure Act, when:~~

9 ~~(1) The Department denies an application and the applicant requests a~~
10 ~~hearing; or~~

11 ~~(2) The Department initiates proceedings under subsection (a).~~

12 ~~(c) Any applicant or operator who is dissatisfied with the decision of the~~
13 ~~Department as a result of the hearing provided in this section and after a written copy of~~
14 ~~the decision is served, may request a judicial review under Chapter 150A of the General~~
15 ~~Statutes, the Administrative Procedure Act.~~

16 **(b1)** The Secretary may suspend the admission of any new patients to specific
17 areas of a hospital or suspend specific services of a hospital licensed under this Article
18 where the conditions of the hospital constitute a substantial failure to comply with the
19 provisions of this Part or any rule adopted under this Part and are dangerous to the
20 health or safety of the patients. When the Secretary suspends admissions or specific
21 services, the suspension shall be limited to the smallest possible components of the
22 hospital. The Department shall provide consultation to assist the hospital in correcting
23 the conditions which led to the suspension in order that the suspension can be lifted at
24 the earliest possible time that the Secretary is satisfied that conditions or circumstances
25 merit removal of the suspension. In determining whether to suspend admissions or
26 services under this subsection, the Secretary shall consider the following factors:

27 (1) The character and degree of impact of the conditions at the hospital on
28 the health and safety of its patients.

29 (2) The character and degree of impact that the proposed suspension of
30 admissions or services would have on the functionality of the hospital
31 and the availability of services necessary to the community or to
32 current patients of the hospital.

33 (3) Whether all other reasonable means for correcting the problem have
34 been exhausted, no less restrictive alternative to suspension of
35 admissions or service exists.

36 **(c1)** A facility may contest any adverse action on its license under this subsection
37 in accordance with Chapter 150B of the General Statutes. In contesting the adverse
38 action, the facility must file a petition for a contested case within 20 days after the
39 Department mails notice of the adverse action on the licensee."

40 **SECTION 3.** G.S. 131E-79 reads as rewritten:

41 "**§ 131E-79. Rules and enforcement.**

42 (a) The Commission shall ~~promulgate~~ adopt rules necessary to implement this
43 Article. In addition, the Commission shall adopt rules to establish staff qualifications
44 including professional requirements for hospital staff. The rules may require that one or

1 more staff of a hospital be either licensed or certified. The rules may establish minimum
2 training and education qualifications for staff and may include the recognition of
3 professional certification boards for those professions not licensed or certified under
4 other provisions of the North Carolina General Statutes provided that the professional
5 certification board evaluates applicants on a basis which protects the public health,
6 safety, or welfare.

7 (b) The Department shall enforce this Article and the rules of the Commission."

8 **SECTION 4.** This act is effective when it becomes law.