

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 1836*

Short Title: Confidentiality/Competitive Health Care Info. (Public)

Sponsors: Representative England.

Referred to: Health, if favorable, Judiciary III.

April 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE LAW PERTAINING TO
3 CONFIDENTIALITY OF COMPETITIVE HEALTH CARE INFORMATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 131E-97.3 reads as rewritten:

6 "**§ 131E-97.3. Confidentiality of competitive health care information.**

7 (a) Information relating to competitive health care activities by or on behalf of
8 hospitals and public hospital authorities [hereinafter, competitive health care
9 information] shall be confidential and not a public record under Chapter 132 of the
10 General Statutes; provided that any contract entered into by or on behalf of a public
11 hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record
12 unless otherwise exempted by law, or the contract contains competitive health care
13 information, the determination of which shall be as provided in subsection (b) of this
14 section.

15 (b) If a public hospital or public hospital authority is requested to disclose any
16 contract which the hospital or hospital authority believes in good faith contains or
17 constitutes competitive health care information, the hospital or hospital authority may
18 either redact the portions of the contract believed to constitute competitive health care
19 information prior to disclosure, or if the entire contract constitutes competitive health
20 care information, refuse disclosure of the contract. The person requesting disclosure of
21 the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the
22 contract or any redacted portion thereof. In any action brought under this subsection, the
23 issue for decision by the court shall be whether the contract, or portions of the contract
24 withheld, constitutes competitive health care information, and in making its
25 determination, the court shall be guided by the procedures and standards applicable to
26 protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. For the
27 purposes of this section, competitive health care information includes, but is not limited
28 to, contracts entered into by or on behalf of a public hospital or public hospital authority
29 to purchase a medical practice. Before rendering a decision, the court shall review the

1 contract in camera and hear arguments from the parties. If the court finds that the
2 contract constitutes or contains competitive health care information, the court may
3 either deny disclosure or may make such other appropriate orders as are permitted under
4 Rule 26(c) of the Rules of Civil Procedure.

5 (c) Nothing in this section shall be deemed to prevent an elected public body, in
6 closed session, which has responsibility for the hospital, the Attorney General, or the
7 State Auditor from having access to this confidential information. The disclosure to any
8 public entity does not affect the confidentiality of the information. Members of the
9 public entity shall have a duty not to further disclose the confidential information."

10 **SECTION 2.** This act is effective when it becomes law.