

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 543
Committee Substitute Favorable 4/24/13
Senate Health Care Committee Substitute Adopted 6/5/13

Short Title: Guardianship Roles of MHDDSA Providers.

(Public)

Sponsors:

Referred to:

April 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT ADDRESSING PERMISSIBLE GUARDIANSHIP ROLES FOR CORPORATIONS
3 AND INDIVIDUALS THAT PROVIDE MENTAL HEALTH, DEVELOPMENTAL
4 DISABILITIES, OR SUBSTANCE ABUSE SERVICES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 35A-1213(c) reads as rewritten:

7 "(c) A corporation may be appointed as guardian only if it is authorized by its charter to
8 serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements
9 outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written
10 copy of its charter to the clerk of superior court. A corporation contracting with a public agency
11 to serve as guardian is required to attend guardianship training and provide verification of
12 attendance to the contracting agency. A corporation shall not be appointed as guardian for any
13 individual to whom it provides mental health, developmental disabilities, or substance abuse
14 services for compensation as part of a contractual or other arrangement with a local
15 management entity (LME), including an LME that has been approved to operate the
16 1915(b)/(c) Medicaid Waiver."

17 SECTION 2. G.S. 35A-1213(f) reads as rewritten:

18 "(f) An individual who contracts with or is employed by an entity that contracts with a
19 local management entity (LME) for the delivery of mental health, developmental disabilities,
20 and substance abuse services may not serve as a guardian for a ward for whom the individual or
21 entity is providing these services, unless the individual is a one of the following:

22 (1) A parent of that ward. ~~The prohibition provided in this subsection shall not~~
23 ~~apply to a~~

24 (2) A member of the ward's immediate family, a licensed family foster
25 care provider, or a licensed therapeutic foster care provider who is under
26 contract with a local management entity (LME) for the delivery of mental
27 health, developmental disabilities, and substance abuse services and is
28 serving as a guardian as of January 1, 2013. For the purposes of this
29 subsection, the term "immediate family" is defined as a spouse, child,
30 sibling, parent, grandparent, or grandchild. The term also includes
31 stepparents, stepchildren, stepsiblings, and adoptive relationships.

32 (3) A biologically unrelated individual who was serving on March 1, 2013, as a
33 guardian without compensation for guardianship services."

34 SECTION 3. The Joint Legislative Oversight Committee on Health and Human
35 Services shall appoint a subcommittee to examine the impact of the 1915(b)/(c) Medicaid



1 Waiver and other mental health system reforms on public guardianship services, including
2 guardianship roles, responsibilities, and procedures and the effect on existing relationships
3 between guardians and wards. The subcommittee shall report its findings and recommendations
4 to the Joint Legislative Oversight Committee on Health and Human Services on or before May
5 9, 2014, at which time it shall terminate.

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