

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-258
HOUSE BILL 543**

**AN ACT ADDRESSING PERMISSIBLE GUARDIANSHIP ROLES FOR CORPORATIONS
AND INDIVIDUALS THAT PROVIDE MENTAL HEALTH, DEVELOPMENTAL
DISABILITIES, OR SUBSTANCE ABUSE SERVICES.**

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) A parent of that ward. ~~The prohibition provided in this subsection shall not apply to a~~
- (2) A member of the ward's immediate family, a licensed family foster care provider, or a licensed therapeutic foster care provider who is under contract with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services and is serving as a guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents, stepchildren, stepsiblings, and adoptive relationships.
- (3) A biologically unrelated individual who was serving on March 1, 2013, as a guardian without compensation for guardianship services."

SECTION 3. The Joint Legislative Oversight Committee on Health and Human Services shall appoint a subcommittee to examine the impact of the 1915(b)/(c) Medicaid Waiver and other mental health system reforms on public guardianship services, including guardianship roles, responsibilities, and procedures and the effect on existing relationships between guardians and wards. The subcommittee shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before May 9, 2014, at which time it shall terminate.



SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 1st day of July, 2013.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Paul Stam
Speaker Pro Tempore of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:15 p.m. this 10th day of July, 2013