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SENATE BILL 750*
Health Care Committee Substitute Adopted 6/12/18
Third Edition Engrossed 6/13/18

Short Title: Health-Local Confinement/Vet. Controlled Sub.

(Public)

Sponsors:

Referred to:

May 29, 2018

A BILL TO BE ENTITLED

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 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; AND TO INCLUDE THE NORTH CAROLINA VETERINARY MEDICAL BOARD ON THE PRESCRIPTION DRUG ABUSE ADVISORY COMMITTEE.

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



1 that the plan is adequate to protect the health and welfare of the prisoners, the plan must be
2 adopted by the governing body.

3 As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00)
4 per incident for the provision of nonemergency medical care to prisoners and a fee of not more
5 than ten dollars (\$10.00) for a 30-day supply or less of a prescription drug. In establishing fees
6 pursuant to this section, each unit shall establish a procedure for waiving fees for indigent
7 prisoners.

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

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

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

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

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

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

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

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

49 "**§ 90-113.74C. Practitioner use of controlled substances reporting system; mandatory**
50 **reporting of violations.**

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

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

- 19 (1) The controlled substance is to be administered to a patient in a health care
20 setting, hospital, nursing home, outpatient dialysis facility, or residential care
21 facility, as defined in G.S. 14-32.2.
- 22 (2) The controlled substance is prescribed for the treatment of cancer or another
23 condition associated with cancer.
- 24 (3) The controlled substance is prescribed to a patient in hospice care or palliative
25 care.

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

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

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

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

- 39 (1) A practitioner, other than a pharmacist, who dispenses directly to an ultimate
40 user.
- 41 (2) A practitioner who orders a controlled substance to be administered in a
42 hospital, nursing home, hospice facility, outpatient dialysis facility, or
43 residential care facility, as defined in G.S. 14-32.2.
- 44 (3) A practitioner who experiences temporary technological or electrical failure
45 or other extenuating circumstance that prevents the prescription from being
46 transmitted electronically; provided, however, that the practitioner documents
47 the reason for this exception in the patient's medical record.
- 48 (4) A practitioner who writes a prescription to be dispensed by a pharmacy
49 located on federal property; provided, however, that the practitioner
50 documents the reason for this exception in the patient's medical record.

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

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

7 **"§ 90-113.73. Requirements for controlled substances reporting system; civil penalties for**
8 **failure to properly report.**

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

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

- 28 (1) The dispenser's DEA number.
29 (2) The name of the patient for whom the controlled substance is being dispensed,
30 and the patient's:
31 a. Full address, including city, state, and zip code,
32 b. Telephone number, and
33 c. Date of birth.
34 (3) The date the prescription was written.
35 (4) The date the prescription was filled.
36 (5) The prescription number.
37 (6) Whether the prescription is new or a refill.
38 (7) Metric quantity of the dispensed drug.
39 (8) Estimated days of supply of dispensed drug, if provided to the dispenser.
40 (9) National Drug Code of dispensed drug.
41 (10) Prescriber's DEA number.
42 (11) Method of payment for the prescription.

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

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

50 (e) The Department shall assess, against any pharmacy that employs dispensers found to
51 have failed to report information in the manner required by this section within a reasonable period

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

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

18 (g) A person licensed to practice veterinary medicine pursuant to Article 11 of Chapter
19 90 of the General Statutes may submit prescription information by paper form or other means,
20 provided all information required of electronically submitted data is submitted."

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

22 **"§ 90-106. Prescriptions and labeling.**

23 ...

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

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

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

- 1 (2) Chronic pain. – Pain that typically lasts for longer than three months or that
- 2 lasts beyond the time of normal tissue healing.
- 3 (3) Surgical procedure. – A procedure that is performed for the purpose of
- 4 structurally altering the human body by incision or destruction of tissues as
- 5 part of the practice of ~~medicine~~.medicine or a procedure that is performed for
- 6 the purpose of structurally altering the animal body by incision or destruction
- 7 of tissues as part of the practice of veterinary medicine. This term includes the
- 8 diagnostic or therapeutic treatment of conditions or disease processes by use
- 9 of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes,
- 10 or needles that cause localized alteration or transportation of live human ~~tissue~~
- 11 tissue, or live animal tissue in the practice of veterinary medicine, by cutting,
- 12 burning, vaporizing, freezing, suturing, probing, or manipulating by closed
- 13 reduction for major dislocations and fractures, or otherwise altering by any
- 14 mechanical, thermal, light-based, electromagnetic, or chemical means.

15"

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

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

- 20 (1) North Carolina Board of Dental Examiners.
- 21 (2) North Carolina Board of Nursing.
- 22 (3) North Carolina Board of Podiatry Examiners.
- 23 (4) North Carolina Medical Board.
- 24 (5) North Carolina Veterinary Medical Board."

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

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

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

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

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