

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 408*

Short Title: CON/Chem. Dep. Beds Limit.

(Public)

Sponsors: Representative Miller.

Referred to: Human Resources.

March 28, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CERTIFICATE OF NEED LAW TO IMPROVE THE
2 ABILITY TO PLAN FOR CHEMICAL DEPENDENCY TREATMENT BEDS
3 AND TO MAKE CLEAR THAT THE STATE MEDICAL FACILITIES PLAN
4 LIMITS THE NUMBER OF BEDS OR FACILITIES THAT MAY BE
5 APPROVED.
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7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 131E-176(5b) reads as rewritten:

9 "(5b) 'Chemical dependency treatment beds' means beds that are licensed for
10 detoxification or for the inpatient treatment of chemical dependency.
11 Residential treatment beds for the treatment of chemical dependency
12 or substance abuse are chemical dependency treatment beds but those
13 residential treatment beds that were developed and operated without a
14 certificate of need shall not be counted in the inventory of chemical
15 dependency treatment beds in the State Health Plans prepared by the
16 Department pursuant to G.S. 131E-177(4) after July 1, 1987. The State
17 Health Plans prepared after July 1, 1987, shall also contain no limitation on
18 the proportion of the overall inventory of chemical dependency treatment
19 beds located in any of the types of chemical dependency treatment facilities
20 identified in subdivision (5a)-beds."

21 Sec. 2. G.S. 131E-183(a) reads as rewritten:

22 "§ 131E-183. Review criteria.

23 (a) The Department shall review all applications utilizing the criteria outlined in
24 this subsection and shall determine ~~if that~~ an application is either consistent with or not

1 in conflict with these criteria ~~and whether~~ before a certificate of need for the proposed
2 project shall be issued.

3 (1) The proposed project shall be consistent with applicable policies and
4 projections in the State Medical Facilities Plan, ~~and the State Health~~
5 ~~Plan.~~ the needs projection of which constitutes a determinative
6 limitation on the number of health service facility beds, dialysis
7 stations, ambulatory surgical facilities, or home health agencies that
8 may be allocated.

9 (2) Repealed by Session Laws 1987, c. 511, s. 1.

10 (3) The applicant shall identify the population to be served by the
11 proposed project, and shall demonstrate the need that this population
12 has for the services proposed, and the extent to which all residents of
13 the area, and, in particular, low income persons, racial and ethnic
14 minorities, women, handicapped persons, the elderly, and other
15 underserved groups are likely to have access to the services proposed.

16 (3a) In the case of a reduction or elimination of a service, including the
17 relocation of a facility or a service, the applicant shall demonstrate that
18 the needs of the population presently served will be met adequately by
19 the proposed relocation or by alternative arrangements, and the effect
20 of the reduction, elimination or relocation of the service on the ability
21 of low income persons, racial and ethnic minorities, women,
22 handicapped persons, and other underserved groups and the elderly to
23 obtain needed health care.

24 (4) Where alternative methods of meeting the needs for the proposed
25 project exist, the applicant shall demonstrate that the least costly or
26 most effective alternative has been proposed.

27 (5) Financial and operational projections for the project shall demonstrate
28 the availability of funds for capital and operating needs as well as the
29 immediate and long-term financial feasibility of the proposal, based
30 upon reasonable projections of the costs of and charges for providing
31 health services by the person proposing the service.

32 (6) The applicant shall demonstrate that the proposed project will not
33 result in unnecessary duplication of existing or approved health service
34 capabilities or facilities.

35 (7) The applicant shall show evidence of the availability of resources,
36 including health manpower and management personnel, for the
37 provision of the services proposed to be provided. Further, the
38 applicant shall show that the use of these resources for provision of
39 these services will not preclude alternative uses of these resources to
40 fulfill other more important needs identified by the applicable State
41 Health Plan.

42 (8) The applicant shall demonstrate that the provider of the proposed
43 services will make available, or otherwise make arrangements for, the
44 provision of the necessary ancillary and support services. The

- 1 applicant shall also demonstrate that the proposed service will be
2 coordinated with the existing health care system.
- 3 (9) An applicant proposing to provide a substantial portion of the project's
4 services to individuals not residing in the health service area in which
5 the project is located, or in adjacent health service areas, shall
6 document the special needs and circumstances that warrant service to
7 these individuals.
- 8 (10) When applicable, the applicant shall show that the special needs of
9 health maintenance organizations will be fulfilled by the project.
10 Specifically, the applicant shall show that the project accommodates:
- 11 a. The needs of enrolled members and reasonably anticipated new
12 members of the HMO for the health service to be provided by
13 the organization; and
- 14 b. The availability of new health services from non-HMO
15 providers or other HMOs in a reasonable and cost-effective
16 manner which is consistent with the basic method of operation
17 of the HMO. In assessing the availability of these health
18 services from these providers, the applicant shall consider only
19 whether the services from these providers:
- 20 1. Would be available under a contract of at least five years'
21 duration;
- 22 2. Would be available and conveniently accessible through
23 physicians and other health professionals associated with
24 the HMO;
- 25 3. Would cost no more than if the services were provided
26 by the HMO; and
- 27 4. Would be available in a manner which is
28 administratively feasible to the HMO.
- 29 (11) Repealed by Session Laws 1987, c. 511, s. 1.
- 30 (12) Applications involving construction shall demonstrate that the cost,
31 design, and means of construction proposed represent the most
32 reasonable alternative, and that the construction project will not unduly
33 increase the costs of providing health services by the person proposing
34 the construction project or the costs and charges to the public of
35 providing health services by other persons, and that applicable energy
36 saving features have been incorporated into the construction plans.
- 37 (13) The applicant shall demonstrate the contribution of the proposed
38 service in meeting the health-related needs of the elderly and of
39 members of medically underserved groups, such as medically indigent
40 or low income persons, Medicaid and Medicare recipients, racial and
41 ethnic minorities, women, and handicapped persons, which have
42 traditionally experienced difficulties in obtaining equal access to the
43 proposed services, particularly those needs identified in the State
44 Health Plan as deserving of priority. For the purpose of determining

- 1 the extent to which the proposed service will be accessible, the
2 applicant shall show:
- 3 a. The extent to which medically underserved populations
4 currently use the applicant's existing services in comparison to
5 the percentage of the population in the applicant's service area
6 which is medically underserved;
- 7 b. Its past performance in meeting its obligation, if any, under any
8 applicable regulations requiring provision of uncompensated
9 care, community service, or access by minorities and
10 handicapped persons to programs receiving federal assistance,
11 including the existence of any civil rights access complaints
12 against the applicant;
- 13 c. That the elderly and the medically underserved groups
14 identified in this subdivision will be served by the applicant's
15 proposed services and the extent to which each of these groups
16 is expected to utilize the proposed services; and
- 17 d. That the applicant offers a range of means by which a person
18 will have access to its services. Examples of a range of means
19 are outpatient services, admission by house staff, and admission
20 by personal physicians.
- 21 (14) The applicant shall demonstrate that the proposed health services
22 accommodate the clinical needs of health professional training
23 programs in the area, as applicable.
- 24 (15) to (18) Repealed by Session Laws 1987, c. 511, s. 1.
- 25 (18a) The applicant shall demonstrate the expected effects of the proposed
26 services on competition in the proposed service area, including how
27 any enhanced competition will have a positive impact upon the cost
28 effectiveness, quality, and access to the services proposed; and in the
29 case of applications for services where competition between providers
30 will not have a favorable impact on cost effectiveness, quality, and
31 access to the services proposed, the applicant shall demonstrate that its
32 application is for a service on which competition will not have a
33 favorable impact.
- 34 (19) Repealed by Session Laws 1987, c. 511, s. 1.
- 35 (20) An applicant already involved in the provision of health
36 services shall provide evidence that quality care has been provided
37 in the past.
- 38 (21) Repealed by Session Laws 1987, c. 511, s. 1."
- 39 Sec. 3. This act becomes effective October 1, 1991, and applies to
40 applications submitted on and after that date.