

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1060
Committee Substitute Favorable 4/6/05
Senate Health Care Committee Substitute Adopted 8/23/05

Short Title: Hospital License/Conforming Change.

(Public)

Sponsors:

Referred to:

March 31, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE DEFINITION OF "CRITICAL ACCESS HOSPITAL"
3 TO CONFORM TO FEDERAL LAW; AND RELATING TO REGULATION OF
4 GASTROINTESTINAL ENDOSCOPY ROOMS IN LICENSED HEALTH
5 SERVICE FACILITIES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 131E-76(1a) reads as rewritten:

8 "§ 131E-76. Definitions.

9 As used in this article, unless otherwise specified:

10 ...

11 (1a) "Critical access hospital" means a hospital which has been designated
12 as a critical access hospital by the North Carolina Department of
13 Health and Human Services, Office of Research, Demonstrations and
14 Rural Health Development. To be designated as a critical access
15 hospital under this subdivision, the hospital must ~~meet the~~
16 ~~requirements of federal law for certification as a critical access~~
17 ~~hospital.~~ be certified as a critical access hospital pursuant to 42 CFR
18 Part 485 Subpart F. The North Carolina Department of Health and
19 Human Services, Office of Research, Demonstrations, and Rural
20 Health Development may designate a hospital located in a
21 Metropolitan Statistical Area as a rural hospital for the purposes of the
22 critical access hospital program if the hospital is located in a county
23 with twenty-five percent (25%) or more rural residents as defined by
24 the most recent United States decennial census."

25 SECTION 2. G.S. 131E-76 is amended by inserting the following new
26 subdivisions, in alphabetical order, to read:

27 "§ 131E-76. Definitions.

28 As used in this article, unless otherwise specified:

1 ...
2 (8) 'Gastrointestinal endoscopy room' means a room used for the
3 performance of procedures that require the insertion of a flexible
4 endoscope into a gastrointestinal orifice to visualize the
5 gastrointestinal lining and adjacent organs for diagnostic or therapeutic
6 purposes.

7 (9) 'Operating room' means a room used for the performance of surgical
8 procedures requiring one or more incisions and that is required to
9 comply with all applicable licensure codes and standards for an
10 operating room."

11 **SECTION 3.** G.S. 131E-77(e) reads as rewritten:

12 "(e) The Department shall issue the license to the operator of the hospital who
13 shall not transfer or assign it except with the written approval of the Department. The
14 license shall designate the number and types of inpatient beds, the number of operating
15 rooms, and the number of gastrointestinal endoscopy rooms."

16 **SECTION 4.** G.S. 131E-146 reads as rewritten:

17 **"§ 131E-146. Definitions.**

18 As used in this Part, unless otherwise specified:

19 (1) "Ambulatory surgical facility" means a facility designed for the
20 provision of a specialty ambulatory surgical program or a
21 multispecialty ambulatory surgical program. An ambulatory surgical
22 facility serves patients who require local, regional or general
23 anesthesia and a period of post-operative observation. An ambulatory
24 surgical facility may only admit patients for a period of less than 24
25 hours and must provide at least one designated operating room as
26 defined in subdivision (1c) of this section or at least one
27 gastrointestinal endoscopy room as defined in subdivision (1b) of this
28 section and at least one designated recovery room, have available the
29 necessary equipment and trained personnel to handle emergencies,
30 provide adequate quality assurance and assessment by an evaluation
31 and review committee, and maintain adequate medical records for each
32 patient. An ambulatory surgical facility may be operated as a part of a
33 physician or dentist's office, provided the facility is licensed under
34 G.S. Chapter 131E, Article 6, Part 4, but the performance of incidental,
35 limited ambulatory surgical procedures which do not constitute an
36 ambulatory surgical program as defined in subdivision (1a) and which
37 are performed in a physician or dentist's office does not make that
38 office an ambulatory surgical facility.

39 (1a) "Ambulatory surgical program" means a formal program for providing
40 on a same-day basis those surgical procedures which require local,
41 regional or general anesthesia and a period of post-operative
42 observation to patients whose admission for more than 24 hours is
43 determined, prior to ~~surgery~~, surgery or gastrointestinal endoscopy, to
44 be medically unnecessary.

1 (1b) "Gastrointestinal endoscopy room" means a room used for the
2 performance of procedures that require the insertion of a flexible
3 endoscope into a gastrointestinal orifice to visualize the
4 gastrointestinal lining and adjacent organs for diagnostic or therapeutic
5 purposes.

6 (1c) "Operating room" means a room used for the performance of surgical
7 procedures requiring one or more incisions and that is required to
8 comply with all applicable licensure codes and standards for an
9 operating room.

10 (2) "Commission" means the North Carolina Medical Care Commission."

11 **SECTION 5.** G.S. 131E-175 is amended by adding the following new
12 subdivisions to read:

13 **"§ 131E-175. Findings of fact.**

14 The General Assembly of North Carolina makes the following findings:

15 ...

16 (11) That physicians providing gastrointestinal endoscopy services in
17 unlicensed settings should be given an opportunity to obtain a license
18 to provide those services to ensure the safety of patients and the
19 provision of quality care.

20 (12) That demand for gastrointestinal endoscopy services is increasing at a
21 substantially faster rate than the general population given the
22 procedure is recognized as a highly effective means to diagnose and
23 prevent cancer."

24 **SECTION 6.(a)** G.S. 131E-176(1b) and 131E-176(1c) read as rewritten:

25 **"§ 131E-176. Definitions.**

26 ...

27 (1b) "Ambulatory surgical facility" means a facility designed for the
28 provision of a specialty ambulatory surgical program or a
29 multispecialty ambulatory surgical program. An ambulatory surgical
30 facility serves patients who require local, regional or general
31 anesthesia and a period of post-operative observation. An ambulatory
32 surgical facility may only admit patients for a period of less than 24
33 hours and must provide at least one designated operating room or
34 gastrointestinal endoscopy room, as defined in Article 5 Part 1 and
35 Article 6, Part 4 of this Chapter, and at least one designated recovery
36 room, have available the necessary equipment and trained personnel to
37 handle emergencies, provide adequate quality assurance and
38 assessment by an evaluation and review committee, and maintain
39 adequate medical records for each patient. An ambulatory surgical
40 facility may be operated as a part of a physician or dentist's office,
41 provided the facility is licensed under G.S. Chapter 131E, Article 6,
42 Part D, but the performance of incidental, limited ambulatory surgical
43 procedures which do not constitute an ambulatory surgical program as
44 defined in subdivision ~~(1b)~~ (1c) of this section and which are

1 performed in a physician's or dentist's office does not make that office
2 an ambulatory surgical facility.

3 (1c) "Ambulatory surgical program" means a formal program for providing
4 on a same-day basis those surgical procedures which require local,
5 regional or general anesthesia and a period of post-operative
6 observation to patients whose admission for more than 24 hours is
7 determined, prior to ~~surgery,~~surgery or gastrointestinal endoscopy,
8 to be medically unnecessary."

9 **SECTION 6.(b)** G.S. 131E-176(16)u. reads as rewritten:

10 "(16) "New institutional health services" means any of the following:

11 ...

12 u. The construction, development, establishment, increase in the
13 number, or relocation of an operating room or ~~operating~~
14 ~~rooms,~~gastrointestinal endoscopy room in a licensed health
15 service facility, other than the relocation of an operating room
16 or ~~operating rooms~~ gastrointestinal endoscopy room within the
17 same building or on the same grounds or to grounds not
18 separated by more than a public right-of-way adjacent to the
19 grounds where the operating room is ~~or operating rooms are~~ or
20 gastrointestinal endoscopy room is currently located."

21 **SECTION 6.(c)** G.S. 131E-176(16) is amended by adding the following new
22 sub-subdivision to read:

23 "v. The change in designation, in a licensed health service facility,
24 of an operating room to a gastrointestinal endoscopy room or
25 change in designation of a gastrointestinal endoscopy room to
26 an operating room that results in a different number of each
27 type of room than is reflected on the health service facility's
28 license in effect as of January 1, 2005."

29 **SECTION 6.(d)** G.S. 131E-176 is amended by adding the following new
30 subdivisions to read:

31 "(7d) 'Gastrointestinal endoscopy room' means a room used for the
32 performance of procedures that require the insertion of a flexible
33 endoscope into a gastrointestinal orifice to visualize the
34 gastrointestinal lining and adjacent organs for diagnostic or therapeutic
35 purposes.

36 "(18c) 'Operating room' means a room used for the performance of surgical
37 procedures requiring one or more incisions and that is required to
38 comply with all applicable licensure codes and standards for an
39 operating room."

40 **SECTION 7.** G.S. 131E-178(a) reads as rewritten:

41 "(a) No person shall offer or develop a new institutional health service without
42 first obtaining a certificate of need from the Department; provided, however, ~~no hospital~~
43 ~~licensed pursuant to Article 5 of this Chapter that was established to serve a minority~~
44 ~~population that would not otherwise have been served and that continues to serve a~~

1 ~~minority population may be required to obtain a certificate of need for transferring up to~~
2 ~~65 beds to nursing care facility beds.~~no person who provides gastrointestinal endoscopy
3 procedures in one or more gastrointestinal endoscopy rooms located in a nonlicensed
4 setting, shall be required to obtain a certificate of need to license that setting as an
5 ambulatory surgical facility with the existing number of gastrointestinal endoscopy
6 rooms, provided that:

7 (1) The license application is postmarked for delivery to the Division of
8 Facility Services by December 31, 2006;

9 (2) The applicant verifies, by affidavit submitted to the Division of
10 Facility Services within 60 days of the effective date of this act, that
11 the facility is in operation as of the effective date of this act or that the
12 completed application for the building permit for the facility was
13 submitted by the effective date of this act;

14 (3) The facility has been accredited by The Accreditation Association for
15 Ambulatory Health Care, The Joint Commission on Accreditation of
16 Healthcare Organizations, or The American Association for
17 Accreditation of Ambulatory Surgical Facilities by the time the license
18 application is postmarked for delivery to the Division of Facility
19 Services of the Department; and

20 (4) The license application includes a commitment and plan for serving
21 indigent and medically underserved populations.

22 All other persons proposing to obtain a license to establish an ambulatory surgical
23 facility for the provision of gastrointestinal endoscopy procedures shall be required to
24 obtain a certificate of need. The annual State Medical Facilities Plan shall not include
25 policies or need determinations that limit the number of gastrointestinal endoscopy
26 rooms that may be approved."

27 **SECTION 8.** G.S. 131E-182(a), as amended by Senate Bill 740, 2005
28 General Assembly, reads as rewritten:

29 "(a) The Department in its rules shall establish schedules for submission and
30 review of completed applications. The schedules shall provide that applications for
31 similar proposals in the same service area will be reviewed together. However, there
32 shall not be a review scheduled prior to February 1, 2006, for submission and review of
33 certificate of need applications that propose an increase in the number of licensed
34 gastrointestinal endoscopy rooms. An applicant for a certificate of need to establish a
35 licensed gastrointestinal endoscopy room shall show that it is performing or reasonably
36 projects to perform at least 1,500 gastrointestinal endoscopy procedures per
37 gastrointestinal endoscopy room per year."

38 **SECTION 9.** Nothing in Sections 2 through 10 of this act shall be construed
39 to represent legislative intent as to the circumstances under which Medicare or Medicaid
40 certification may be obtained for a provider of ambulatory surgery services.

41 **SECTION 10.** This act is effective when it becomes law. Section 8 of this
42 act expires on the effective date of administrative rules adopted consistent with the
43 provisions of this act regarding the number of gastrointestinal endoscopy procedures
44 performed or projected to be performed.