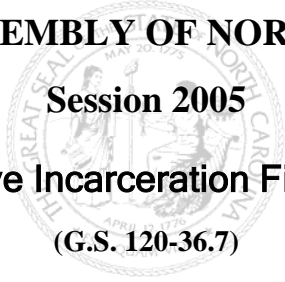


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 636 (Fourth Edition)
SHORT TITLE: Anatomic Pathology Services/Provider Billing.
SPONSOR(S): Representative Nye

Table with 6 columns: FISCAL IMPACT, Yes (x), No (), No Estimate Available (), FY 2005-06, FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10. Rows include GENERAL FUND (Correction, Judicial, Department of Health and Human Services), TOTAL EXPENDITURES, ADDITIONAL PRISON BEDS*, POSITIONS (cumulative), PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED, and EFFECTIVE DATE.

BILL SUMMARY:

House Bill 636 creates a new article in Chapter 90 of the North Carolina General Statutes. Article 40 (Pathology Services Billing) establishes a requirement of disclosure for markups of anatomical pathological services by physicians, hospitals, dentists, and podiatrists.

Section 1 (a, b) makes it unlawful for any person licensed to practice medicine, podiatry, or dentistry, or any hospital licensed in this State to bill for anatomic pathology services in an amount excessive of what the clinical laboratory performing the service charged unless it is conspicuously disclosed on the itemized bill or statement, or in writing by a separate itemized disclosure statement which includes the following:

- The amount charged by the laboratory.
- Any other charge that has been included in the bill.
- The name of the licensed practitioner performing or supervising the service.

Subsection (c) requires the bills for anatomical pathology services must disclose the name and address of the laboratory performing the service.

Subsection (d) provides an exception to the provisions of subsections (a) and (b) to licensed practitioners performing or supervising the services and to a hospital or physician group practice where a physician employee under contract is providing or supervising the services.

Subsection (e) defines anatomic pathology services as used in the section.

Subsection (f) clarifies that terms and conditions of contracts for the provision of anatomic pathology services are not required to be disclosed.

Subsection (g) (h) clarify that the provisions of (a) and (b) of this act do not apply to referring laboratories in instances where the sample must be sent for a second opinion, and that nothing in this act prohibits a physician from requesting services from more than one laboratory for a second medical opinion.

Subsection (i) makes it a Class 3 misdemeanor offense punishable by a \$250 fine for each intentional failure to disclose in violation of subsection (a), (b), or (c) of this act.

Subsection (j) gives the respective State licensing board authority to take action including suspending, revoking, or denying licensure for violations provided in this act.

Subsection (k) requires within (6) six months of the effective date of this act for the respective State licensing boards having jurisdiction and the Division of Facility Services to communicate the requirements of this section to all licensed practitioners and licensed facilities subject to this section.

Section 2 amends G.S. 90-18(a) adding a requirement that out of state practitioners without proper North Carolina licensure may be charged with a Class I felony for practicing medicine in this State.

Section 3 directs the State licensing boards subject to G.S. 90-681 and the Division of Facility Services of the Department of Health and Human Services to report on the efforts made to apprise and evaluate licensed practitioners and licensed health care facilities of the requirements of this act to the 2006 Regular Session of the 2005 General Assembly upon its convening.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction and Judicial Branch

As this bill would create a new Class 3 misdemeanor for failure to disclose any markup in charges for anatomic pathology services and a Class I felony for practicing medicine without a license as an out-of-state practitioner, it would be expected to result in some new criminal charges and convictions and would, consequently, have a fiscal impact on the Courts and Department of Correction. Because the offenses would be new, there is no historical data from which to estimate the numbers of charges and convictions that would occur under the bill.

In FY 2003-04 there was only one conviction under current G.S. 90-18, which prohibits the unlicensed practice of medicine by in-state practitioners. As this is an indication that the offense is infrequently charged and rarely results in the conviction of in-state practitioners, a substantial impact is not expected as a result of the new penalty with respect to out-of-state practitioners provided by this bill. In FY 2003-04, 11 percent of Class I convictions resulted in active sentences with an average active sentence length of 7 to 9 months. If, for example, there were ten Class I felony convictions per year, one additional prison bed would be needed in the first year and three beds in the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

As the Class 3 misdemeanor created by this bill would be altogether new, the Sentencing Commission has no historical data from which to project the specific impact on local jails. In FY 2003-04, 23 percent of Class 3 misdemeanor convictions resulted in active sentences with an average estimated time served of 3.1 days. As offenders serving 90 days or less are housed in county jails, this offense would not impact prison population. However, the impact on local jail populations cannot be determined.

The remaining 89 percent of Class I felony and 77 percent of Class 3 misdemeanor convictions resulted in non-active sentences. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

For any new Class I felony or Class 3 misdemeanor charge due to this bill, there would also be court and preparation time needed to dispose of the charge, thus increasing superior and district court workload, respectively. Based on the costs of attorney preparation time, time in court, and indigent defense AOC estimates the average cost per charge if settled via trial at \$5,835 for a Class I offense, and \$2,322 for a Class 3 misdemeanor. However, based on prior-year data, the majority of any new Class I felony or Class 3 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at a cost of \$330 and \$268 per plea, respectively.

Division of Facility Services of the Department of Health and Human Services

This bill would require the Division of Facility Services to communicate the requirements of this bill to the licensed facilities subject to the bill (hospitals). According to the Division, the cost for mailing out letters to each licensed hospital in the state would be negligible.

The bill also requires that the Division of Facility Services report to the 2006 Regular Session of the 2005 General Assembly. The Division estimates that the cost of reporting on their efforts to communicate the requirements of the bill to licensed facilities would also be negligible.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Health and Human Services.

TECHNICAL CONSIDERATIONS: This analysis assumes that the Division of Facility Services would not be responsible for monitoring licensed facilities' compliance with the requirements of this bill. If this assumption were incorrect, there would be an ongoing fiscal impact to the Division.

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