

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

**SESSION LAW 2018-81**  
**HOUSE BILL 512**

AN ACT REGARDING IMPLEMENTATION OF THE 1915(C) MEDICAID WAIVER FOR INDIVIDUALS WITH TRAUMATIC BRAIN INJURY; AUTHORIZING TOWNSHIP HOSPITALS STILL OPERATING UNDER PRE-1983 PUBLIC HOSPITAL LAWS TO EXERCISE SOME OF THE ADDITIONAL POWERS AND AUTHORITIES GRANTED TO PUBLIC HOSPITALS OPERATING UNDER ARTICLE 2 OF CHAPTER 131E OF THE GENERAL STATUTES; REDEFINING THE TERM "LEGACY CARE MEDICAL FACILITY" FOR PURPOSES OF CERTIFICATE OF NEED REVIEW; REQUIRING THAT LEGACY MEDICAL CARE FACILITIES EXEMPTED FROM CERTIFICATE OF NEED REVIEW OPERATE WITHIN THE SAME SERVICE AREA AS THE FACILITY THAT CEASED CONTINUOUS OPERATIONS; AND PROVIDING FOR AN EXTENSION OF THE TIME BY WHICH A FACILITY MUST BE OPERATIONAL IN ORDER TO QUALIFY FOR CERTIFICATE OF NEED EXEMPTION AS A LEGACY MEDICAL CARE FACILITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Beginning October 1, 2018, the Department of Health and Human Services (DHHS) shall report quarterly to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, the chairs of the Senate Appropriations Committee on Health and Human Services, the chairs of the House of Representatives Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the status and implementation of the 1915(c) waiver for individuals with traumatic brain injury (TBI) that has been submitted to the Centers for Medicare and Medicaid Services in accordance with Section 12H.6 of S.L. 2015-241.

As part of the process of implementing the TBI waiver, DHHS shall adopt rules or medical coverage policies relating to service programs for individuals with traumatic brain injury, including setting standards that ensure that individuals with brain injuries who require residential treatment receive appropriate, effective, and high-quality treatment in community-based residential settings. Additionally, DHHS shall develop a best practice model system that includes a comprehensive continuum of care and an array of short-term and long-term treatments, rehabilitation options, and home and community support services as part of the TBI waiver. Finally, DHHS shall strive to maintain adequate reimbursement rates for residential and community-based care programs that serve individuals with traumatic brain injury, which will aid in attracting and retaining quality and highly specialized providers and programs into North Carolina.

**SECTION 2.(a)** All hospitals that continue to operate under Article 2 of Chapter 131 of the General Statutes pursuant to Section 3 of Chapter 775 of the 1983 Session Laws may, in addition to the powers and authorities set forth in said Article 2 of Chapter 131 of the General Statutes, exercise each of the powers, authorities, and exemptions set forth in the following provisions of Chapter 131E of the General Statutes, singly or in combination:

- (1) G.S. 131E-7(a)(1), (3), (5), and (6).
- (2) G.S. 131E-7(b).



- (3) G.S. 131E-7(c).
- (4) G.S. 131E-7(f).
- (5) G.S. 131E-7.1.
- (6) G.S. 131E-8.
- (7) G.S. 131E-10.
- (8) G.S. 131E-11.
- (9) G.S. 131E-13.
- (10) G.S. 131E-14.1.
- (11) G.S. 131E-23(a)(1) through (38).
- (12) G.S. 131E-23(b).
- (13) G.S. 131E-23(d).
- (14) G.S. 131E-26.
- (15) G.S. 131E-27.
- (16) G.S. 131E-32.
- (17) G.S. 131E-47.1.

**SECTION 2.(b)** This act amends and adds to the powers and authorities previously conveyed by Section 3 of S.L. 1999-377 to hospitals that continue to operate under Article 2 of Chapter 131 of the General Statutes. This act is not intended to alter or amend the remaining provisions of S.L. 1999-377.

**SECTION 3.(a)** G.S. 131E-176(14f) reads as rewritten:

"(14f) "Legacy Medical Care Facility" means ~~an institution~~ a facility that meets all of the following requirements:

- a. Is not presently operating.
- b. Has not continuously operated for at least the past six months.
- c. Within the last 24 months:
  1. Was operated by a person holding a license under G.S. 131E-77; and
  2. Was primarily engaged in providing to ~~inpatients,~~ inpatients or outpatients, by or under supervision of physicians, (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons."

**SECTION 3.(b)** G.S. 131E-184(h) reads as rewritten:

"(h) The Department shall exempt from certificate of need review the acquisition or reopening of a Legacy Medical Care Facility. The person seeking to operate a Legacy Medical Care Facility ~~must~~ shall give the Department written notice ~~(i) of its~~ of all of the following:

- (1) Its intention to acquire or reopen a Legacy Medical Care Facility and (ii) that within the same county and the same service area as the facility that ceased continuous operations. If the Legacy Medical Facility will become operational in a new location within the same county and the same service area as the facility that ceased continuous operations, then the person responsible for giving the written notice required by this section shall notify the Department, as soon as reasonably practicable and prior to becoming operational, of the new location of the Legacy Medical Care Facility. For purposes of this subdivision, "service area" means the service area identified in the North Carolina State Medical Facilities Plan in effect at the time the written notice required by this section is given to the Department.

- (2) That the ~~hospital~~-facility will be operational within 36 months of the notice.

The Department shall extend the time by which a facility must be operational in order to be exempt from certificate of need review under this subsection by one additional 36-month period

if the person seeking to reopen or acquire the Legacy Medical Care Facility gives the Department written notice of extension within 36 months of the original notice of intent to acquire or reopen the Legacy Medical Care Facility. The written notice of extension must notify the Department (i) that the person has undertaken all reasonable efforts to make the facility operational within 36 months of the notice of intent, (ii) that, despite these reasonable efforts, the person does not anticipate the facility will be operational within that time, and (iii) of its intention that the facility will be operational within 36 months of the notice of extension."

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of June, 2018.

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

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 10:49 a.m. this 25<sup>th</sup> day of June, 2018