

EXHIBIT B

Health Care Cost Reduction & Transparency Rules

for

Fair Billing & Collections Practices

10A NCAC 13B Licensing of Hospitals

10A NCAC 13C Licensing of Ambulatory Surgical Facilities

FISCAL NOTE**Type of Rules: Permanent****MCC Action: Final Approval****Exhibit B****8/28/2014****Fiscal Impact Statement for Proposed Permanent Rules****Agency:**

N.C. Medical Care Commission

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Rule Citations:

10A NCAC 13B Licensing of Hospitals
10A NCAC 13B .3110 Itemized Charges
10A NCAC 13B .3502 Required Policies, Rules and Regulations

10A NCAC 13C Licensing of Ambulatory Surgical Facilities
10A NCAC 13C .0202 Requirements for Issuance of License
10A NCAC 13C .0205 Itemized Charges
10A NCAC 13C .0301 Governing Authority

Statutory Authority:

N.C.G.A. Session Law 2013-382, Part XIII., Section 13.1 "*Fair Health Care Facility Billing and Collections Practices*" (Effective date: October 1, 2013)

Description of Rule Changes:

The proposed amendments to rules in Chapters 10A NCAC 13B *Licensing of Hospitals* and 10A NCAC 13C *Licensing of Ambulatory Surgical Facilities* are in response to a recent act of the General Assembly, specifically Session Law 2013-382, Part XIII. *Fair Health Care Facility Billing and Collections Practices*, which became effective on October 1, 2014. The intent of this act is to improve transparency in the cost of health care provided by hospitals and ambulatory surgical facilities and to provide for fair health care facility billing and collections practices. Section 13.1 of this act requires the N.C. Medical Care Commission to adopt rules to ensure that the provisions of the law are properly implemented.

Anticipated Impact:

The N.C. Medical Care Commission and Division of Health Service Regulation provided hospital and ambulatory surgical facility providers and other stakeholders an opportunity to review and offer comment

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on the proposed rules. Meetings with stakeholders also allowed the Commission and Division to gauge the potential fiscal impact the proposed rules would have on regulated providers.

It is important to note that the federal government has issued proposed regulations (Federal Register, Vol. 77, No. 123, pgs. 38160-38169, issued on June 26, 2012) that address many of the same billing and collection practice requirements as S.L. 2013-382. Since these regulations (501r) were proposed, hospitals have been preparing for their approval and implementation. As a result, many hospitals may already be complying with various aspects of the new North Carolina law, and therefore, would not experience much if any fiscal impact when these rules are adopted.

- 1.) 10A NCAC 13B .3502 Required Policies, Rules and Regulations
10A NCAC 13C .0202 Requirements for Issuance of License
10A NCAC 13C .0301 Governing Authority

These proposed amendments require a facility's governing board to assure that written policies and procedures are developed in order to implement the requirements of S.L. 2013-382 regarding fair billing and collections practices. They also, in accordance with the session law, provide for a way for the Division of Health Service Regulation to verify that a facility is in compliance with the law prior to renewal of a facility's license.

The fiscal impact of these proposed rules is difficult to determine, but is anticipated to be minimal. In discussions with providers, it was revealed that facilities would have different ways of implementing the new requirements. It could be assumed that each facility would task a staff member (or multiple staff members) to draft policies and procedures to comply with the proposed rules. It could also be assumed that the governing boards would approve the facility's amended policies and procedures, that facilities would have to amend forms and notifications provided to patients (such as their admission packets), that facility staff would have to be trained on the new policies, and some risk management or quality assurance measures may be built in to assure compliance. Obviously these tasks would incur an opportunity cost of staff time, however, because each facility has different systems and organizational structure, the actual cost impact of these rules is not quantifiable.

In addition, there is an opportunity cost associated with the time that a Division staff member would incur upon receiving and processing the attestation statements from facilities upon initial licensure or license renewal. The amount of time this task would take is minimal and a matter of verifying that the attestation was received timely.

- 2.) 10A NCAC 13B .3110 Itemized Charges
10A NCAC 13C .0205 Itemized Charges

These proposed amendments require facilities to extend the amount of time provided to a patient to request an itemized bill. The length of time is extended from 30 days to three years. It also requires that the itemized bill provided must be in language that is clear, concise and easy to understand. The purpose of this requirement is to improve transparency and help health care consumers understand charges they have incurred.

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The fiscal impact of these proposed rules is difficult to determine, but is anticipated to be minimal. It can be assumed that most facility billing data is maintained electronically and could be easily retrieved upon a patient's request whether within 30 days or three years later. It is difficult to determine the impact on facility's to comply with producing itemized bills that are easy to read and understand. It can be assumed that this is current practice for some facilities and that others may have to make adjustments to their billing systems in order to amend the language on the bills. For those facilities that must adjust their current bill language, it can be assumed that there would be minimal opportunity cost for facility staff to modify existing language within their billing systems. There may also be some cost associated with modifying the computer billing program or software.

1 10A NCAC 13B .3110 is proposed for amendment as follows:

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3 **10A NCAC 13B .3110 ITEMIZED CHARGES**

4 (a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall include
5 on patients' bills, ~~which bills that~~ are not itemized, notification of the right to request an itemized bill within 30 days
6 three years of receipt of the non-itemized bill. bill or so long as the hospital, a collections agency, or other assignee
7 asserts the patient has an obligation to pay the bill.

8 (b) If requested, the facility shall present an itemized list of charges to each patient; patient or the patient's responsible
9 ~~party. representative.~~ This list shall detail in language comprehensible to an ordinary layperson the specific nature of
10 the charges or expenses incurred by the patient.

11 (c) The itemized listing shall ~~include, at a minimum, those charges incurred~~ include each specific chargeable item or
12 service in the following service areas: areas:

- 13 (1) room rates;
- 14 (2) laboratory;
- 15 (3) radiology and nuclear medicine;
- 16 (4) surgery;
- 17 (5) anesthesiology;
- 18 (6) pharmacy;
- 19 (7) emergency services;
- 20 (8) outpatient services;
- 21 (9) specialized care;
- 22 (10) extended care;
- 23 (11) prosthetic and orthopedic appliances; and
- 24 (12) professional services provided by the facility. ~~other independently-billing medical personnel.~~

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26 *History Note: Authority G.S. 131E-79; 131E-91; S.L. 2013-382(s.13.1);*

27 *Eff. January 1, 1996;*

28 *Temporary Amendment Eff. May 1, 2014. 2014;*

29 *Amended Eff. November 1, 2014.*

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1 10A NCAC 13B .3502 is proposed for amendment as follows:
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3 **10A NCAC 13B .3502 REQUIRED POLICIES, RULES, AND REGULATIONS**

4 (a) The governing body shall adopt written policies, rules, and regulations in accordance with all requirements con-
5 tained in this Subchapter and in accordance with the community responsibility of the facility. ~~As a minimum, the~~ The
6 written policies, rules, and regulations shall:

- 7 (1) ~~state the general and specific goals~~ purpose of the facility;
- 8 (2) describe the powers and duties of the governing body officers and committees and the
9 responsibilities of the chief executive officer;
- 10 (3) state the qualifications for governing body membership, the procedures for selecting members, and
11 the terms of service for members, officers and committee chairmen;
- 12 (4) describe the authority delegated to the chief executive officer and to the medical staff. No
13 assignment, referral, or delegation of authority by the governing body shall relieve the governing
14 body of its responsibility for the conduct of the facility. The governing body shall retain the right
15 to rescind any such delegation;
- 16 (5) require Board approval of the bylaws of any auxiliary organizations established by the hospital;
- 17 (6) require the governing body to review and approve the bylaws of the medical staff organization;
- 18 (7) establish a procedure for processing and evaluating the applications for medical staff membership
19 and for the granting of clinical privileges;
- 20 (8) establish a procedure for implementing, disseminating, and enforcing a Patient's Bill of Rights as
21 ~~described set forth~~ in Rule .3302 of this Subchapter and in compliance with G.S. 131E-117 where
22 ~~applicable; and G.S. 131E-117; and~~
- 23 (9) require the governing body to institute procedures to provide for:
 - 24 (A) orientation of newly elected board members to specific board functions and procedures;
 - 25 (B) the development of procedures for periodic reexamination of the relationship of the board
26 to the total facility community; and
 - 27 (C) the recording of minutes of all governing body and executive committee meetings and the
28 dissemination of those minutes, or summaries thereof, on a regular basis to all members of
29 the governing body.

30 (b) The governing body shall assure written policies and procedures to assure billing and collection practices in
31 accordance with G. S. 131E-91. These policies and procedures shall include:

- 32 (1) a financial assistance policy as defined in Rule .2101 of the Subchapter;
- 33 (2) how a patient may obtain an estimate of the charges for the statewide 100 most frequently reported
34 DRGs, where applicable, and 20 most common outpatient imaging procedures, and 20 most

- 1 common outpatient surgical procedures. The policy shall require that the information be provided
2 to the patient in writing, either electronically or by mail, within three business days;
3 (3) how a patient or patient's representative may dispute a bill;
4 (4) issuance of a refund within 45 days of the patient receiving notice of the overpayment when a patient
5 has overpaid the amount due to the hospital;
6 (5) providing written notification to the patient or patient's representative, at least 30 days prior to
7 submitting a delinquent bill to a collections agency;
8 (6) providing the patient or patient's representative with the facility's charity care and financial
9 assistance policies, if the facility is required to file a Schedule H, federal form 990;
10 (7) the requirement that a collections agency, entity, or other assignee obtain written consent from the
11 facility prior to initiating litigation against the patient or patient's representative;
12 (8) a policy for handling debts arising from the provision of care by the hospital involving the doctrine
13 of necessities, in accordance with G.S. 131E-91(d)(5); and
14 (9) a policy for handling debts arising from the provision of care by the hospital to a minor, in
15 accordance with G.S. 131E-91(d)(6).
16 ~~(b)~~ (c) The written policies, rules, and regulations shall be reviewed at least every three years, revised as necessary,
17 and dated to indicate when last reviewed or revised.
18 (d) To qualify for licensure or license renewal, each facility must provide to the Division, upon application, an
19 attestation statement in a form provided by the Division verifying compliance with the requirements of this Rule.
20 (e) On an annual basis, on the license renewal application provided by the Division, the facility shall provide to the
21 Division the direct website address to the facility's financial assistance policy. This Rule applies only to facilities
22 required to file a Schedule H, federal form 990.

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History Note: Authority G.S. 131E-79; S.L. 2013-382(s.10.1),(s.13.1); G.S. 131E-91;
Eff. January 1, 1996;
Temporary Amendment Eff. May 1, 2014. 2014;
Amended Eff. November 1, 2014.

1 10A NCAC 13C .0202 is proposed for amendment as follows:

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3 **10A NCAC 13C .0202 REQUIREMENTS FOR ISSUANCE OF LICENSE**

4 (a) Upon application for a license from a facility never before licensed, a representative of the Department shall make
5 an inspection of that facility. Every building, institution or establishment for which a license has been issued shall be
6 inspected for compliance with the rules found in this Subchapter. An ambulatory surgery facility shall be deemed to
7 meet licensure requirements if the ambulatory surgery facility is accredited by The Joint Commission (formerly known
8 as "JCAHO"), JCAHO, AAAHC or AAAASF. Accreditation does not exempt a facility from statutory or rule
9 requirements for licensure nor does it prohibit the Department from conducting inspections as provided in this Rule
10 to determine compliance with all requirements.

11 (b) If the applicant has been issued a Certificate of Need and is found to be in compliance with the Rules found in
12 this ~~Subchapter~~ Subchapter, then the Department shall issue a license to expire on December 31 of each year.

13 (c) The Department shall be notified at the time of:

- 14 (1) any change ~~of the owner or operator; as to the person who is the operator or owner of an ambulatory~~
15 ~~surgical facility;~~
16 (2) any change of location;
17 (3) any change as to a lease; and
18 (4) any transfer, assignment or other disposition or change of ownership or control of 20 percent or
19 more of the capital stock or voting rights thereunder of a corporation which is the operator or owner
20 of an ambulatory surgical facility, or any transfer, assignment, or other disposition of the stock or
21 voting rights thereunder of such corporation which results in the ownership or control of more than
22 20 percent of the stock or voting rights thereunder of such corporation by any person.

23 A new application shall be submitted to the Department in the event of such a change or changes.

24 (d) The Department shall not grant a license until ~~the plans and specifications;~~ specifications which are stated in
25 Section .1400 of this Subchapter, covering the construction of new buildings, additions, or material alterations to
26 existing buildings are approved by the Department.

27 (e) The facility design and construction shall be in accordance with the licensure rules for ambulatory surgical
28 facilities found in this Subchapter, the North Carolina State Building Code, and local municipal codes.

29 (f) ~~Submission of Plans~~ Plans.

- 30 (1) Before construction is begun, plans and specifications covering construction of the new buildings,
31 alterations, renovations or additions to existing buildings, shall be submitted to the Division for
32 approval.
33 (2) The Division shall review the plans and notify the licensee that said buildings, alterations, additions,
34 or changes are approved or disapproved. If plans are disapproved the Division shall give the
35 applicant notice of deficiencies identified by the Division.

- 1 (3) In order to avoid unnecessary expense in changing final plans, as a preliminary step, proposed plans
2 in schematic form shall be reviewed by the Division.
- 3 (4) The plans shall include a plot plan showing the size and shape of the entire site and the location of
4 all existing and proposed facilities.
- 5 (5) Plans shall be submitted in ~~duplicate~~, ~~duplicate in order that the~~ The Division may shall distribute a
6 copy to the Department of Insurance for review of the North Carolina State Building Code
7 ~~requirements. requirements if required by the North Carolina State Building Code which is~~
8 incorporated by reference, including all subsequent amendments. Copies of the code may be
9 purchased from the International Code Council online at
10 <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of \$527.00 or accessed electronically
11 free of charge at
12 http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html.

14 (g) To qualify for licensure or license renewal, each facility must provide to the Division, upon application, an
15 attestation statement in a form provided by the Division verifying compliance with the requirements defined in Rule
16 .0301(d) of this Subchapter.

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18 *History Note: Authority G.S. 131E-91; G.S. 131E-147; 131E-149; S.L. 2013-382;*
19 *Eff. October 14, 1978;*
20 *Amended Eff. April 1, 2003- 2003;*
21 *Temporary Amendment Eff. May 1, 2014;*
22 *Amended Eff. Nov. 1, 2014.*

1 10A NCAC 13C .0205 is proposed for amendment as follows:

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3 **10A NCAC 13C .0205 ITEMIZED CHARGES**

4 (a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall include
5 on patients' bills which are not itemized notification of the right to request an itemized bill within ~~30 days~~ three years
6 of receipt of the non-itemized ~~bill; bill or so long as the facility, collections agency, or other assignee asserts the patient~~
7 has an obligation to pay the bill.

8 (b) If requested, the facility shall present an itemized list of charges to each ~~patient, patient~~ or his or her representative,
9 ~~responsible party.~~ This list shall detail in language comprehensible to an ordinary layperson the specific nature of the
10 charges or expenses incurred by the patient.

11 (c) The listing shall ~~include, at a minimum, those charges incurred in the following service areas:~~ include each
12 specific chargeable item or service in the following service areas:

- 13 (1) Surgery (facility fee);
14 (2) Anesthesiology;
15 (3) Pharmacy;
16 (4) Laboratory;
17 (5) Radiology;
18 (6) Prosthetic and Orthopedic appliances; and
19 (7) Other professional services.

20 (d) The facility shall indicate on the initial or renewal license application that patient bills are itemized, or that each
21 patient or ~~responsible party~~ his or her representative is formally advised of the patient's right to request an itemized
22 listing within ~~30 days~~ three years of receipt of a non-itemized bill.

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24 *History Note:* Authority G.S. 131E-91; G.S. 131E-147.1; S.L. 2013-382(s.13.1);

25 Eff. December 1, 1991, 1991;

26 Temporary Amendment Eff. May 1, 2014;

27 Amended Eff. Nov. 1, 2014.

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1 10A NCAC 13C .0301 proposed for amendment as follows:

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3 10A NCAC 13C .0301 GOVERNING AUTHORITY

4 (a) The facility's governing authority shall adopt bylaws or other appropriate operating policies and procedures which
5 shall: to assure that:

6 (1) ~~specify by name the person to whom responsibility for operation and maintenance of the facility is~~
7 ~~delegated and methods established by the governing authority for holding such individuals~~
8 ~~responsible;~~

9 a named individual is identified who is responsible for the overall operation and maintenance of the
10 facility. The governing authority shall have methods in place for the oversight of the individual's
11 performance.

12 (2) ~~provide for at least annual meetings of the governing authority are conducted~~ if the governing
13 authority consists of two or more individuals. Minutes shall be maintained of such meetings;

14 (3) ~~maintain a policies and procedures manual which is designed to ensure professional and safe care~~
15 ~~for the patients. The manual shall be reviewed, and revised when necessary, at least annually. a~~
16 policy and procedure manual is created which is designed to ensure professional and safe care for
17 the patients. The manual shall be reviewed annually and revised when necessary. The manual shall
18 include provisions for administration and use of the facility, compliance, personnel quality
19 assurance, procurement of outside services and consultations, patient care policies and services
20 offered; and

21 (4) ~~provide for annual reviews and evaluations of the facility's policies, management, and operation.~~
22 annual reviews and evaluations of the facility's policies, management, and operation are conducted.

23 (b) When services such as dietary, laundry, or therapy services are purchased from others, the governing authority
24 shall be responsible to assure the supplier meets the same local and state standards the facility would have to meet if
25 it were providing those services itself using its own staff.

26 (c) The governing authority shall provide for the selection and appointment of the professional staff and the granting
27 of clinical privileges and shall be responsible for the professional conduct of these persons.

28 (d) The governing authority shall establish written policies and procedures to assure billing and collection practices
29 in accordance with G. S. 131E-91. These policies and procedures shall include:

30 (1) a financial assistance policy as defined in Rule .0103 of the Subchapter;

31 (2) how a patient may obtain an estimate of the charges for the statewide 20 most common outpatient
32 imaging procedures and 20 most common outpatient surgical procedures based on the primary CPT
33 code. The policy shall require that the information be provided to the patient in writing, either
34 electronically or by mail, within three business days;

35 (3) how a patient or patient's representative may dispute a bill;

- 1 (4) issuance of a refund within 45 days of the patient receiving notice of the overpayment when a patient
- 2 has overpaid the amount due to the facility;
- 3 (5) providing written notification to the patient or patient's representative, at least 30 days prior to
- 4 submitting a delinquent bill to a collections agency;
- 5 (6) providing the patient or patient's representative with the facility's charity care and financial
- 6 assistance policies, if the facility is required to file a Schedule H, federal form 990;
- 7 (7) the requirement that a collections agency, entity, or other assignee obtain written consent from the
- 8 facility prior to initiating litigation against the patient or patient's representative;
- 9 (8) a policy for handling debts arising from the provision of care by the ambulatory surgical facility
- 10 involving the doctrine of necessities, in accordance with G.S. 131E-91(d)(5); and
- 11 (9) a policy for handling debts arising from the provision of care by the ambulatory surgical facility to
- 12 a minor, in accordance with G.S. 131E-91(d)(6).

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15 *History Note:* Authority G.S. 131E-91; G.S. 131E-149; S.L. 2013-382(s.10.1), S.L. 2013-382 (s.13.1);
16 Eff. October 14, 1978;
17 Amended Eff. November 1, 1989; November 1, 1985; December 24, 1979, 1979;
18 Temporary Amendment Eff. May 1, 2014;
19 Amended Eff; Nov. 1, 2014.