

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 2037

Short Title: State Health Plan/ Transfer to Dept Insurance. (Public)

Sponsors: Representatives Dollar, Blackwell, Hurley (Primary Sponsors); Hilton, Jackson, Moore, Randleman, Ross, Setzer, Starnes, and Weiss.

Referred to: Insurance, if favorable, Appropriations.

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE NORTH CAROLINA STATE HEALTH PLAN FOR  
TEACHERS AND STATE EMPLOYEES TO THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

**SECTION 1.** The North Carolina State Health Plan for Teachers and State Employees is transferred to the Department of Insurance. This transfer shall have all the elements of a Type I transfer, as defined by G.S. 143A-6.

**SECTION 2.** G.S. 58-2-40 is amended by adding a new subdivision to read:

"§ 58-2-40. Powers and duties of Commissioner.

The Commissioner shall:

...

(10) Administer the North Carolina State Health Plan for Teachers and State Employees, as provided in Article 3A of Chapter 135 of the General Statutes."

**SECTION 3.** G.S. 135-43(b) reads as rewritten:

"§ 135-43. Confidentiality of information and medical records; provider contracts.

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks.

The terms of a contract between the Plan and its third party administrator or between the Plan and its pharmacy benefit manager are a public record except that the terms in those contracts that contain trade secrets or proprietary or competitive information are not a public record under Chapter 132 of the General Statutes, and any such proprietary or competitive information and trade secrets contained in the contract shall be redacted by the Plan prior to making it available to the public. This subsection shall not be construed to prevent or restrict the release of any information made not a public record under this subsection to the Commissioner of Insurance, the State Auditor, the Attorney General, the Director of the State Budget, and the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits Administrator solely and exclusively for their use in the furtherance of their duties and responsibilities, and to the Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services. The design, adoption, and implementation of the preferred provider contracts, networks, and optional alternative comprehensive health benefit plans, and programs available under the optional alternative plans, as authorized under G.S. 135-45 are not subject to the requirements of Article 3 of Chapter 143 of the General Statutes. The



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1 Executive Administrator and Board of Trustees shall make reports as requested to the President  
2 of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of  
3 Representatives, and the ~~Committee on Employee Hospital and Medical Benefits.~~  
4 Commissioner of Insurance."

5 **SECTION 4.** G.S. 135-43.1 is repealed.

6 **SECTION 5.** G.S. 135-43.2(h) reads as rewritten:

7 "**§ 135-43.2. State Health Plan Administrative Commission.**

8 (h) The Commission shall be located administratively within the Department of  
9 Insurance ~~but~~ and shall exercise all of its prescribed statutory powers ~~independently of in~~  
10 conjunction with the Commissioner of Insurance."

11 **SECTION 6.** G.S. 135-43.3 reads as rewritten:

12 "**§ 135-43.3. Oversight team. Oversight.**

13 (a) ~~The Committee on Employee Hospital and Medical Benefits may use employees of~~  
14 ~~the Legislative Services Office and may employ contractual services as approved by the~~  
15 ~~Legislative Services Commission to monitor the Executive Administrator and Board of~~  
16 ~~Trustees, the Claims Processor, and the Comprehensive Major Medical Plan [State Health Plan~~  
17 ~~for Teachers and State Employees]. The Director of the Budget may use employees of the~~  
18 ~~Office of State Budget and Management to monitor the Executive Administrator and Board of~~  
19 ~~Trustees, the Claims Processor, and the Comprehensive Major Medical Plan [State Health Plan~~  
20 ~~for Teachers and State Employees]. Employees authorized by the Legislative Services~~  
21 ~~Commission and the Director of the Budget to provide assistance to the Committee on~~  
22 ~~Employee Hospital and Medical Benefits and to the Director of the Budget shall comprise an~~  
23 ~~oversight team.~~

24 (b) ~~The oversight team shall, jointly or individually, Director of the Budget and~~  
25 ~~Commissioner of Insurance shall~~ have access to all records of the Board of Trustees, the  
26 Executive Administrator, the Claims Processor, and the Plan. ~~The oversight team shall, jointly~~  
27 ~~or individually, Director of the Budget and Commissioner of Insurance shall~~ be entitled to  
28 attend all meetings of the Board of Trustees.

29 (c) ~~The oversight team shall report to the Committee on Employee Hospital and~~  
30 ~~Medical Benefits when requested by the Committee."~~

31 **SECTION 7.** G.S. 135-43.6 reads as rewritten:

32 "**§ 135-43.6. Reports to the General Assembly.**

33 The Executive Administrator and Board of Trustees shall report to the General Assembly at  
34 such times and in such forms as shall be designated by ~~the Committee on Employee Hospital~~  
35 ~~and Medical Benefits.~~ the President of the Senate, the President Pro Tempore of the Senate, and  
36 the Speaker of the House of Representatives."

37 **SECTION 8.** G.S. 135-44.2(b) reads as rewritten:

38 "**§ 135-44.2. Executive Administrator.**

39 (b) The Executive Administrator shall be appointed by the ~~State Health Plan~~  
40 ~~Administrative Commission.~~ Commissioner of Insurance. The term of employment and salary  
41 of the Executive Administrator shall be set by the ~~State Health Plan Administrative~~  
42 ~~Commission~~ Commissioner of Insurance upon the advice of ~~an executive committee of the~~  
43 ~~Committee on Employee Hospital and Medical Benefits.~~ State Health Plan Administrative  
44 Commission.

45 The Executive Administrator may be removed from office by the ~~State Health Plan~~  
46 ~~Administrative Commission,~~ Commissioner of Insurance, upon the advice of ~~an executive~~  
47 ~~committee of the Committee on Employee Hospital and Medical Benefits,~~ the State Health Plan  
48 Administrative Commission, and any vacancy in the office of Executive Administrator may be  
49 filled by the ~~State Health Plan Administrative Commission~~ Commissioner of Insurance with  
50 the term of employment and salary set upon the advice of ~~an executive committee of the~~

1 ~~Committee on Employee Hospital and Medical Benefits. the State Health Plan Administrative~~  
2 ~~Commission."~~

3 **SECTION 9.** G.S. 135-44.7(a) reads as rewritten:

4 "**§ 135-44.7. Administrative review.**

5 (a) If, after exhaustion of internal appeal handling as outlined in the contract with the  
6 Claims Processor any person is aggrieved, the Claims Processor shall bring the matter to the  
7 attention of the Executive Administrator and Board of Trustees, which shall promptly decide  
8 whether the subject matter of the appeal is a determination subject to external review under Part  
9 4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board  
10 of Trustees shall inform the aggrieved person and the aggrieved person's provider of the  
11 decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal  
12 that decision as provided in this subsection. If the Executive Administrator and Board of  
13 Trustees decide that the subject matter of the appeal is not a determination subject to external  
14 review, then the Executive Administrator and Board of Trustees may make a binding decision  
15 on the matter in accordance with procedures established by the Executive Administrator and  
16 Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written  
17 summary of the decisions made pursuant to this section to all employing units, all health benefit  
18 representatives, the oversight ~~team~~ agencies provided for in G.S. 135-43.3, all relevant health  
19 care providers affected by a decision, and to any other parties requesting a written summary  
20 and approved by the Executive Administrator and Board of Trustees to receive a summary  
21 immediately following the issuance of a decision. A decision by the Executive Administrator  
22 and Board of Trustees that a matter raised on internal appeal is a determination subject to  
23 external review as provided in subsection (b) of this section may be contested by the aggrieved  
24 person under Chapter 150B of the General Statutes. The person contesting the decision may  
25 proceed with external review pending a decision in the contested case under Chapter 150B of  
26 the General Statutes."

27 **SECTION 10.** G.S. 135-44.8 reads as rewritten:

28 "**§ 135-44.8. Rules.**

29 The Executive Administrator and Board of Trustees may adopt rules in consultation with  
30 the Commissioner of Insurance to implement Parts 2, 3, 4, and 5 of this Article. The Executive  
31 Administrator and Board of Trustees shall provide to all employing units, all health benefit  
32 representatives, the oversight ~~team~~ agencies provided for in G.S. 135-43.3, all relevant health  
33 care providers affected by a rule, and to any other persons requesting a written description and  
34 approved by the Executive Administrator and Board of Trustees written notice and an  
35 opportunity to comment not later than 30 days prior to adopting, amending, or rescinding a  
36 rule, unless immediate adoption of the rule without notice is necessary in order to fully  
37 effectuate the purpose of the rule. Rules of the Board of Trustees shall remain in effect until  
38 amended or repealed by the Executive Administrator and Board of Trustees. The Executive  
39 Administrator and Board of Trustees shall provide a written description of the rules adopted  
40 under this section to all employing units, all health benefit representatives, the oversight ~~team~~  
41 agencies provided for in G.S. 135-43.3, all relevant health care providers affected by a rule, and  
42 to any other persons requesting a written description and approved by the Executive  
43 Administrator and Board of Trustees on a timely basis. Rules adopted by the Executive  
44 Administrator and Board of Trustees to implement this Article are not subject to Article 2A of  
45 Chapter 150B of the General Statutes."

46 **SECTION 11.** This act becomes effective July 1, 2011.