

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 70  
Committee Substitute Favorable 3/12/19

Short Title: Delay NC HealthConnex for Certain Providers.

(Public)

Sponsors:

Referred to:

February 14, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT EXTENDING THE DEADLINES BY WHICH CERTAIN PROVIDERS ARE  
3 REQUIRED TO CONNECT TO AND PARTICIPATE IN NORTH CAROLINA'S  
4 HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS NC  
5 HEALTHCONNEX AND EXPANDING THE MEMBERSHIP OF THE NORTH  
6 CAROLINA HEALTH INFORMATION EXCHANGE ADVISORY BOARD.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 90-414.4 reads as rewritten:

9 **"§ 90-414.4. Required participation in HIE Network for some providers.**

10 (a) Findings. – The General Assembly makes the following findings:

11 (1) That controlling escalating health care costs of the Medicaid program and  
12 other State-funded health services is of significant importance to the State, its  
13 taxpayers, its Medicaid recipients, and other recipients of State-funded health  
14 services.

15 (2) That the State ~~needs and covered entities in North Carolina need~~ timely access  
16 to certain demographic and clinical information pertaining to services  
17 rendered to Medicaid and other State-funded health care program  
18 beneficiaries and paid for with Medicaid or other State-funded health care  
19 funds in order to assess performance, improve health care outcomes, pinpoint  
20 medical expense trends, identify beneficiary health risks, and evaluate how  
21 the State is spending money on Medicaid and other State-funded health  
22 services.

23 (3) That making demographic and clinical information available to the State and  
24 covered entities in North Carolina by secure electronic means as set forth in  
25 subsection (b) of this section ~~will, with respect to Medicaid and other~~  
26 ~~State-funded health care programs, will~~ improve care coordination within and  
27 across health systems, increase care quality for such beneficiaries, enable  
28 more effective population health management, reduce duplication of medical  
29 services, augment syndromic surveillance, allow more accurate measurement  
30 of care services and outcomes, increase strategic knowledge about the health  
31 of the population, and facilitate health care cost containment.

32 (a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of  
33 the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to  
34 the HIE Network and begin submitting data through the HIE Network pertaining to services  
35 rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries



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1 and paid for with Medicaid or other State-funded health care funds in accordance with the  
2 following time line:

3 (1) The following providers of Medicaid services licensed to operate in the State  
4 that have an electronic health record system shall begin ~~submitting~~ submitting,  
5 at a minimum, demographic and clinical data by June 1, 2018:

6 a. Hospitals as defined in G.S. 131E-176(13).

7 b. Physicians licensed to practice under Article 1 of Chapter 90 of the  
8 General ~~Statutes~~ Statutes, except for licensed physicians whose  
9 primary area of practice is psychiatry.

10 c. Physician assistants as defined in 21 NCAC 32S.0201.

11 d. Nurse practitioners as defined in 21 NCAC 36.0801.

12 (2) Except as provided in subdivisions (3), (4), ~~and (5)-(5)~~, and ~~(6)~~ of this  
13 subsection, all other providers of Medicaid and State-funded health care  
14 services shall begin submitting demographic and clinical data by June 1,  
15 ~~2019~~ 2020.

16 (3) The following entities shall submit encounter and claims data, as appropriate,  
17 in accordance with the following time line:

18 a. Prepaid Health Plans, as defined in S.L. 2015-245, by the  
19 commencement date of a capitated contract with the Division of  
20 Health Benefits for the delivery of Medicaid and NC Health Choice  
21 services as specified in S.L. 2015-245.

22 b. Local management entities/managed care organizations, as defined in  
23 G.S. 122C-3, by June 1, 2020.

24 (4) The following entities shall begin submitting demographic and clinical data  
25 by June 1, 2021:

26 a. Ambulatory surgical centers as defined in G.S. 131E-146.

27 b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.

28 c. Licensed physicians whose primary area of practice is psychiatry.

29 (5) The following entities shall begin submitting claims data by June 1, 2021:

30 a. Pharmacies registered with the North Carolina Board of Pharmacy  
31 under Article 4A of Chapter 90 of the General Statutes.

32 b. Reserved for future codification.

33 (6) Upon implementation of an electronic health record system or other  
34 technology solution enabling connectivity to the HIE Network, the following  
35 entities shall begin submitting demographic and clinical data by June 1 of the  
36 following fiscal year:

37 a. State health care facilities operated by the Secretary of the Department  
38 of Health and Human Services, including State psychiatric hospitals,  
39 developmental centers, alcohol and drug treatment centers,  
40 neuro-medical treatment centers, and the Whitaker Psychiatric  
41 Treatment Facility.

42 b. The State Laboratory of Public Health operated by the Department of  
43 Health and Human Services.

44 (a2) Extensions of Time for Establishing Connection to the HIE Network. – The  
45 Department of Information Technology, in consultation with the Department of Health and  
46 Human Services, may establish a process to grant limited extensions of the time for providers  
47 and entities to connect to the HIE Network and begin submitting data as required by this section  
48 upon the request of a provider or entity that demonstrates an ongoing good-faith effort to take  
49 necessary steps to establish such connection and begin data submission as required by this  
50 section. The process for granting an extension of time must include a presentation by the provider  
51 or entity to the Department of Information Technology and the Department of Health and Human

1 Services on the expected time line for connecting to the HIE Network and commencing data  
2 submission as required by this section. Neither the Department of Information Technology nor  
3 the Department of Health and Human Services shall grant an extension of time (i) to any provider  
4 or entity that fails to provide this information to both Departments, (ii) that would result in the  
5 provider or entity connecting to the HIE Network and commencing data submission as required  
6 by this section later than June 1, 2020, 2021, or (iii) that would result in any provider or entity  
7 specified in subdivisions (4) and (5) of subsection (a1) of this section connecting to the HIE  
8 Network and commencing data submission as required by this section later than June 1, 2021.  
9 subdivision (6) of subsection (a1) of this section connecting to the HIE Network and commencing  
10 data submission later than the date specified in that subdivision. The Department of Information  
11 Technology shall consult with the Department of Health and Human Services to review and  
12 decide upon a request for an extension of time under this section within 30 days after receiving  
13 a request for an extension.

14 (a3) Exemptions from Connecting to the HIE Network. – The Department of Health and  
15 Human Services shall establish a process, in consultation with the Department of Information  
16 Technology, for the Department of Health and Human Services to grant exemptions to providers  
17 of Medicaid and other State-funded health care services for whom acquiring and implementing  
18 an electronic health record system and connecting to the HIE Network as required by this section  
19 would constitute an undue hardship. In determining whether to grant a hardship exemption, the  
20 Department may consider, without limitation, the following: (i) a provider's impending  
21 retirement or closure; (ii) lack of access to affordable broadband capacity adequate to support  
22 implementation of electronic health record technology and connection to the HIE Network; (iii)  
23 lack of financial flexibility to acquire and implement health information technology solutions  
24 needed to connect to the HIE Network; and (iv) whether exclusion of the provider from Medicaid  
25 would result in a lack of access to care under the Department's network adequacy standards. The  
26 process for granting a hardship exception must include a written request by the provider to the  
27 Department setting forth the specific bases for, and nature of, the asserted undue hardship. The  
28 Department shall promptly notify the Department of Information Technology of providers  
29 granted hardship exemptions under the process established pursuant to this subsection.

30 ...

31 (e) Connection is Voluntary for Certain Providers. – Notwithstanding the mandatory  
32 connection and data submission requirements in subsections (a1) and (b), respectively, the  
33 following providers who provide services to Medicaid and other State-funded health care  
34 program beneficiaries and who receive Medicaid or other State funds are not required to connect  
35 to the HIE Network or submit data. They may connect to the HIE Network and submit data  
36 voluntarily:

- 37 (1) Respiratory, rehabilitative, restorative, assistive technology, and intellectual  
38 and developmental disability service providers.
- 39 (2) Durable medical equipment providers.
- 40 (3) Personal care, community alternatives programs, including CAP/C and  
41 Innovations, private duty nursing, and Program of All-Inclusive Care for the  
42 Elderly (PACE) service providers.
- 43 (4) Home health providers.
- 44 (5) School-based health providers, Children's Developmental Services Agencies,  
45 NC Infant-Toddler Program service providers, and providers of the residential  
46 behavioral health program for children operated by the Secretary of the  
47 Department of Health and Human Services at Wright School.
- 48 (6) Speech, language, and hearing service providers.
- 49 (7) Hospice service providers.
- 50 (8) Respite care service providers.
- 51 (9) Non-emergency medical transportation services.

1           (10) Occupational and physical therapy service providers.  
 2           (f) Confidentiality of Data. – All data submitted to or through the HIE Network  
 3 containing protected health information or personally identifying information that are in the  
 4 possession of the Department of Information Technology or other agency of the State shall be  
 5 confidential and shall not be public records pursuant to G.S. 132-1."

6           **SECTION 2.** G.S. 90-414.8 reads as rewritten:

7 **"§ 90-414.8. North Carolina Health Information Exchange Advisory Board.**

8           (a) **Creation and Membership.** – There is hereby established the North Carolina Health  
 9 Information Exchange Advisory Board within the Department of Information Technology. The  
 10 Advisory Board shall consist of the following ~~12-14~~ members:

11           (1) The following ~~four~~ five members appointed by the President Pro Tempore of  
 12 the Senate:

- 13           a. A licensed physician in good standing and actively practicing in a  
 14 medical specialty in this State.
- 15           b. A patient representative.
- 16           c. An individual with technical expertise in health data analytics.
- 17           d. A representative of a behavioral health provider.
- 18           e. A representative of a payor.

19           (2) The following ~~four~~ five members appointed by the Speaker of the House of  
 20 Representatives:

- 21           a. A representative of a critical access hospital.
- 22           b. A representative of a federally qualified health center.
- 23           c. An individual with technical expertise in health information  
 24 technology.
- 25           d. A representative of a health system or integrated delivery network.
- 26           e. A licensed independent primary care physician in good standing and  
 27 actively practicing in this State.

28           (3) The following ~~three~~ four ex officio, ~~nonvoting~~ voting members:

- 29           a. The State Chief Information Officer or a designee.
- 30           b. The Director of GDAC or a designee.
- 31           c. The Secretary of Health and Human Services, or a designee.
- 32           d. The Executive Administrator of the State Health Plan for Teachers and  
 33 State Employees, or a designee.

34           (4) The following ex officio, voting member:

- 35           a. ~~The Executive Administrator of the State Health Plan for Teachers and~~  
 36 ~~State Employees, or a designee.~~

37           ...."

38           **SECTION 3.** G.S. 90-414.10 reads as rewritten:

39 **"§ 90-414.10. Continuing right to opt out; effect of opt out.**

40           ...

41           (d) Except as otherwise permitted in ~~G.S. 90-414.9(a)(3), G.S. 90-414.11(a)(3), or as~~  
 42 required by law, the protected health information of an individual who has exercised the right to  
 43 opt out may not be made accessible or disclosed to covered entities or any other person or entity  
 44 through the HIE Network for any purpose.

45           ...."

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