

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 226

Short Title: Amend HIE Mandatory Particip. & Enforcement. (Public)

Sponsors: Senators Krawiec, Burgin, and Perry (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 11, 2021

A BILL TO BE ENTITLED
AN ACT EXTENDING THE DEADLINES FOR MANDATORY PARTICIPATION IN THE
STATEWIDE HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS NC
HEALTHCONNEX FOR CERTAIN PROVIDERS AND ENTITIES; AND
ESTABLISHING A CIVIL PENALTY AS AN ENFORCEMENT MECHANISM FOR
MANDATORY PARTICIPATION.

The General Assembly of North Carolina enacts:

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

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

...

(a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to the HIE Network and begin submitting data through the HIE Network pertaining to services rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds in accordance with the following time line:

...

(2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other providers of Medicaid and State-funded health care services shall begin submitting demographic and clinical data by ~~October 1, 2021~~October 1, 2022.

...

(4) The following entities shall begin submitting demographic and clinical data by ~~June 1, 2021~~June 1, 2022:

- a. Ambulatory surgical centers as defined in G.S. 131E-146.
- b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.
- c. Licensed physicians whose primary area of practice is psychiatry.
- d. The State Laboratory of Public Health operated by the Department of Health and Human Services.

(5) The following entities shall begin submitting claims data by ~~June 1, 2021~~June 1, 2022:

- a. Pharmacies registered with the North Carolina Board of Pharmacy under Article 4A of Chapter 90 of the General Statutes.
- b. State health care facilities operated under the jurisdiction of the Secretary of the Department of Health and Human Services, including State psychiatric hospitals, developmental centers, alcohol and drug treatment centers, neuro-medical treatment centers, and residential



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1 programs for children such as the Wright School and the Whitaker
2 Psychiatric Residential Treatment Facility.

3 (a2) Extensions of Time for Establishing Connection to the HIE Network. – The
4 Department of Information Technology, in consultation with the Department of Health and
5 Human Services and the State Health Plan for Teachers and State Employees, may establish a
6 process to grant limited extensions of the time for providers and entities to connect to the HIE
7 Network and begin submitting data as required by this section upon the request of a provider or
8 entity that demonstrates an ongoing good-faith effort to take necessary steps to establish such
9 connection and begin data submission as required by this section. The process for granting an
10 extension of time must include a presentation by the provider or entity to the Department of
11 Information Technology, the Department of Health and Human Services, and the State Health
12 Plan for Teachers and State Employees on the expected time line for connecting to the HIE
13 Network and commencing data submission as required by this section. Neither the Department
14 of Information Technology, the Department of Health and Human Services, nor the State Health
15 Plan for Teachers and State Employees shall grant an extension of time (i) to any provider or
16 entity that fails to provide this information to both Departments, and the State Health Plan for
17 Teachers and State Employees, (ii) that would result in the provider or entity connecting to the
18 HIE Network and commencing data submission as required by this section later than June 1,
19 2020, or (iii) that would result in any provider or entity specified in subdivisions (4) and (5) of
20 subsection (a1) of this section connecting to the HIE Network and commencing data submission
21 as required by this section later than June 1, 2022. The Department of Information Technology
22 shall consult with the Department of Health and Human Services and the State Health Plan for
23 Teachers and State Employees to review and decide upon a request for an extension of time under
24 this section within 30 days after receiving a request for an extension.

25 (a3) Exemptions from Connecting to the HIE Network. – The Secretary of Health and
26 Human Services, or the Secretary's designee, shall have the authority to grant exemptions to
27 classes of providers of Medicaid and other State-funded health care services for whom acquiring
28 and implementing an electronic health record system and connecting to the HIE Network as
29 required by this section would constitute an undue hardship. The Secretary, or the Secretary's
30 designee, shall promptly notify the Department of Information Technology of classes of
31 providers granted hardship exemptions under this subsection. Neither the Secretary nor the
32 Secretary's designee shall grant any hardship exemption that would result in any class of provider
33 connecting to the HIE Network and submitting data later than December 31, 2022.

34 (b) Mandatory Submission of Demographic and Clinical Data. – Notwithstanding the
35 voluntary nature of the HIE Network under G.S. 90-414.2 and, except as otherwise provided in
36 subsection (c) of this section, as a condition of receiving State funds, including Medicaid funds,
37 the following entities shall submit at least twice daily, through the HIE network, demographic
38 and clinical information pertaining to services rendered to Medicaid and other State-funded
39 health care program beneficiaries and paid for with Medicaid or other State-funded health care
40 funds, solely for the purposes set forth in subsection (a) of this section:

- 41 (1) Each hospital, as defined in G.S. 131E-176(13) that has an electronic health
42 record system.
- 43 (2) Each Medicaid provider.
- 44 (3) Each provider that receives State funds for the provision of health services.
- 45 (4) Each local management entity/managed care organization, as defined in
46 G.S. 122C-3.

47 (b1) The HIE Authority shall assess a civil penalty to any provider or entity that fails to
48 connect to the HIE Network and submit demographic and clinical data information through the
49 HIE Network as required under subsection (b) of this section. The amount of the civil penalty
50 shall not exceed ten dollars (\$10.00) per claim that the provider or entity fails to submit through
51 the HIE Network during any period of noncompliance with the requirements of subsection (b) of

1 this section. The clear proceeds of civil penalties assessed pursuant to this subsection shall be
2 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Within
3 30 days after receiving a notice of civil penalty assessment under this subsection, a provider or
4 entity shall do one of the following:

5 (1) Pay the full amount of the civil penalty.

6 (2) Contact the HIE Authority and execute a participation agreement.

7 (3) Contact the Department of Information Technology to request an exemption
8 under subsection (a2) of this section or contact the Department of Health and
9 Human Services to request a hardship extension under subsection (a3) of this
10 section.

11 (4) File a petition for a contested case with the Office of Administrative Hearings.

12 (b2) Chapter 150B of the General Statutes applies to proceedings for the assessment of
13 civil penalties under subsection (b1) of this section. If an entity or provider assessed a civil
14 penalty under subsection (b1) of this section fails to take any of the actions listed in subdivisions
15 (1) through (4) of subsection (b1) of this section within 30 days after receiving a notice of civil
16 penalty assessment, or if an entity or provider fails to pay the civil penalty to the HIE Authority
17 within 30 days after a final decision affirming the civil penalty, then the HIE Authority may
18 institute an action in the superior court of the county in which the entity or provider has a principal
19 place of business to recover the unpaid amount of the civil penalty. An action to recover a civil
20 penalty under this subsection does not relieve any party from any other penalty prescribed by
21 law.

22"

23 **SECTION 2.** G.S. 90-414.7(b) is amended by adding a new subdivision to read:

24 "(18) Assess civil penalties, as provided in subsection (b1) of G.S. 90-414.4, against
25 entities and providers that fail to connect to the HIE Network and submit
26 required demographic and clinical information."

27 **SECTION 3.** This act becomes effective October 1, 2021, and applies to violations
28 of G.S. 90-414.4 occurring on or after that date.