

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 968
SENATE BILL 679

AN ACT TO REQUIRE THAT A RECIPIENT OF A CON FOLLOW THE
PROJECTIONS OF ITS APPLICATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-181 is amended by delineating present G.S. 131E-181 as subsection "(a)" and adding a new subsection "(b)" to read as follows:

"(b) A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need. The Department may by rule require any recipient of a certificate of need, or its successor, whose service is in operation to submit to the Department evidence that the recipient, or its successor, is in material compliance with the representations made in its application for the certificate of need which granted the recipient the right to operate that service. The Secretary is authorized to adopt, amend, and repeal rules to administer this subsection. In determining whether the recipient of a certificate of need, or its successor, is operating a service which materially differs from the representations made in its application for that certificate of need, the court shall consider cost increases to the recipient, or its successor, including, but not limited to, the following:

- (1) any increase in the consumer price index;
- (2) any increased cost incurred because of Government requirements, including federal, State, or any political subdivision thereof; and
- (3) any increase in cost due to professional fees or the purchase of services and supplies."

Sec. 2. G.S. 131E-190 is amended by adding the following subsection:

"(i) If the Department determines that the recipient of a certificate of need, or its successor, is operating a service which materially differs from the representations made in its application for that certificate of need, the Department may bring action in Wake County Superior Court or the Superior Court of any county in which the certificate of need is to be utilized for injunctive relief, temporary or permanent, requiring the recipient, or its successor, to materially comply with the representations in its application. The Department may also bring action in Wake County Superior Court or the Superior Court of any county in which the certificate of need is to be utilized to enforce the provisions of this act and the regulations adopted in accordance with this act."

Sec. 3. This act is effective upon ratification and applies to all awards made after the ratification date.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.