

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 2
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Short Title: Managed Competition Act.

(Public)

Sponsors: Senators Daniel; Perdue and Tally.

Referred to: Insurance.

January 28, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA MANAGED COMPETITION
3 HEALTH CARE REFORM ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 58 of the General Statutes is amended by adding the
6 following new Article to read:

7 **"ARTICLE 68A.**

8 **"MANAGED COMPETITION HEALTH CARE REFORM ACT.**

9 **"§ 58-68-21. Short title; legislative findings and intent.**

10 (a) This Article shall be known as the North Carolina Managed Competition
11 Health Care Reform Act.

12 (b) The General Assembly makes the following findings:

13 (1) More than 1,000,000 North Carolina citizens are uninsured on an
14 average day, and an additional number are underinsured.

15 (2) North Carolina citizens who are uninsured and underinsured lack
16 access or have limited access to health care, especially to cost-effective
17 primary and preventive care, which may result in poor health, illness,
18 and death.

19 (3) The health care received by uninsured and underinsured individuals is
20 obtained primarily through public programs, and is financed by cost
21 shifting which places an unfair financial burden on those who can pay,
22 especially on employers who provide health care coverage for their
23 employees.

1 (4) Health care costs in North Carolina and nationwide are rising much
2 more rapidly than incomes and the disparity will continue to grow over
3 time unless health care reform is enacted.

4 (5) The increasing numbers of uninsured and underinsured individuals in
5 North Carolina and the escalating costs of health care are so
6 interrelated that it is not possible to guarantee access to health care for
7 all North Carolina citizens without containing health care costs.

8 (c) The General Assembly concludes from these findings that in order to provide
9 access and contain costs it is necessary to restructure the financing and delivery of
10 health care in this State. It is the intent of the General Assembly to:

11 (1) Implement by July 1, 1998, a universal health care program by which
12 all North Carolina residents will have access to health care that is
13 comprehensive and affordable; and

14 (2) Establish a commission to develop and implement the universal health
15 care program.

16 **"§ 58-68-22. Definitions.**

17 As used in this Article, unless the context clearly requires otherwise, the following
18 definitions apply:

19 (1) 'Accountable health plan' means any privately administered health
20 service plan or any other mode of delivery of health care that is
21 certified by a regional health plan purchasing cooperative and that
22 provides health care services to eligible residents in exchange for a
23 prescribed charge paid pursuant to the program of universal health
24 coverage established by this Article.

25 (2) 'Commission' means the North Carolina Health Plan Commission
26 established pursuant to Article 63 of Chapter 143 of the General
27 Statutes.

28 (3) 'Eligible resident' means an individual who has been legally domiciled
29 in this State for a period of 30 days. For purposes of this Article, legal
30 domicile is established by living in this State and obtaining a North
31 Carolina motor vehicle operator's license, registering to vote in North
32 Carolina, or filing a North Carolina income tax return. A child is
33 legally domiciled in this State if the child lives in this State and if at
34 least one of the child's parents or the child's guardian is legally
35 domiciled in this State for a period of 30 days. A person with a
36 developmental disability or another disability which prevents the
37 person from obtaining a North Carolina motor vehicle operator's
38 license, registering to vote in North Carolina, or filing a North
39 Carolina income tax return, is legally domiciled in this State by living
40 in the State for 30 days.

41 (4) 'Federal poverty income level' means the federal official poverty line,
42 as defined by the Federal Office of Management and Budget, based on
43 Bureau of Census data, and revised annually by the Secretary of

1 Health and Human Services pursuant to section 9902(2) of Title 42 of
2 the United States Code.

3 (5) 'Plan' means the North Carolina Managed Competition Health Plan
4 described in this Article.

5 (6) 'Regional health plan purchasing cooperative' means an organization
6 established to administer the Plan in a geographic area of the State.

7 **"§ 58-68-23. North Carolina Managed Competition Health Plan.**

8 The Commission shall design a plan for a system of universal health care coverage
9 to be known as the North Carolina Managed Competition Health Plan, which shall
10 provide the following:

11 (a) All eligible residents shall be eligible for the same guaranteed package of
12 comprehensive, medically necessary health care services, including primary and
13 preventive care, provided through accountable health plans that must accept all eligible
14 residents regardless of health status, and without individual medical underwriting,
15 preexisting condition exclusions, or waiting periods.

16 (b) Financing for the Plan may include, but not be limited to, graduated, payroll-
17 based assessments on employers, employees, and self-employed individuals, taxes on
18 unearned income, sales tax, or other State revenues.

19 (c) Costs shall be contained by encouraging competition among private health
20 plans on the basis of price and quality, reducing administrative costs, providing
21 incentives for health care providers to participate in managed care systems, ensuring
22 appropriate growth in medical technology, and through any other methods that will
23 contain health care costs without impairing the quality of services.

24 (d) The initial benefit package developed by the Commission shall be similar to
25 the most commonly purchased Health Maintenance Organization (HMO) benefit
26 package in the State. The Commission's benefit package shall include patient cost-
27 sharing, except there shall be full coverage with no deductible and no copayments for
28 prenatal care, well child care, periodic physical examinations, and other health
29 screenings and services as recommended by the U.S. Preventive Services Task Force
30 'Guide to Clinical Preventive Services'. Cost-sharing for eligible residents below one
31 hundred percent (100%) of the federal poverty income level shall not exceed Medicaid-
32 allowable amounts. Cost-sharing for eligible residents between one hundred percent
33 (100%) and two hundred fifty percent (250%) of poverty shall be based on a sliding
34 scale. The Commission shall develop maximum out-of-pocket limits.

35 (e) The Plan shall be administered through regional health plan purchasing
36 cooperatives which shall:

37 (1) Certify private health plans as accountable health plans for
38 participation in the system of universal health coverage on the basis of
39 ability to deliver the State-guaranteed package of comprehensive,
40 medically necessary health services in accordance with criteria defined
41 by the Commission for quality and service.

42 (2) Pay each accountable health plan the same, risk-adjusted per capita
43 amount for all eligible persons, except that the Commission shall have
44 the authority to ensure accessibility to health care in rural and

1 medically underserved areas by enhancing provider payments,
2 requiring an accountable health plan to provide services throughout the
3 area, or by any other reasonable means;

4 (3) Ensure that no accountable health plan that charges an additional
5 premium shall charge an eligible resident a higher premium than that
6 charged to any other eligible resident for the same accountable health
7 plan;

8 (4) Except in underserved areas in which the regional health plan
9 purchasing cooperative determines that there are insufficient providers
10 to support more than one accountable health plan, ensure that all
11 eligible residents have a choice of at least two accountable health plans
12 that will provide the State-guaranteed package of comprehensive,
13 medically necessary health services for no additional premium above
14 that paid on their behalf by the regional health plan purchasing
15 cooperative.

16 (5) Assist eligible residents in choosing among accountable health plans
17 by providing consumer education, including uniform information
18 about all the accountable health plans available through the health plan
19 purchasing cooperative such as quality indicators and choice of
20 providers.

21 (6) Provide a mechanism for enrolling all eligible residents in their chosen
22 accountable health plans and for automatically enrolling in an
23 accountable health plan all eligible residents who fail to choose such a
24 plan.

25 (7) Monitor and enforce standards concerning access, consumer
26 satisfaction, and quality of care in all accountable health plans.

27 (8) Jointly with the Commission and the North Carolina Medical Database
28 Commission, collect data from all accountable health plans and
29 sponsor research into health outcomes and practice guidelines.

30 (9) Jointly with the Commission and where necessary to meet the needs of
31 underserved areas or special populations, organize the delivery of
32 health care.

33 (10) Receive bids annually from private health plans to provide the benefit
34 package established by the Commission to enrolled eligible residents.
35 A health plan purchasing cooperative may reject any or all bids, and
36 may request that revised bids be submitted."

37 Sec. 2. Chapter 143 of the General Statutes is amended by adding the
38 following new Article to read:

39 **"ARTICLE 64.**

40 **"NORTH CAROLINA HEALTH PLAN COMMISSION.**

41 **"§ 143-590. Definitions.**

42 As used in this Article, unless the context clearly requires otherwise, the following
43 definitions apply:

- 1 (1) 'Accountable health plan' means any privately administered health
2 service plan or any other mode of delivery of health care that is
3 certified by a regional health plan purchasing cooperative and that
4 provides health care services to eligible residents in exchange for a
5 prescribed charge paid pursuant to the program of universal health
6 coverage established by this Article.
- 7 (2) 'Commission' means the North Carolina Health Plan Commission
8 established pursuant to Article 63 of Chapter 143 of the General
9 Statutes.
- 10 (3) 'Eligible resident' means an individual who has been legally domiciled
11 in this State for a period of 30 days. For purposes of this Article, legal
12 domicile is established by living in this State and obtaining a North
13 Carolina motor vehicle operator's license, registering to vote in North
14 Carolina, or filing a North Carolina income tax return. A child is
15 legally domiciled in this State if the child lives in this State and if at
16 least one of the child's parents or the child's guardian is legally
17 domiciled in this State for 30 days. A person with a developmental
18 disability or another disability which prevents the person from
19 obtaining a North Carolina motor vehicle operator's license, registering
20 to vote in North Carolina, or filing a North Carolina income tax return,
21 is legally domiciled in this State by living in this State for 30 days.
- 22 (4) 'Federal poverty income level' means the federal official poverty line,
23 as defined by the Federal Office of Management and Budget, based on
24 Bureau of Census data, and revised annually by the Secretary of
25 Health and Human Services pursuant to section 9902(2) of Title 42 of
26 the United States Code.
- 27 (5) 'Plan' means the North Carolina Managed Competition Health Plan
28 described in Article 68A of Chapter 58 of the General Statutes.
- 29 (6) 'Regional health plan purchasing cooperative' means an organization
30 established to administer the Plan in a geographic area of the State.

31 **"§ 143-591. North Carolina Health Plan Commission established; members, terms**
32 **of office, quorum, compensation.**

33 (a) There is established the North Carolina Health Plan Commission with the
34 powers and duties specified in this Article, including the power to adopt, amend, and
35 repeal rules necessary to carry out this Article. The Commission shall be a commission
36 within the Department of Insurance for organizational, budgetary, and administrative
37 purposes only. The Commission shall be responsible for the development,
38 implementation, and administration of the North Carolina Managed Competition Health
39 Care Reform Act in accordance with this Article.

40 (b) The Commission shall consist of seven members appointed by the Governor
41 subject to confirmation by the General Assembly by joint resolution, with salaries to be
42 set by the General Assembly. The names of commission members to be appointed by
43 the Governor shall be submitted by the Governor to the General Assembly on or before

1 May 1 of the year in which the terms for which the appointments are to be made will
2 expire.

3 (c) No person may be appointed to or remain a member of the Commission if the
4 prospective appointee or member, or the spouse of the prospective appointee or
5 member, is associated with a health care business in either of the following ways:

6 (1) As a director, employee, officer, owner, or partner; or

7 (2) As a holder, either individually or collectively, of securities worth ten
8 thousand dollars (\$10,000) or more at fair market value as of
9 December 31 of the preceding year, or constituting five percent (5%)
10 or more of the outstanding stock of the business.

11 For purposes of this subsection, the term 'health care business'

12 (1) Does not include a widely held investment fund, regulated investment
13 company, or pension or deferred compensation plan if the prospective
14 appointee or member or spouse neither exercises nor has the ability to
15 exercise control over the financial interests held by the fund, and the
16 fund is publicly traded or the fund assets are widely diversified;

17 (2) Includes an association, corporation, enterprise, joint venture,
18 organization, partnership, proprietorship, trust, and every other
19 business interest that provides or insures human health care or that
20 depends upon a provider or insurer of human health care for twenty-
21 five percent (25%) or more of its annual income.

22 (d) Terms. Members of the Commission shall serve for staggered six-year terms.
23 No member may be appointed to serve more than two consecutive terms. A member
24 whose term has expired may serve until his or her successor has been appointed. Initial
25 appointments shall be staggered as follows:

26 (1) Three of the appointees shall be appointed for a term of six years;

27 (2) Two of the appointees shall be appointed for a term of five years;

28 (3) Two of the appointees shall be appointed for a term of four years.

29 (e) Officers. The Commission shall have a chair and a vice-chair, which offices
30 shall be for a term of two years. The Commission shall elect the chair and vice-chair
31 from its membership.

32 (f) Meetings. Meetings shall be called by the chair or vice-chair. The
33 Commission shall meet as often as necessary, but at least six times a year.

34 (g) Quorum. Four members of the Commission shall constitute a quorum. The
35 affirmative vote of a majority of the members present at meetings of the Commission
36 shall be necessary for action to be taken by the Commission.

37 **"§ 143-592. Powers and duties of the Commission.**

38 The Commission shall have the following powers and duties:

39 (1) Employ such staff as it deems necessary and fix their compensation.
40 Staff employed by the Commission shall be subject to the State
41 Personnel System;

42 (2) Enter into contracts to carry out the purposes of this Article;

43 (3) Conduct investigations and inquiries and compel the submission of
44 information and records the Commission deems necessary;

- 1 (4) Adopt rules necessary for administration of the Plan;
- 2 (5) Develop the benefits to be included in the State-guaranteed package of
- 3 comprehensive medically necessary health services, using as a
- 4 reference the most commonly purchased health maintenance
- 5 organization benefit package in the State, and review those benefits
- 6 annually;
- 7 (6) Set annual budget targets;
- 8 (7) Investigate and implement annual cost-containment measures, within
- 9 the Commission's authority, to meet established annual budget targets;
- 10 (8) Obtain independent actuarial cost estimates for the recommended
- 11 benefit package;
- 12 (9) Recommend annually to the General Assembly the amount of any
- 13 appropriation needed to finance the Plan;
- 14 (10) Develop methodology to be used in making risk-adjusted payments to
- 15 the accountable health plans;
- 16 (11) Develop standards for eligibility for the Plan in addition to those
- 17 contained in G.S. 58-68-22(3) and G.S. 143-590(3);
- 18 (12) Establish one or more advisory panels as the Commission deems
- 19 appropriate for the effective and timely conduct of its duties;
- 20 (13) Appoint an executive director of the Plan who shall perform such
- 21 duties as the Commission may assign;
- 22 (14) Ensure accessibility to health care in rural and medically underserved
- 23 areas by enhancing provider payments, requiring an accountable health
- 24 plan to provide services throughout the area, or by any other
- 25 reasonable means;
- 26 (15) Ensure that supplemental health benefits are available to all eligible
- 27 residents including employees of business entities;
- 28 (16) Determine the economic impacts of implementing the Plan, including
- 29 overall costs to the State economy, costs to the State's business
- 30 economy, costs to the State, impact on future State economic
- 31 development, immediate effects on the job market in the State, and a
- 32 ten-year projection of these items if the Plan is not implemented;
- 33 (17) Study and make recommendations to the General Assembly
- 34 concerning the following:
 - 35 a. Options for financing the Plan;
 - 36 b. Legislation needed to finance the Plan;
 - 37 c. The number, organization, and geographic areas of the regional
 - 38 health plan purchasing cooperatives to be established;
 - 39 d. The steps necessary to include the populations served by
 - 40 Medicaid, including a statement of any necessary federal
 - 41 waivers;
 - 42 e. The steps necessary to obtain a waiver from the federal
 - 43 Employee Retirement and Income Security Act;

- 1 f. The steps necessary to include the North Carolina Teachers and
2 State Employees Health Plan, and to examine the roles of other
3 existing publicly financed systems of health coverage such as
4 Medicare, federal employee health benefits, health benefits for
5 armed services members, the Veterans Administration, the
6 CHAMPUS program (10 U.S.C. § 1071 et seq.), and any other
7 health benefits currently mandated by State or federal law or
8 funded by State agencies;
- 9 g. Whether existing retirement health benefits may be included in
10 the Plan;
- 11 h. The mechanisms for ensuring that all accountable health plans
12 available to eligible residents will provide appropriate access to
13 quality medical services;
- 14 i. The means by which the Plan will ensure that the needs of
15 special populations of eligible residents such as low-income
16 persons, people living in rural and underserved areas, and
17 people with disabilities and chronic or unusual medical needs
18 will be met;
- 19 j. The role of the existing county health care system;
- 20 k. Proposals for consolidation of the health care components of
21 workers' compensation and automobile insurance with the
22 health coverage provided under the Plan to avoid duplication of
23 coverage;
- 24 l. The appropriate means of financing medical education and
25 medical research;
- 26 m. The appropriate roles of the regional health plan purchasing
27 cooperatives and the Commission in collecting data for both
28 quality assurance and cost containment, and in guiding the
29 proliferation of new medical technologies;
- 30 n. Possible options for phasing in the Plan;
- 31 o. The means by which North Carolina's need for long-term care
32 services can best be met, including an examination of the
33 appropriateness and availability of home and community- based
34 services;
- 35 p. Whether medical malpractice tort reforms are needed, and, if
36 so, the tort reforms needed;
- 37 q. The development of medical practice parameters;
- 38 r. The need for rate-setting in areas where sufficient competition
39 does not exist;
- 40 s. The need for the collection of data prior to implementation of
41 the Plan and develop, if necessary, recommendations for the
42 collection of such data;
- 43 t. The impact of the Plan on small businesses and methods to
44 alleviate undue financial burdens on small businesses, including

1 but not limited to, a specified monthly level of payroll upon
2 which no assessment is made;

3 u. The possibility of utilizing licensed insurance agents and
4 producers in the enrollment, education, and provision of service
5 to eligible residents;

6 v. The need for and methods to accomplish global budgeting; and

7 w. Methods to ensure adequate primary care for all eligible
8 residents, and appropriate compensation for primary care
9 services to achieve that end.

10 **"§ 143-593. North Carolina Managed Competition Health Care Trust Fund.**

11 (a) Effective July 1, 1997, there is established in the State Treasurer's Office the
12 North Carolina Managed Competition Health Care Trust Fund which shall consist of the
13 following:

14 (1) All revenues collected from taxes and other sources enacted for the
15 purpose of funding the Plan.

16 (2) All federal payments received as a result of any waiver of
17 requirements granted by the United States Secretary of Health and
18 Human Services under health care programs established under Title
19 XIX of the Social Security Act, as amended; and

20 (3) All moneys appropriated by the North Carolina General Assembly for
21 carrying out the purposes of the Plan.

22 (b) Moneys shall be deposited to the Fund beginning with the 1997-98 fiscal
23 year.

24 (c) Revenues held in the Fund are not subject to appropriation or allotment by the
25 State or any political subdivision of the State.

26 (d) The State Treasurer shall administer and invest Fund moneys."

27 Sec. 3. As the first step in implementation of the Plan, the Commission shall,
28 on or before the first day of the 1993 General Assembly, Regular Session 1994, produce
29 and deliver to the President Pro Tempore of the Senate and the Speaker of the House of
30 Representatives a detailed report concerning implementation of the Plan. The report
31 shall contain the following:

32 (1) Detailed recommendations for the Plan's financing, including an
33 analysis of costs and financing options;

34 (2) The benefits to be included in the State-guaranteed set of
35 comprehensive, medically necessary health care services, using as a
36 reference the most commonly purchased Health Maintenance
37 Organization (HMO) benefit package in the State;

38 (3) Independent actuarial cost estimates for the benefit package;

39 (4) Standards for eligibility for the Plan;

40 (5) Detailed recommendations concerning the organization, number, and
41 geographic areas of the regional health plan purchasing cooperatives;
42 and

43 (6) Possible options for phasing in the Plan.

1 (7) Whether there is a need to begin immediate data collection and, if so,
2 the data needed and methods to begin data collection.

3 (8) The economic impacts of implementing the Plan including overall
4 costs to the State economy, costs to the State's business economy,
5 costs to the State, impact on future State economic development,
6 immediate effects on the job market in the State, and a ten-year
7 projection of these items if the Plan is not implemented.

8 Sec. 4. The Department of Insurance shall prepare and present for
9 consideration and action by the General Assembly all changes to Chapter 58, other than
10 Article 68A of that Chapter, necessary to make relevant sections of Chapter 58 conform
11 to and be consistent with the requirements of the North Carolina Managed Competition
12 Health Care Reform Act and amendments thereto. The Department shall present the
13 recommended changes to the General Assembly upon the convening of the next session
14 following the enactment of the North Carolina Managed Competition Health Care
15 Reform Act.

16 Sec. 5. The Executive Administrator and the Board of Trustees of the
17 Teachers' and State Employees' Comprehensive Major Medical Plan shall prepare and
18 present for consideration and action by the General Assembly all changes to Chapter
19 135 of the General Statutes necessary to make relevant sections to that Chapter conform
20 to and be consistent with the requirements of the North Carolina Managed Competition
21 Health Care Reform Act and amendments thereto. The Board shall present the
22 recommended changes to the General Assembly upon the convening of the next session
23 following the enactment of the North Carolina Managed Competition Health Care
24 Reform Act.

25 Sec. 6. There is appropriated from the General Fund to the Department of
26 Insurance the sum of one million five hundred thousand dollars (\$1,500,000) for the
27 1993-94 fiscal year and one million five hundred thousand dollars (\$1,500,000) for the
28 1994-95 fiscal year for allocation to the North Carolina Health Plan Commission to
29 carry out the purposes authorized under Section 2 of this act.

30 Sec. 7. Within 60 days of ratification of this act, the Governor shall make his
31 appointments to the North Carolina Health Plan Commission and the General Assembly
32 shall vote on the appointments.

33 Sec. 8. The provisions of this act are severable. If any provision of this act is
34 held invalid by a court of competent jurisdiction, the invalidity does not affect other
35 provisions of the act that can be given effect without the invalid provision.

36 Sec. 9. Section 1 of this act becomes effective, if and only if, specific funds
37 are made available for implementation of the Plan. Funds appropriated for the 1993-94
38 fiscal year or for any fiscal year in the future do not constitute an entitlement to services
39 beyond those provided for that fiscal year. Nothing in this act creates any right except
40 to the extent funds are made available by the General Assembly to implement its
41 provisions from year to year and nothing in this act obligates the General Assembly to
42 appropriate funds to implement its provisions. Section 6 becomes effective July 1,
43 1993. The remainder of this act is effective upon ratification.