

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** Senate Bill 396

**SHORT TITLE:** Physician Cooperation Act

**SPONSOR(S):** Senators Rand, Forrester, and Soles

**FISCAL IMPACT:**   **Expenditures:**    **Increase ( )**    **Decrease ( )**  
                  **Revenues:**           **Increase (X )**   **Decrease ( )**  
                  **No Impact (X)**  
                  **No Estimate Available ( )**

**NOTE:** The bill provides for application fees of up to \$15,000.

**FUNDS AFFECTED:** **General Fund (x)**   **Highway Fund ( )**   **Local Fund ( )**  
                          **Other Fund ( )**

**BILL SUMMARY:** Adds to GS Ch. 90 a new Article 1E, "Certificate of Public Advantage." Establishes regulatory program whereby physicians and others may enter into "cooperative agreements" (defined in the act) and apply to the Department of Human Resources for a certificate of public advantage governing that agreement. Parties to such an agreement may conduct business pursuant to it without being subject to state antitrust law if a certificate has been issued or, for activities to negotiate the agreement, if an application for a certificate is filed in good faith. Sets out standards by which the Department is to review applications and requires Department to conduct public hearings on applications and to make decisions on applications within 90 days unless that time is extended. Requires Department to issue certificate at the end of review period if it finds by clear and convincing evidence that the likely benefits of the agreement outweigh the likely disadvantages attributable to reduction of competition and if the Attorney General has not stated any objection to issuance of the certificate. Authorizes Department to include appropriate operating conditions in any certificate. Requires that copies of applications be submitted to the Attorney General, who may object to issuance of a certificate or extend the review period. If the Attorney General objects, no certificate is to be issued unless the objection is withdrawn. Requires parties to a cooperative agreement for which a certificate is issued to file every two years with the Department a report of activities pursuant to the agreement and specifies what the report must include. Requires notice in the North Carolina Register that such a report has been received and a 30-day period for public comment. Makes failure to file a required report or to provide requested information grounds for revocation of the certificate by the Attorney General or the Department. Requires Department to review certificates on the basis of the biennial reports and determine whether they should remain in effect, be changed, or be revoked. Provides that applicant or other aggrieved person may obtain judicial review in superior court of decision to issue or not to issue a certificate of

public advantage, but decision may be reversed only on court's finding that the determination of the Department or Attorney General was arbitrary or capricious. Authorizes Attorney General to bring suit in superior court in Wake County on behalf of the Department or itself to seek an order to authorize the cancellation of a certificate. Authorizes Department and Attorney General to establish and collect application filing fees not to exceed \$15,000 and report filing fees not to exceed \$2,500. Expresses General Assembly's intent that the Article conveys immunity from federal as well as state antitrust law for covered activities. Requires Department to report to the 1999 General Assembly on the effects of the act.

**EFFECTIVE DATE:** October 1, 1995

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Department of Human Resources (DHR) and the Attorney General's Office

**FISCAL IMPACT**

	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
<b>EXPENDITURES</b>					
<b>RECURRING</b>	-0-	-0-	-0-	-0-	-0-
<b>NON-RECURRING</b>					
<b>REVENUES/RECEIPTS</b>					
<b>RECURRING</b>					
<b>NON-RECURRING</b>					
<b>POSITIONS:</b>	-0-	-0-	-0-	-0-	-0-

**ASSUMPTIONS AND METHODOLOGY:** This bill extends an existing regulatory program to include a new category of health care providers (i.e., physicians). The bill's fee structure, criteria for approving the Certificate of Public Advantage, and reporting requirements are identical to existing law.

The administrative fee is intended to cover the costs of reviewing the application and issuing the Certificate of Public Advantage. Therefore, the Department of Human Resources and the Attorney General's Office will not require additional funding to comply with the proposed legislation.

**SOURCES OF DATA:** The Department of Human Resources and the Attorney General's Office

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

733-4910

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**APPROVED BY:** Tom Covington **tOMc**

**DATE:** April 11, 1995

[FRD#003]



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