

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 869

Short Title: Public Hospital Amendments.

(Public)

Sponsors: Representative Wright.

Referred to: Health.

March 23, 2005

A BILL TO BE ENTITLED
AN ACT TO CLARIFY AND AMEND THE CONFLICT OF INTEREST LAW FOR
PUBLIC HOSPITALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-14.2 reads as rewritten:

"§ 131E-14.2. Conflict of interest.

(a) No member of the board of directors or employee of a public hospital, as defined in G.S. 159-39(a), or that person's spouse shall do either of the following:

(1) Acquire any interest, direct or indirect, in any hospital facility or in any property included or planned to be included in a hospital facility.

(2) Have any direct interest ~~interest, direct or indirect~~, in any contract or proposed contract for materials or services to be furnished or used in connection with any hospital facility, except an employment contract for an employee. This restriction shall not apply to any contract, undertaking, or other transaction with a bank or banking institution, savings and loan association or public utility in the regular course of its business provided that the contract, undertaking, or other transaction shall be authorized by the board by specific resolution on which no director having ~~an interest, direct or indirect, shall vote.~~ direct interest shall vote.

(b) The fact that a person or that person's spouse owns ten percent (10%) or less stock of a corporation or has a ten percent (10%) or less ownership in any other business entity or is an employee of that corporation or other business entity does not make the person have ~~an "interest, direct or indirect"~~ a "direct interest" as this phrase is used in subsection (a) of this section; provided that, in order for the exception to apply, the contract, undertaking, or other transaction shall be authorized by the board of directors by specific resolution on which no director or employee having an interest, direct or indirect, shall vote.

1 (c) If a member of the board of directors or an employee of a public hospital or
2 that person's spouse owns or controls an interest, direct or indirect, in any property
3 included or planned to be included in any hospital facility, the member of the board of
4 directors or the employee shall immediately disclose the same in writing to the board
5 and the disclosure shall be entered upon the minutes of the board. Failure to disclose
6 shall constitute misconduct in office and shall be grounds for removal.

7 (c1) Subsection (a) of this section shall not apply if the director or employee is not
8 involved in making or administering the contract. A director or employee is involved in
9 administering a contract if the director or employee oversees the performance of or
10 interprets the contract. A director or employee is involved in making a contract if the
11 director or employee participates in the development of specifications or terms or in the
12 preparation or award of the contract. A director or employee is not involved in making
13 or administering a contract solely because of the performance of ministerial duties
14 related to the contract. A director is also involved in making a contract if the board of
15 directors takes action on the contract, whether or not the director actually participates in
16 that action, unless the contract is approved under an exception to this section under
17 which the director is allowed to benefit and is prohibited from voting.

18 (d) Subsection (a) of this section shall not apply to any member of the board of
19 directors of a public hospital if (i) the undertaking or contract or series of undertakings
20 or contracts between the public hospital and one of its officials is approved by specific
21 resolution of the ~~governing body board~~ adopted in an open and public meeting and
22 recorded in its ~~minutes~~ minutes; (ii) the official entering into the contract or undertaking
23 with the public hospital does not in an official capacity participate in any way or vote;
24 and (iii) the amount does not exceed twelve thousand five hundred dollars (\$12,500) for
25 medically related services and twenty-five thousand dollars (\$25,000) for other goods or
26 services within a 12-month period; and ~~(ii) the official entering into the contract or~~
27 ~~undertaking with the public hospital does not in an official capacity participate in any~~
28 ~~way or vote.~~ or the contract is for medically related services that are provided by a
29 director who serves on the board as an ex officio representative of the hospital medical
30 staff pursuant to a hospital bylaw adopted prior to January 1, 2005, or that are provided
31 by the spouse of that director.

32 (e) Subsection (a) of this section shall not apply to any employment relationship
33 between a public hospital and the spouse of a member of the board of directors of the
34 public hospital.

35 (f) A contract entered into in violation of this section is void. A contract that is
36 void under this section may continue in effect until an alternative can be arranged when:
37 (i) immediate termination would result in harm to the public health or welfare, and (ii)
38 the continuation is approved as provided in this subsection. A public hospital that is a
39 party to the contract may request approval to continue contracts under this subsection
40 from the chairman of the Local Government Commission. Approval of continuation of
41 contracts under this subsection shall be given for the minimum period necessary to
42 protect the public health or welfare."

43 **SECTION 2.** This act is effective when it becomes law.