AMENDED

April 28, 2010

**S. 1088**

Introduced by Senators Matthews, O’Dell, Jackson and Hutto

S. Printed 2/28/10--S.

Read the first time January 21, 2010.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑43‑70 SO AS TO DEFINE CERTAIN TERMS, AND TO PROVIDE FOR THE DISPENSING OF CERTAIN DRUGS OR DEVICES AT A FEDERALLY QUALIFIED HEALTH CENTER.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 43, Title 40 of the 1976 Code is amended by adding:

“Section 40‑43‑70. (A) For the purposes of this section:

(1) ‘Federally qualified health center’ or ‘FQHC’ means an entity funded by the Bureau of Primary Health Care (BPHC) under section 330 of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996.

(2) ‘Health center delivery site’ means a physical location where a licensed practitioner duly employed by or under contract with an FQHC provides primary and preventative health care services to patients of that FQHC. An FQHC may have multiple health center delivery sites.

(B)(1) This section does not prevent a licensed practitioner, as defined in Section 40‑43‑30(45), from dispensing a drug or device for a patient of a FQHC if:

(a) A drug dispensed by the FQHC is properly labeled in accordance with state and federal law.

(b) As it pertains to an FQHC without a retail pharmacy, the FQHC must obtain and maintain an FQHC permit as designated by this section; and

(i) monthly shall conduct and submit to the Board of Pharmacy self inspections and maintain written checklists that are readily available to the Board of Pharmacy for on‑site visits; and

(ii) designate a pharmacist duly licensed by and in good standing with the Board of Pharmacy as a consultant pharmacist to be responsible for the duties stated in this section at the FQHC permit holder’s location. A consultant pharmacist shall sign a new or renewal application along with the FQHC permit holder and agree in writing to assume the responsibilities of a consultant pharmacist. The consultant pharmacist shall perform and maintain written quarterly inspections that are readily available. The FQHC permit holder and consultant pharmacist shall notify the board in writing within ten days of a change of consultant pharmacist. A designation of an individual as a consultant pharmacist or delegation of duties to a consultant pharmacist by a holder of a FQHC permit may not relieve the permit holder of the FQHC permit holder’s duties under state or federal laws or regulations.

(2)(a) An FQHC that seeks to distribute prescription drugs through its affiliated health care delivery site must have a registered pharmacist or licensed practitioner on the premises of the site or seek to establish with a retail pharmacy operating within a seven‑mile radius of the site a collaborative agreement through which the pharmacy maintains an inventory of 340B drugs for the exclusive use of the site and has a registered pharmacist on premises to fill all 340B prescriptions distributed through the site.

(b) If the FQHC is unsuccessful in establishing this collaborative agreement or no retail pharmacy operates within a seven‑mile radius of the site, the FQHC may certify in a notarized, signed affidavit to the Board of Pharmacy that it contacted every retail pharmacy within a seven‑mile radius of its affiliated health care delivery site in an attempt to establish a collaborative agreement and none of these pharmacies were willing to enter this agreement or that no retail pharmacy operates within a seven‑mile radius of the site. Upon receipt of this affidavit, the board shall issue a permit as provided in item 1 of this subsection to enable the FQHC to distribute prescription drugs from the 340B inventory of a retail pharmacy located more than seven miles from the affiliated health care delivery site, including another pharmacy operated by the FQHC.

(c) This subsection does not apply to an FQHC’s affiliated health care delivery site that distributes prescription drugs on the effective date of this section.

(3) As it pertains to an FQHC with a permitted retail pharmacy:

(a) the FQHC’s retail pharmacy must be permitted pursuant to Section 40‑43‑83;

(b) the FQHC must obtain and maintain a FQHC permit for its affiliated health center delivery sites without an on‑site pharmacy, and

(i) those affiliated delivery sites will be subject to the inspection requirements outlined in item (2) of this subsection; and

(ii) the FQHC pharmacist may serve as the consultant pharmacist for the FQHC’s affiliated delivery sites.

(c) with prior approval of the Board of Pharmacy, the FQHC pharmacist may serve as the pharmacist in charge for more than one pharmacy at a time and need not be physically present in the pharmacy to serve as its pharmacist in charge.”

SECTION 2. This act takes effect upon approval by the Governor.

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