AS PASSED BY THE SENATE

April 29, 2010

**S. 1088**

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

S. Printed 4/29/10--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 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.

(3) ‘Board’ means the South Carolina Board of Pharmacy.

(B) 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:

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

(2) the patient is given a choice of receiving the drug or device from the FQHC or from another provider;

(3) 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

(a) 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

(b) 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;

(4) as it pertains to a health center delivery site established after January 1, 2011 by an FQHC without a retail pharmacy, as a condition of permitting by the Board pursuant to section 40‑43‑70(B)(2), this FQHC must certify to the Board that it made a good faith effort but was unable to reach an agreement with an existing retail pharmacy located within five miles of the FQHC health center delivery site pursuant to which the existing retail pharmacy would provide prescription drugs to all FQHC patients at the same cost, convenience, and efficacy provided by the proposed new FQHC health center delivery site;

(5) 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 (3) 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.

(C) The Board of Pharmacy shall issue rules and promulgate regulations needed to effectuate the purposes of this section.”

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

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