



INTRODUCTION

What a strange session it has been so far! Legislators have been telling lobbyists to wait until the budget is finished to get their bills through committee and have also advised most groups to try to bring consensus bills to the table. Now suddenly, without the budget being completed, legislators are now saying that they are wrapping up and the bills better move soon or will have to wait until the short session. That means that the hundreds of bills in both the Senate Rules Committee and the House Rules Committee need to be assigned to a committee and heard, debated, possibly amended and then sent back to the Rules Committee again before going to the House or Senate floor. There is a scramble now to get bills moved and heard as quickly as possible so we have gone from medium gear to supersonic speed in a short period of time!

Meanwhile, House and Senate Budget leaders have met twice with the Governor and his staff regarding budget negotiations; however, there seems to be very little negotiating happening. The Governor wants to Expand Medicaid and the House and Senate do not want to even discuss the issue. A series of letters and harsh statements have been exchanged, but there seems to be no agreement or end in sight. That most likely means that the House and Senate will approve their budget compromise and send it to the Governor for an almost certain veto – which the Governor should be able to sustain with the increased number of Democrats in both chambers. After that it is unclear what will happen? Will the House and Senate go home and continue the current budget that is in place or will they try to pass a mini-budget with non-controversial items? Of course, negotiations could get back on track as well, but considering the rhetoric, we find that highly unlikely at this point. For those who have worked hard to get their budget provision approved, it is very frustrating to know that all of that work could mean nothing. Stay tuned.....



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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FOR MORE INFORMATION:

Colleen Kochanek
Ashley Matlock Perkinson
Rachel E. Beaulieu
P.O. Box 1038
Wake Forest, NC 27588
919.274.0982

colleen@kochaneklawgroup.com
ashley@perkinsonlawfirm.com
rachel@beaulieuedlaw.com
www.kochaneklawgroup.com

BILLS OF INTEREST

SENATE BILL 681, Rural Health Care Stabilization Act. This is a new bill that was filed just last week that would:

- create the Rural Health Care Stabilization Program to provide loans to eligible applicants for the support of eligible hospitals located in rural areas that are in financial crisis;
- allow program loans to be used to finance construction of new health care facilities or to provide for operations costs during the transition period, or both, including while the construction of new facilities is undertaken;
- require UNC Health Care, in collaboration with the Local Government Commission (LGC), to administer the Program;
- establish UNC Health Care responsibilities, including but not limited to assessing Plans submitted by loan applicants and implementing approved loan agreements;
- require UNC Health Care to evaluate the applicant's ability to repay the loan under the proposed Plan and what security interests are necessary to enforce loan repayment;
- require the LGC to review UNC Health Care's recommendations, eligible applicants' Plans, and approve or disapprove the awarding of loans;
- establish the Rural Health Care Stabilization Fund under the control and direction of the UNC Health Care System, with funds to be used for loans;
- establish the loan application process and detail items that must be included in the applicant's Plan;
- require eligible applicants to develop a hospital stabilization plan for an eligible hospital as part of the loan application;
- prohibit the LGC from approving an eligible applicant if the issuance of a loan would result in a material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted for approval;
- allow the LGC to require changes to the governance structure of the eligible hospital in adopting the terms of the loan agreement;
- require the loan interest rate to be below market rate and the maximum maturity of the loan to be seven years; and
- require execution of a debt instrument to evidence the obligation.

Introduced by Senators Berger and Tillman and referred to the Senate Rules Committee.

BILL UPDATES

HOUSE BILL 325, Opioid Epidemic Response Act, was heard in the Senate Health Care Committee, where a committee substitute was approved, including a new title (previously Update Svc & Care Plan Req's/ACH Residents). The new version removes the contents of the previous edition and would:

- repeal current statute requiring physicians who prescribe buprenorphine to annually register with the Department of Health and Human Services;
- modify current statutes on drug possession to allow the use and distribution of testing equipment for identifying or analyzing the strength, effectiveness, or purity of the controlled substance;
- add to the objectives of authorized needle and hypodermic syringe exchange programs the goal to reduce the number of drug overdoses in the state; and
- eliminate the prohibition against the use of State funds to purchase needles, hypodermic syringes, or other injection supplies.

The bill as amended was approved by the Senate Health Care Committee and will next be considered by the Senate Rules Committee.

HOUSE BILL 770, Freedom to Work/OLB Reform, was amended in the Senate Judiciary Committee to:

- define State agency licensing board as any State agency, staffed by full-time State employees, which as party of their regular functions issue licenses;
- include a list of State agency licensing boards and the profession or occupation for which the board, agency, or officer can issue licenses;
- require occupational licensing boards to also include in its annual report to the Secretary of State, the Attorney General, and the specified NCGA committee: (1) the number of applicants for a license and the number of licenses granted; and (2) the number of applicants with a conviction record and of that number, the number of licenses granted, denied for any reason, and denied because of the conviction;
- add a new annual reporting requirement for State agency licensing boards to require the boards to file an electronic report that includes this same newly required data of occupational licensing boards with the Secretary of State, the Attorney General, and the specified NCGA committee by October 31 of each year;
- amend the provision regarding the use of criminal history records by occupational licensing boards to include State agency licensing boards;
- allow, subject to federal law, a board to deny an applicant on the basis of a criminal conviction only if the board finds that the criminal conviction history is directly related to the duties and responsibilities for the licensed occupation or the criminal conviction is violent or sexual in criminal nature;
- explicitly prohibit a board from automatically denying licensure on the basis of an applicant's criminal history (previously, qualified the prohibition by stating that the laws governing a particular licensing board controls), and prohibit a board from denying licensure based on a determination that a conviction is for a crime of moral turpitude;
- maintain the eight existing factors the board must consider prior to denying licensure on the basis of a criminal conviction, and add to the factors required to be considered: (1) the completion of or active participation in rehabilitative drug or alcohol treatment; and (2) a certificate of relief granted under state law;
- require a board that denies an applicant a license to: (1) make written findings specifying which of the ten factors the board deemed relevant to the applicant and explaining its reasoning for the denial, signed by the board's presiding officer; (2) provide or serve a signed copy of the written findings to the applicant within 60 days of the denial; and (3) retain a signed copy of the written findings for no less than five years;
- require each board to include in its application for licensure and on its public website: (1) whether the board requires applicants to consent to a criminal background check; (2) the ten factors the board must consider when making a determination of licensure; and (3) the appeals process if the board denies licensure in whole or in part because of a criminal conviction;
- require boards that require criminal history records to have the provider provide the applicant with access to the applicant's criminal history record or otherwise deliver a copy to the applicant;
- require the board to notify an applicant in writing of specific issues in an applicant's criminal history that will or can prevent the board from issuing a license, with notification in sufficient time for the applicant to provide additional documentation prior to the board's final decision, and allow an applicant 30 days to either correct any inaccuracy in the record or submit evidence of mitigation or rehabilitation for the board's consideration;

- require a board denying licensure following a heard to include in its written order specific reference to any criminal conviction(s) considered as any basis for denial and the rationale for denial, as well as the appeal process and the applicant's ability to reapply;
- prohibit restricting applicants from reapplying for licensure for more than two years from the date of the most recent application;
- amend the proposed petition process to require the petition to include a criminal history record report, the cost of which is paid by the applicant;
- allow a board to predetermine the petitioner's criminal history is likely grounds for license denial only after the board has applied the specified statutory requirements;
- set out provisions governing the board's delegation of the predetermination authority so that the determinations can be made in a timely manner;
- include information that must be included in the notice to the applicant that the applicant would likely be denied licensure based on his criminal history;
- provide that a predetermination of licensure denial is not a final agency decision;
- require the board to inform an individual of the board's determination within 45 days (was, 30 days) of receipt of the petition;
- allow a fee up to \$45 per petition;
- amend the definition of career technical education to include programs of study, clusters, and pathways approved by the State Board of Community Colleges;
- require an occupational licensing board to grant a license to an applicant meeting the specified criteria, unless otherwise required by federal law; and
- amend the criteria to (1) add that the applicant has met any other requirements for licensure set forth in the law or rules related to the board, except for pre-licensing education requirements, and (2) include completion of apprenticeships approved by the North Carolina State Approving Agency.

The bill as amended was approved by the Senate Judiciary Committee and will next be considered by the Senate Rules Committee.

HOUSE BILL 934, Right to Try Adult Stem Cell Treatments, was amended in the Senate Health Care Committee, where a committee substitute was approved. The latest version would:

- authorize an eligible patient, meeting five specified criteria, to access and use an investigational adult stem cell treatment if the treatment meets specific criteria regarding review and oversight;
- make it a Class A1 misdemeanor to knowingly offer to buy or sell, sell, acquire, receive, or otherwise transfer any adult stem cells for valuation consideration for use in a treatment except in the case of health care providers, medical researchers, or biosciences professionals engaged in research, clinical trials, or investigational adult stem cell research;
- prohibit licensing boards and entities responsible for Medicare certification from disciplining physicians who recommend or administer treatment to an eligible patient; and
- prohibit any government official, employee or agent from interfering with or attempt to interfere with an eligible patient's access to an authorized treatment.

The bill as amended was approved by the Senate Health Care and Rules Committees. After an amendment on the Senate floor, the bill was approved by the full Senate, and will next be considered by the Full House on whether to agree to the changes that the Senate made.

SENATE BILL 361, Health Care Expansion Act of 2019, was heard in the Senate Health Care Committee where a committee substitute was adopted. The new version would:

- remove the proposed repeal of Certificate of Need (CON) laws and, instead, enact numerous CON changes, including:
 - prohibit the Department of Health and Human Services (DHHS) from including policies or need determinations that limit the number of operating rooms in gastrointestinal endoscopy rooms;
 - eliminate requirements related to CON for ambulatory surgical facilities, psychiatric facilities, and nursing care or intermediate care facilities for individuals with intellectual disabilities;
 - require CON recipients to complete authorized projects within two years after the decision to issue the certificate of need becomes final;
 - direct DHHS to withdraw a CON issued to any recipient that ceases operating the health service or health service facility for more than one year;
 - exempt from CON review the development, acquisition, construction, expansion, or replacement of a health service facility or health service that obtained CON approval prior to October 1, 2019, as: an ambulatory surgical facility, including an ambulatory surgical facility with one or more operating rooms or gastrointestinal endoscopy procedure rooms; a diagnostic center; kidney disease treatment center, including freestanding dialysis units; chemical dependency treatment facility; intermediate care for individuals with intellectual disabilities; or psychiatric hospital;
 - exempt from CON review the establishment of a home health agency by a licensed continuing care retirement community to provide home health care services to one or more residents of the retirement community who have entered into a contract with the retirement community to receive continuing care services with lodging;
 - entitle any proponent of an application that was reviewed with the application for the certificate of need to a contested case hearing; and
 - prohibit DHHS from issuing or renewing a license to operate an ambulatory surgical facility developed, acquired, or replaced on or after October 1, 2019, unless the application meets specific criteria.
- remove proposed exemption from home care agency licensure requirements when home care services are provided to participants of the Program for All-Inclusive Care for the Elderly through an organization that has a valid program agreement with the Centers for Medicare and Medicaid Services and the Divisions of Health Benefits of the Department of Health and Human Services;
- maintain the implementation of the Psychology Interjurisdictional Licensure Compact; and
- allow marriage and family therapists to conduct involuntary commitment first examinations if they meet the specified licensure requirements.

The bill as amended was approved by the Senate Health Care, Finance, and Rules Committees and will next be considered by the Full Senate. It is important to note that Senate leadership has announced that the CON provisions will be removed from the bill as many stakeholders had concerns and the provisions need more work.

- Colleen Kochanek
NCCEP Legislative Counsel
Kochanek Law Group
919.274.0982
colleen@kochaneklawgroup.com
www.kochaneklawgroup.comⁱ

Ashley Matlock Perkinson
Perkinson Law Firm
919.210.8209
ashley@perkinsonlawfirm.com

Rachel E. Beaulieu
Rachel E. Beaulieu Law Office, PLLC
919.896.6296
Rachel@BeaulieuEdLaw.com

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