



INTRODUCTION

The General Assembly continues to be in full swing as legislators work mainly to address pandemic-related needs of North Carolinians, as well as various other budget matters. As many predicted after a contentious floor debate in the House, Governor Cooper vetoed House Bill 536: Temporary Outdoor Restaurants for Outdoor Seating. This bill would have allowed private bars and clubs to reopen under specified conditions similar to restaurants currently, with outdoor seating capacity limited to the lesser of 50% of the establishment's indoor capacity, or 100 customers. This week, legislators took a new approach to passing similar language with another vehicle: House Bill 594: Temporarily Open Gyms/Health Clubs/Fitness Centers, which would reopen both gyms and bars at 50% capacity. Both attempts to reopen businesses that Gov. Cooper has closed in an executive order are sponsored by Republican Senator Rick Gunn of Burlington. Sen. Gunn also amended the bill on the floor to allow the Governor to close gyms, bars, and other businesses again if a spike were to occur, if approved by the rest of the Council of State. The House passed House Bill 594 with a mostly partisan split of 69-50. The Senate was largely split by party too, voting to pass the bill with a 36-13 vote, with seven Democrats voting in support of the legislation. The bill has now been presented to the Governor so it will be interesting to see what he does with the bill in light of the recent uptick in cases and hospitalizations.



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
919.809.5600

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

BILL UPDATES

HOUSE BILL 158, COVID-19 New Driver Response. A Conference Committee of House and Senate members was appointed to work out the differences between the two versions of this bill. As adopted by the Conference Committee, the bill would:

- require the Division to waive the requirement that an applicant for a Level 2 limited provisional license pass a road test to obtain the license if the applicant meets all other requirements;
- require a Level 2 limited provisional license holder who receives a waiver under the act to pass a road test prior to obtaining a Level 3 full provisional license;
- provide that the road test waiver provision will expire on the date the DMV resumes administering road tests for Level 2 limited provisional license applicants; and
- deem complete required classroom instruction for students enrolled in classroom driver education between January 2020 and March 16, 2020, who completed at least 15 hours of classroom instruction;
- ensure students who completed less than 15 hours could be offered the opportunity to take a proficiency examination to waive the classroom instruction requirement entirely;
- clarify that behind-the-wheel instruction is not waived for students; and
- authorize public schools to resume driver education programs in accordance with guidance issued by the Department of Public Instruction.

The Conference Committee report was adopted by the House and will next be voted on by the full Senate.

HOUSE BILL 1064, GSC Clarifying Bingo License Statute, was amended in the House Rules Committee to transfer bingo game licensure, limited occasion permitting oversight and administration, and audit reporting responsibilities relating to bingo games from the State Bureau of Investigation to the Alcoholic Law Enforcement Division of the Department of Public Safety. **The bill as amended was approved by the House Rules Committee and the full House. The bill will next be considered by the Senate Judiciary Committee.**

SENATE BILL 562, The Second Chance Act, was amended in the House Rules Committee to:

- direct the Administrative Office of the Courts to develop and disseminate the forms required for an expunction petition under new GS 15A-145.8 (which provides for expunction of records for offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence, applicable to offenses committed on or after December 1, 2019) by September 1, 2020;
- postpone the effective date of the provisions regarding access to expunged files maintained by AOC from December 1, 2019, to December 1, 2020;
- amend the effective dates for the proposed changes to various subsections regarding the expunction of records when charges are dismissed or there are findings of not guilty to provide that the changes regarding petitions for expunction apply to petitions filed on or after December 1, 2020 (was, December 1, 2019), and that new provisions regarding expunction by operation of law applies to charges disposed of on or after December 1, 2021 (was, July 1, 2020);
- postpone the date by which the Department of Public Safety, the Department of Justice and AOC must jointly report to the specified NCGA committee on recommendations and costs involved for affected State agencies related to automatic expunction, from February 1, 2020, to October 1, 2021; and

- amend the effective date of the proposed changes regarding expunction of certain misdemeanors and felonies, from December 1, 2019, to December 1, 2020, and make the provisions applicable to petitions filed on or after that date.

The bill as amended was approved by the House Rules Committee and the full House. The bill has been sent back to the Senate to consider the changes made to the bill by the House.

SENATE BILL 730, The No Patient Left Alone Act, was heard in the Senate Health Care Committee where a committee substitute was approved. The new version would:

- require a hospital to ensure the opportunity for at least one visitor to visit a patient admitted to a facility;
- provide for a minor who is admitted to a licensed hospital the opportunity to have at least one parent, guardian, or person standing in loco parentis the opportunity to visit and be present while the minor is receiving hospital care;
- allow one immediate family member, as defined, or designated health care agent to have the opportunity to visit an adult admitted to a licensed facility, subject to normal visitation policies;
- permit patients with capacity to designate the one visitor;
- provide that the visitation rights may not be terminated, suspended or waived by the hospital, the Department of Health and Human Services, or the Governor upon the declaration of a disaster or emergency;
- allow a hospital to require a visitor to submit to health screenings necessary to prevent the spread of infectious diseases and to require a visitor to adhere to infection control procedures including wearing personal protective equipment;
- require visitors to have access to a waiting area when the visitor cannot be in the room with the patient; and
- appropriate \$5,000 for the 2019-2020 fiscal year to the Division of Health Service Regulation, DHHS, to develop and disseminate materials explaining the visitation rights.

This bill was approved by the Senate Health Care Committee and will next be considered by the Senate Appropriations/Base Budget Committee.

SENATE BILL 808, Medicaid Funding Act, was heard in the Senate Appropriations Committee, where the original bill was stripped out and a new version was proposed. The bill would now:

- transfer \$15 million in nonrecurring funds for 2020-21 to be used for planning for relocating the Department of Health and Human Services (DHHS) campus from Dorothea Dix to a location in Wake County (the budget bill from last year moved DHHS out of Wake County and was one of the reasons for the Governor's veto);
- appropriate \$6,154,480 in nonrecurring funds for 2020-21 for updates and changes to the child welfare case management component of the NC Families Accessing Services through Technology (NC FAST) system;
- use \$50 million from coronavirus relief funds on a nonrecurring basis for 2020-21 to fund behavioral health and crisis services in response to the COVID-19 pandemic;
- prohibit DHHS, Division of Health Benefits (DHB) from transferring any amount of the certified Medicaid budget surplus calculated for 2019-20 to LME/MCOs to offset any reduction in single-stream funding;
- require certain funds received by DHHS during 2019-20 due to the acceleration of the federal 2019-20 Medicaid Reimbursement Initiative/Gap Assessment Program (MRI/GAP) Plan to remain available and used for the Medicaid Program for the 2020-21 fiscal year;

- appropriate \$1.4 million in nonrecurring funds for 2020-21 for the implementation of an electronic visit verification (EVV) system for personal care services and home health services under the Medicaid program;
- provide funding for Medicaid and NC Health Choice programs rebase for 2020-21:
 - \$30 million in nonrecurring funds of the funds appropriated to DHB for 2019-20 and the funds appropriated to DHB as part of this bill;
 - \$84 million from the Medicaid Transformation Reserve;
 - \$136 million in nonrecurring funds from the Medicaid Contingency Reserve; and
 - \$213 million from the General Fund.
- within 60 days of the expiration of the declared nationwide public health emergency as a result of COVID-19, require every county department of social services to redetermine Medicaid eligibility for those beneficiaries whose eligibility was continued by federal law;
- direct that Medicaid transformation will start no later than July 1, 2021;
- require capitated contracts to begin no later than July 1, 2021;
- if the capitated payments do not begin on July 1, 2021, require DHB to make monthly payments to prepaid health plans (PHPs) for each full month of delay;
- transfer \$19.42 million from funds in the Medicaid Transformation Reserve to be used by DHB on a nonrecurring basis for 2020-21 to provide the State share for qualifying needs directly related to Medicaid transformation as verified by the Office of State Budget and Management;
- set the rate floor for durable medical equipment under managed care at 100% of the Medicaid fee-for-service for durable medical equipment for the first three years;
- allow DHHS to contract with an Indian managed care entity or an Indian health care provider to assist with the provision of health-care related services to certain eligible Medicaid recipients;
- revise the proposed supplemental payment program for eligible medical professional providers to conform with managed care's revised date of July 1, 2021;
- replace the two existing hospital assessments with two revised hospital assessments, each of which utilizes a fixed percentage of hospital costs, effective July 1, 2021:
 - The assessments fund (1) the State share of Medicaid costs associated with the anticipated increase to hospital per claim reimbursement and (2) the State retention amount.
 - The percentage rates will be set each year by the General Assembly, and DHHS will annually submit proposed adjustments to the rates.
- set the rates for the revised assessments for the first taxable year, which is October 1, 2020, through September 30, 2021, at 2.32% of total hospital costs for the supplemental assessment and 2.04% of total hospital costs for the base assessments;
 - Since these rates are only in effect for one quarter of the first taxable year, only one quarter of the amount that would be generated in a full year will be collected.
 - Because of the uncertainty involved in converting the assessments to prospective fixed rates, the State Controller is authorized to transfer funds from the Medicaid Contingency Reserve to cover a shortfall in receipts in the Medicaid program during the 2021-2022 fiscal year.
- state the General Assembly's intent to enact legislation before the start of the 2021-22 fiscal year changing the handling of nontax revenue in the NC Medicaid program in a managed care environment.

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

SENATE BILL 818, Compensation of Certain School Employees. The provisions of this bill were removed in the Senate Appropriations Committee and replaced with new provisions that would set out new salary schedules for teachers and principals. In addition, the bill would direct the Department of Public Instruction to administer a one-time, lump sum bonus of \$350 by October 31, 2020, for any teacher employed in a qualifying public school unit as of October 1, 2020, as well as a one-time, lump sum bonus for a qualifying principal, and would encourage the Governor, for the 2020-21 fiscal year, to allocate funds from the Governor's Emergency Education Relief Fund to provide a one-time bonus of \$600 for teachers, instructional support personnel, and noncertified personnel. **The bill as amended was approved by the Senate Appropriations and Rules Committees and will next be considered by the full Senate.**

SENATE BILL 848, COVID-19 Economic Recovery Grants. The provisions of this bill were removed in the Senate Finance Committee and replaced with a new version that would use funds from the Coronavirus Relief Fund to help businesses in North Carolina during the COVID-19 pandemic and to grow business investments in North Carolina after the COVID-19 pandemic by doing providing economic support to:

- businesses who experienced business interruption in connection with the COVID-19 pandemic and who did not participate in either the federal Paycheck Protection Program or Mainstreet Loan Program;
- businesses who increase their investments in North Carolina during and after the COVID-19 pandemic; and
- local governments for use in connection with securing commitments for the recruitment, expansion, or retention of new and existing businesses during and after the COVID-19 pandemic.

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

LEGISLATION ENACTED

HOUSE BILL 1169, Bipartisan Elections Act of 2020. This legislation enacts a variety of provisions to the laws related to elections and appropriates funds to the State Board of Elections in response to the coronavirus pandemic. The legislation will:

- for the 2020 general election, allow for one witness for the casting of absentee ballots, provide flexibility in the filling of positions for precinct officials, provide for voter assistance by individuals working as part of multi-partisan teams, and allow for completed absentee request forms to be e-mailed or faxed to county boards of elections;
- direct the Department of Health and Human Services and the State Board of Elections to develop guidance to safely allow multi-partisan teams to assist registered voters within hospitals, clinics, nursing homes, assisted living or other congregate living situations in the 2020 elections during the COVID-19 pandemic, and to report no later than August 1, 2020, to the Joint Legislative Oversight Committee on General Government, the Joint Legislative Elections Oversight Committee, and the Governor on the details of the guidance;
- require applications for absentee ballots to have a bar code allowing the county board of elections and the voter to track a voted ballot following its return to the county board;
- provide an additional two weeks for county boards of elections to approve applications for absentee ballots;
- clarify that voters may call the State Board or a county board of elections and request a blank absentee ballot request form be sent to the voter by mail, e-mail, or fax;

- prohibit the State Board or its Executive Director from delivering absentee ballots to a voter who did not submit a valid request form or ordering an election using all mail-in absentee ballots;
- require the State Board to create an online portal for voters to submit online requests for absentee ballots by September 1, 2020;
- create a Class I felony for any member serving on or employed by the State Board or a county board of elections to knowingly send or deliver an unrequested absentee ballot;
- allow for special identification cards for nonoperators issued by the Division of Motor Vehicles (DMV) to be renewed online.
- allow for government-issued public assistance cards to be accepted for photo identification for voting identification; and
- appropriate funds to the State Board of Elections to respond to COVID-19.

Effective: June 12, 2020, except as otherwise provided.

- Colleen Kochanek
 NCCEP Legislative Counsel
 Kochanek Law Group
 919.809.5601
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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