



INTRODUCTION

We are now almost one month past the start of the fiscal year for North Carolina and not only do we not have a budget – we do not even have a draft budget proposal from the House! The past three weeks have included some bills moving but everyone seems to be waiting on the House budget and both chambers seem to be slowing down bills as a way to “encourage” the other chamber to follow their bidding. This week both the House and Senate are not meeting (the House did have a session on Monday night briefly) so that the budget writers can finish their work and so that some members can attend a popular right leaning conference out of State. The House is expected to provide a timeline and move their budget proposal through committees in August. Of course, that only starts the negotiations with the Senate and the Governor.

The other big topic, of course, is COVID. There seems to be debate about all aspects of the virus, including vaccinations, mask wearing and schools and businesses operating. Many Hospitals have announced this week that they will require all of their healthcare workforce to be vaccinated and many private colleges are making attendance dependent on being fully vaccinated. The Legislature does not favor required vaccinations or mask wearing so the battle between the Governor and the Department of Health and Human Services and the Legislative Leadership continues. Many schools are trying to make difficult decisions about mask requirements both for vaccinated and unvaccinated students and although the Governor is encouraging mask weaking for those 12 and under who are not eligible for vaccinations, it is clear that some schools will not require masks this Fall. Of course, the directions from the CDC and DHHS seem to be ever changing in light of increased cases so this will be out of date before we send out the report!

Hope you and your families are well!



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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BILLS OF INTEREST

SENATE BILL 729, Public Nondiscrimination Amendment, would amend the State Constitution, if approved by a majority of the qualified voters of the State at the statewide primary election to be held in 2022, to prohibit the State and its political subdivisions, including the free public schools and public institutions of higher education, from discriminating or granting preferential treatment on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, or public contracting. **Introduced by Senators Berger and Ballard and referred to the Senate Rules Committee. This bill is intended to address Critical Race Theory in the public schools.**

BILL UPDATES

HOUSE BILL 91, Accountability and Fair Play in Athletics. The provisions of this bill were removed in the Senate Education/Higher Education Committee and replaced with new provisions that would restructure oversight of public high school interscholastic athletics. The bill would direct the State Board of Education to adopt student participation rules governing student eligibility for interscholastic athletic activities conducted by public schools and establish the North Carolina Interscholastic Athletic Commission (whose members would be appointed by the Governor, President Pro Tem of the Senate and Speaker of the House) to replace the North Carolina High School Athletic Association (NCHSAA) as the designated organization to apply and enforce the State Board of Education's rules governing participation in interscholastic athletic activities. The bill includes provisions regarding concussion/head injuries, various reporting requirements, and appeals process for students. **The bill as amended was approved by the Senate Education/Higher Education and Finance Committees and will next be considered by the Senate Rules Committee.**

HOUSE BILL 96, Allow Pharmacists to Admin. Injectable Drugs, was heard in the Senate Committee on Commerce and Insurance, where a new version was approved. The latest version would:

- remove the proposed authority for an immunizing pharmacist to order five specified medications (nicotine replacement therapy, self-administered oral or transdermal contraceptives, prenatal vitamins, post-exposure prophylaxis medications for HIV, glucagon for the treatment of severe hypoglycemia) but maintain the authority granted for immunizing pharmacists to dispense, deliver, or administer those medications;
- remove the requirement for an immunizing pharmacist that dispenses, delivers, or administers the listed medications to provide their name, business address, business phone, and business fax number on any communication with a prescriber but maintain the requirement for the immunizing pharmacist to provide the business contact information of the pharmacy with any communication with a prescriber;
- add that, effective March 31, 2022, an immunizing pharmacist that dispenses, delivers, or administers the listed medications must provide their name on any communication with the provider;
- add to the required actions an immunizing pharmacist must take when administering a long-acting injectable medication: (1) notify the prescriber within 48 hours of administering the medication if the injectable is in the class of psychotropic medications; and (2) notify the prescriber if the medication prescribed in the class of psychotropic medications was not administered within 48 hours of receipt of the prescription;
- require the standing order the State Health Director is directed to issue authorizing immunizing pharmacists to dispense, deliver, and administer the medications described

include protocols for the initiation, modification, and discontinuation of each therapeutic class of medication available pursuant to the standing order;

- specify that any statewide standing order issued by the State Health Director regarding COVID-19 vaccine administration would expire on December 31, 2021, unless the State Health Director determines it is necessary for the order to be extended in order to protect the public safety, health, and welfare of citizens;
- add engaging in unprofessional conduct to the grounds for disciplinary actions the NC Board of Pharmacy may take and explicitly includes departing from or failing to comply with the requirements of the bill when dispensing, delivering, or administering medication for patients; and
- **require health care providers to obtain written consent from a parent or legal guardian prior to administering any vaccine that has been granted emergency use authorization and is not yet fully approved by the FDA to an individual under 18 years of age.**

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

HOUSE BILL 351, No Patient Left Alone/Clifford's Law, was heard in the Senate Health Care Committee, where the committee added the provisions of the Senate's "No Patient Left Alone" legislation to the bill. "No Patient Left Alone" has been stalled on the House side. The new version would:

- require licensed hospitals, licensed nursing homes and licensed residential treatment facilities to allow a clergy member to visit any patient who requests a visit, even during a declared disaster or emergency;
- require licensed hospitals to permit patients to receive visitors to the fullest extent permitted under any applicable rules, regulations, or guidelines adopted by either the Centers for Medicare and Medicaid Services (CMS) or the Centers for Disease Control and Prevention (CDC) or any federal law, notwithstanding any State law to the contrary;
- authorize the Department of Health and Human Services (DHHS) to issue a warning to a hospital found by the CMS, CDC, or other federal agency to have violated any federal rule, regulation, guidance or law relating to patient's visitation rights;
- provide a 24-hour warning period for hospitals to comply with the visitation policy in the case of a violation;
- authorize DHHS to impose a penalty of at least \$500 for each instance on each day the hospital is found to have a violation following the 24-hour warning period and allow DHHS to impose a civil penalty of at least \$500 for each instance on each day the hospital is found to have a violation related to alternate visitation protocols, in addition to federally imposed fines or penalties;
- require licensed adult care homes and special care units to allow residents to receive visitors of their choice, except when one of three circumstances are established by clear and convincing evidence, such as when infection control issues are present or when visitation interferes with the care of other patients; and
- authorize DHHS to impose a civil penalty of at least \$500 for each instance on each day a facility was found to have a violation.

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

HOUSE BILL 434, North Carolina Healing Arts Commission, was heard in the House Committee on Regulatory Reform, where the previous version of the bill was replaced. The new version would:

- establish the seven-member North Carolina Health Arts Commission (Commission) to regulate practitioners of allopathic, complementary, or alternative approaches to medicine;
- specify that the healing arts professions subject to the Article are reflexologists and music therapists;
- define reflexology as a protocol of manual techniques, including specified practices, that are applied to specific reflex areas predominantly on the feet and hands and that stimulate the complex neural pathways linking body systems and support the body's efforts to function optimally; specifies that reflexology is not massage and bodywork therapy; and
- define music therapy as the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program, including the specified assessments, development and implementation of treatment plans that use specified music interventions, and evaluation and documentation of the client's response to treatment.

The bill as amended was approved by the House Regulatory Reform Committee and will next be considered by the House Health Committee.

SENATE BILL 116, Putting North Carolina Back to Work Act, would stop payments under the Federal Pandemic Unemployment Compensation and the Mixed Earners Unemployment Compensation programs, effective 30 days after the date the act becomes law. These programs provide \$300 weekly in extra unemployment benefits through September 6, 2021. The stated goal of the legislation was to address workforce shortages, and it was supported by the North Carolina Chamber and other employer organizations. The bill also included \$250 million in ARP funds for subsidized child care for eligible children, if the unemployment payments were stopped. **Governor Cooper vetoed the bill on July 2, 2021.**

SENATE BILL 146, Teledentistry/RDH Admin. Local Anesthetic, was approved by the House and was signed into law by the Governor. The bill would establish standards for the practice of teledentistry, allow dental hygienists to administer local anesthetics, and allow dental hygienists to practice dental hygiene at schools without a dentist being present. The last changes to the bill were made by the Committee on Rules, Calendar, and Operations of the House. The committee's changes would:

- specify that the provision allowing a dental hygienist to practice only under the supervision of one or more licensed dentists is deemed to be complied with when a dental hygienist is employed by or under contract with a federally qualified health center or by the Oral Health Section of the Department of Health and Human Services;
- change some of the conditions that must be met in order for such hygienists to perform dental hygienist functions without a licensed dentist being physically present, as follows: (1) requires that the dental hygiene functions directed to be performed be conducted within 270 days of a dentist's standing order; (2) requires that the services be performed in a federally qualified health center (or in one of the seven categories of already identified facilities); (3) requires a licensed dentist be available to provide appropriate follow-up care as necessary; and (4) removes the requirement that the licensed dentist have personally conducted an evaluation of the patient including specified actions including a specific written treatment plan;
- allow dental hygienists performing procedures without a licensed dentist physically present to supervise a Dental Assistant; and

- require the North Carolina State Board of Dental Examiners to issue a license by credential to any dentist who applies for a such a license, and possesses good moral character and who (1) holds a current Instructor's License or (2) has graduated with a general dental degree from any school or college and has graduated from an advanced dental education program with either a certificate or a degree from a school or college accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

Effective: October 1, 2021, and applies to licenses granted or renewed on or after that date.

SENATE BILL 300, Criminal Justice Reform, was amended in the House Judiciary 2 Committee to:

- modify the proposed statute regarding persons certified by the NC Criminal Justice Education and Training Standards Commission and the NC Sheriffs' Education and Training Standards Commission which require the certified individual, or any individual who has received a conditional offer of employment, who has been notified that the individual will not be called to testify at trial based on bias, interest, or lack of credibility to report to and provide a copy of the notification to the Criminal Justice Standards Division or the Justice Officers' Standards Division, as appropriate, within 30 days of receiving the notification to expand the criteria for notifications that trigger this requirement to include notifications in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, US attorney, assistant US attorney, or the person's agency head;
- require the SBI, when requested by the Governor, a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, to investigate and prepare evidence in the event of: (1) a sworn law enforcement officer with the power to arrest using force against an individual in the performance of the officer's duties that results in the death of the individual (**no longer including serious bodily injury** to the individual) or (2) an individual in the custody of DPS, a State prison, a county jail, or a local confinement facility, regardless of the individual's physical location, dies (**no longer including serious bodily injury**);
- remove the provision that required the Administrative Office of the Courts to automatically enroll all criminal defendants into its court date reminder system and the provisions that added to and increased the punishments for rioting offenses;
- establish the duty of law enforcement officers who observe another officer using excessive force to intervene, if safe to do so, to prevent the use of excessive force and to report use of excessive force, even if the officer was unable to intervene, within 72 hours, and remove the provision that specifies that the report is required even if the observing officer did not have a reasonable opportunity to intervene;
- remove the proposed changes concerning law enforcement agency recordings;
- create the nine-member Bipartisan NC Legislative Working Group on Criminal Law Recodification to make recommendations regarding a streamlined, comprehensive, orderly, and principled criminal code that includes all common law, statutory, regulatory, and ordinance crimes. The Working Group would establish general principles that meet specified criteria, including incorporation of existing statutory and common law offenses into GS Chapter 14 (Criminal Law), specifying the required mental state or that an offense is a strict liability crime, and eliminating redundant crimes, unconstitutional provisions, and outdated laws, and would provide certain information related to common law crimes and crimes included in the General Statutes, crimes created by local ordinances, and crimes created by administrative boards and bodies.

The bill as amended was approved by the House Judiciary 2 Committee and will next be considered by the House Rules Committee.

SENATE BILL 711, NC Compassionate Care Act. A variety of amendments were made to this bill that would allow the medical use of cannabis in the Senate Judiciary Committee, including provisions to:

- add checking the patient's prescription history in the physician's duty under a *bona-fide physician-patient relationship*;
- include an edible cannabis product, topical product, ointment, oil, patch, spray, suppository, or tincture in the definition of cannabis-infused product;
- expand upon the diagnoses for which a physician provides a written certification that constitutes a *debilitating medical condition*;
- *define designated caregiver* as a person who has a valid registry identification card issued by DHHS authorizing the person to assist a qualifying patient with the medical use of cannabis, who is at least 21, unless the person is the parent or legal guardian of each qualifying patient the person assists;
- define *medical use of cannabis or medical use* as the acquisition, administration, possession, preparation, transportation, or use of cannabis and cannabis-infused products, or paraphernalia used to administer cannabis products, to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition and includes the transfer of cannabis products from a designated caregiver to a qualifying patient whom the designated caregiver is authorized to assist; excludes the extraction of resin from cannabis by solvent extraction other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol (ethyl alcohol), unless the extraction is done by a processing facility;
- establish a 13-member Medical Cannabis Advisory Board which would have the authority to approve adding a debilitating medical condition by majority vote;
- require DHHS to create a secure, confidential, electronic medical cannabis registry database of all qualified patients and designated caregivers to whom DHHS has issued cards, consisting of the name, address, and photo of the cardholder and the name, address, and hospital affiliation of the physician that issued the respective written certification;
- require DHHS to monitor the database and informing the Attorney General's Office of any patterns of unusual written certifications found, and the AG to determine whether to report findings to the SBI and the appropriate sheriff for possible legal violations;
- make it a Class 2 misdemeanor (was, Class 1 misdemeanor) for any person (including a State or local employee) to breach confidentiality of such protected information;
- establish the North Carolina Medical Cannabis Program Fund within DHHS;
- protect a registry identification cardholder from arrest, prosecution, or penalty for the possession or purchase of cannabis or medical use by the qualified patient of the quantity if the cannabis possessed or purchased does not exceed an adequate supply; sets out provisions for calculating the amount the patient possesses;
- prohibit arresting, prosecuting, or penalizing a supplier for producing, possessing, distributing, or dispensing cannabis or cannabis-infused products in a manner that is consistent with this Article;
- require DHHS, in consultation with medical professionals, to develop an education campaign about the regulated medical cannabis supply system, with the campaign regularly advertised through television, online, or social media. Sets out elements that must be included in the educational campaign and to make the information available online; and

- require the North Carolina Medical Board, no later than 30 days after the act becomes effective, to approve a three-hour continuing medical education course and a one-hour supplemental medical education course on cannabis and cannabis-infused products.

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

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