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Focusing on Legislative Representation

LEGISLATIVE REPORT  
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**INTRODUCTION**

This week things returned to business as usual in the General Assembly following the passage of the HB2 replacement bill last Thursday. House Bill 2 has remained in the news, however, as LGBT rights groups criticize the replacement bill for leaving discrimination in place for many North Carolinians. All eyes were on the NCAA as they prepared to announce whether the HB2 replacement bill went far enough to allow sporting events to return to the state. On Tuesday, the NCAA announced that they would lift the ban on North Carolina from holding championship events; the announcement coming just after UNC clinched the Men's Basketball National Championship Game after defeating Gonzaga. Some cities in other states have maintained their travel bans to NC, however, citing concerns that the HB2 replacement law is inadequate.

Additionally, on Monday a federal judge overturned the legislative redrawing of Greensboro City Council districts from 2015. The changes have been criticized as political moves to elect more Republicans. Later in the week, the last of Governor Cooper's cabinet nominees began the confirmation process, with the Department of Environmental Quality Secretary, Michael Regan, being unanimously recommended to be confirmed by the Senate Committee on Agriculture/Environment/Natural Resources on Thursday. Sec. Regan will now await confirmation by the Senate Nominations Committee.



**NORTH CAROLINA COLLEGE  
OF EMERGENCY PHYSICIANS**



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## BILLS OF INTEREST

HOUSE BILL 550, Establish New Nurse Licensure Compact, is identical to House Bill 338, summarized in the March 21, 2017, Legislative Report. **Introduced by Representatives Szoka, Adcock, Boswell, and White and referred to the House Health Committee.**

HOUSE BILL 562, Enhanced Penalty for Second Degree Trespass, would provide that the penalty for second degree trespass is a Class 1 misdemeanor if the offense occurs in a multi-occupancy bathroom, shower, or changing facility. **Introduced by Representatives Brenden Jones, Murphy, Grange, and Malone and referred to the House Judiciary I Committee.**

HOUSE BILL 563, Whole Woman's Health Act, is identical to Senate Bill 588, summarized below in this Legislative Report. **Introduced by Representatives Fisher, Cunningham, Meyer, and B. Richardson and referred to the House Rules Committee.**

HOUSE BILL 564, Revise IVC Laws to Improve Behavioral Health, would make significant changes to the involuntary commitment statutes. This bill was requested by the North Carolina Hospital Association after their task force on behavioral health. The North Carolina College of Emergency Physicians participated in the task force and played a vital role in developing changes to the current IVC process. The bill would:

- establish that if no health care power of attorney or advance instruction for mental health treatment exists, the legally responsible person for an incapable adult has not been adjudicated incompetent under GS Chapter 35A must be (1) an attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of GS Chapter 32A, to the extent of the authority granted; (2) the patient's spouse; (3) a majority of the patient's reasonably available parents and children who are at least 18 years of age; (4) a majority of the patient's reasonably available siblings who are at least 18 years of age; and (5) an individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes;
- amend law (concerning exceptions to client confidentiality), allowing a facility to disclose the fact of admission or discharge of a client and the time and location of the admission or discharge to the client's next of kin whenever the responsible professional determines that the disclosure is in the best interest of the client (currently, does not expressly permit the disclosure of the time and location information);
- amend law permitting the disclosure of confidential client information when disclosure is ordered by a court of competent jurisdiction, or for purposes of filing a petition for involuntary commitment or for the adjudication of incompetency and appointment of a guardian or interim guardian;
- specify that the certified copies of written exam results required to be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court, includes examinations by physicians and other medical and court records (currently, only examinations by physicians and records) in the cases of clients voluntarily admitted or involuntarily committed and facing district court hearings or hearings under Article 5 of the Chapter (Procedure for Admission and Discharge of Clients);
- add provision to require the client's counsel to have access to any medical or court records the client's counsel deems relevant to the court proceeding, and establishes that the client's counsel is not required to obtain the client's consent in order to access any medical or court records of the client;

- remove the provision establishing that the court with jurisdiction over the matter is to determine the relevance of confidential information for which disclosure is sought in a particular case;
- provide that an individual who is or has been a respondent in a proceeding pursuant to Article 5 be provided the court records of the proceeding upon submitting a written request to the clerk of superior court in the county in which the proceeding is pending;
- direct the clerk to take reasonable and appropriate measures to verify the identity of the individual making the request;
- direct the respondent's legally responsible person to exercise the respondent's right to access the court records if the respondent is a minor or an incompetent adult at the time of the request;
- modify current law, requiring an area authority to maintain a 24-hour, seven day a week crisis response service and instead adopt a community crisis services plan;
- require every LME/MCO (local management entity/managed care organization) to adopt a community crisis services plan to facilitate the implementation of Parts 7 (Involuntary Commitment of Mentally Ill, Facilities for Mentally Ill) and 8 (Involuntary Commitment of Substance Abusers, Facilities for Substance Abusers) of Article 5 within its catchment area;
- direct that the community crisis service plan is to be comprised of separate plans, known as local area crisis services plans or local plans, for each of the local areas or regions within the catchment area that the LME/MCO identifies as an appropriate local planning area;
- provide that consideration should be given to the available resources and interested stakeholders within a particular geographic area or region of the catchment area;
- permit each LME/MCO to determine the number and geographic boundaries of the local planning areas within its catchment area, and detail requirements of each local area crisis services plan, including plans for the transportation and custody of respondents, as well as training for law enforcement personnel and other designated persons who will provide transportation and custody of involuntary commitment respondents;
- direct law enforcement agencies, acute care hospitals, magistrates or clerks of court, area facilities with identified commitment examiners, the LME/MCO, and other relevant community partners or stakeholders to participate in the development of the local area crisis services plans;
- permit adopted plans to address any matters necessary to facilitate the custody, transportation, examination, and treatment of respondents to commitment proceedings;
- require professionals at the original facility to notify the next of kin of the time and location of the transfer of a client if consent to share information is granted by the client or if disclosure of the information is permitted under this bill;
- include the respondent's counsel in the group of persons the responsible professional at the original facility is required to provide reasonable notice to of the reasoning for the transfer before transferring a respondent held for a district court hearing or a committed respondent from one 24-hour facility to another;
- require the responsible professional at the original facility to notify the respondent's counsel that the transfer is complete no later than 24 hours after the transfer;
- require the responsible professional to notify the next of kin that the transfer is complete within 24 hours of the transfer if consent is granted by the respondent or disclosure of the information is permitted under this bill;
- require the responsible professional at the original facility to notify the client's legally responsible person, no later than 24 hours after the transfer, that the transfer is complete

and the location of the transfer if the respondent is a minor, an incompetent adult, or an individual with a health care power of attorney who is deemed incapable;

- specify that the transfer from one 24-hour facility to another authorized for minors or incompetent adults includes those admitted pursuant to Part 5 of Article 5 (Voluntary Admissions, Discharges, Minors and Adults, Facilities for Individuals with Developmental Disabilities) and incapable adults admitted pursuant to Part 2A of Article 5;
- require that a client that is transferred from a 24-hour facility to an acute care hospital solely for medical reasons to be returned to the original facility as soon as the next client space becomes available at the original facility after completion of the client's medical care;
- require the original facility to accept the return of the client, and authorize the client to be released if the responsible professionals at both facilities concur that discharge of a client is appropriate;
- establish that a custody order remains valid throughout the period of time necessary to complete the client's medical care and transport the client between the 24-hour facility and the acute care hospital in the case that, at the time of the transfer, the client is being held under a custody order pending a second commitment examination or a district court hearing under involuntary commitment proceedings;
- provide that the requirement for a timely hearing applies;
- mandate that any decision to terminate the proceedings because the respondent no longer meets the criteria for commitment or because a timely hearing cannot be held must be documented and reported to the clerk of superior court;
- **provide that no facility, including an area facility, a facility licensed under the Chapter, an acute care hospital, a general hospital, or an area authority, LME, or LME/MCO, or any of its officials, staff, or employees, or any physician or other individual who is responsible for the custody, transportation, examination, management, supervision, treatment, or release of a client and who takes reasonable measures in good faith under the authority of Article 5 and is not grossly negligent, is civilly or criminally liable, personally or otherwise, for actions arising from these responsibilities or for actions of the client;**
- provide that immunity is in addition to any other legal immunity from liability to which these facilities, agencies, or individuals may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, admission, or commitment of any individual pursuant to Article 5;
- permit a custody order entered by the clerk or magistrate to be delivered to the law enforcement officer or other person designated by a county or city's governing body to be by electronic or facsimile transmission;
- authorize the written application for voluntary evaluation or admission to a facility to be signed by an individual's legally responsible person;
- establish that information provided in an advance instruction for mental health treatment by the client or the client's legally responsible person must be reviewed in the described evaluation;
- eliminate the provision in the law pertaining to the admission of individuals from a single portal area to an area or State 24-hour facility, and the provision pertaining to the admission of an incapable individual in need of treatment for a mental illness to a facility pursuant to an advance instruction for mental health treatment or pursuant to the authority of a health care agent named in a valid health care power of attorney;
- allow an individual making an advance instruction for mental health treatment to grant or withhold consent for mental health treatment, including the use of psychotropic

medication, electroconvulsive treatment, and admission to and retention in a 24-hour facility for mental illness;

- require an attending physician or other mental health treatment provider to act in accordance with an advance instruction for mental health treatment upon a determination that the individual making the advance instruction is incapable;
- establish that when a health care power of attorney authorizes a health care agent to make mental health treatment decisions for an incapable individual, the health care agent must act for the individual in applying for admission and consenting to treatment at a facility, consistent with the extent and limitations of authority granted in the health care power of attorney for as long as the individual remains incapable;
- prohibit a 24-hour facility from holding an individual who is determined to be incapable at the time of admission and who is admitted pursuant to an advance instruction for mental health treatment for more than 15 days with some exceptions;
- provide that an individual who regains sufficient understanding and capacity to make and communicate mental health treatment decisions can elect to continue his or her admission and treatment pursuant to the individual's informed consent;
- direct the responsible professional to unconditionally discharge an individual admitted to a facility pursuant to new Part 2A at any time it is determined that the individual is no longer mentally ill or in need of treatment at the facility;
- allow for an individual who has been voluntarily admitted to a facility under new Part 2A and who is no longer deemed incapable to be discharged upon the individual's own request;
- require the individual's discharge request to be in writing;
- authorize a facility to hold an individual who has been voluntarily admitted to a 24-hour facility pursuant to the new law for up to 72 hours after the individual submits a written request for discharge, but require the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order to hold the client;
- allow a health care agent named in a valid health care power of attorney to submit on behalf of an individual admitted to a facility under this Part a written request to have the individual discharged from the facility, provided (1) the individual remains incapable at the time of the request and (2) the request is consistent with the authority expressed in the health care power of attorney. Again, authorizes the facility to hold an individual for up to 72 hours after a health care agent submits a written request for the individual's discharge, but requires the facility to release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order to hold the client;
- require the facility to discharge an individual if, in the opinion of a physician or eligible psychologist, an individual admitted to a facility under this Part regains sufficient understanding and capacity to make and communicate mental health treatment decisions while in treatment, and the individual refuses to sign an authorization for continued treatment within 72 hours after regaining decisional capacity, unless the responsible professional obtains an order to hold the client. In any case in which an order is issued authorizing the involuntary commitment of an individual admitted to a facility under this Part, the facility's further treatment and holding of the individual is required to be in accordance with the new law;
- require the application for admission of a minor that is mentally ill or a substance abuser in need of treatment to have the admission application in writing and signed by the legally responsible person;

- require that the facility provide the clerk of court in the county where the facility is located with a copy of the legally responsible person's written application for admission of the minor and the facility's written evaluation of the minor;
- require the facility to provide the incompetent adult and the legally responsible person with written information describing the procedures for court review of the admission and the procedures for discharge prior to admission. The bill also requires the facility to notify the clerk of court of the county in which the facility is located that the incompetent adult has been admitted and that a hearing for concurrence in the admission is scheduled, within 24 hours after admission. Also requires the facility to notify the clerk of the name and address of the legally responsible person and the responsible professional, and provide a copy of the legally responsible person's written application for evaluation or admission of the incompetent adult and the facility's evaluation of the incompetent adult;
- prohibit a law enforcement officer taking custody or providing transportation from using force to restrain the respondent unless it appears necessary to protect the officer, the respondent, or others;
- direct the officer to use the least restrictive and most reasonable restraint under the circumstances and afford the respondent as much dignity as the circumstances permit, taking into consideration the age, medical condition, special needs, and behavior of the respondent. Further, to the extent feasible, the officer's application of force or restraint must avoid aggravating or worsening the respondent's preexisting injuries or medical conditions. Additionally, to the extent feasible, the officer must consult a parent, caretaker, or other legally responsible person prior to restraining a minor. Requires the law enforcement officer to record on the return of service portion of the custody order the type of mechanical restraint used on a respondent, if any, when taking the respondent into custody or transporting the respondent;
- clarify that the limitations and conditions on the use of force and restraint do not apply to acute care hospitals or general hospitals and their employees or contractors when the use of force and restraint by these entities and persons is governed by rules for accreditation adopted by accrediting bodies that review these entities and persons for compliance with the accreditation rules;
- provide that the governing body of a city, county, or LME/MCO can adopt a plan for the custody or transportation of respondents in involuntary commitment proceedings. Authorizes the plan to designate law enforcement officers, volunteers, or other public or private agency personnel to provide all or parts of the custody and transportation required by involuntary commitment proceedings, including taking a respondent into custody as ordered by a clerk of superior court or magistrate. Requires persons designated to be trained;
- provide that physicians and eligible psychologists are qualified to perform commitment examinations;
- authorize the Secretary of the Department of Health and Human Services to individually certify other health, mental health, and substance abuse professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent for treatment, to perform the first commitment examinations;
- detail seven qualifications of applicants and requirements of applicants and the Department that must be met for the Secretary to certify an individual as a commitment examiner, including requiring DHHS to determine that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or

substance use disorders and conducting mental status examinations to determine capacity to give informed consent;

- specify that the other health professionals that can be certified by the Secretary upon request and meeting all of the described qualifications, are (1) a licensed clinical social worker, a master's level nurse practitioner, a licensed professional counselor, or a physician's assistant for certification to conduct the first examinations and (2) a master's level licensed clinical addictions specialist to conduct the first examination;
- provide that certifications can be renewed every three years upon completion of a refresher training program approved by the Department. Further requires the Department to submit, no less than annually, a list of certified first commitment examiners to the Chief District Court Judge of each judicial district in NC and maintain a current list of certified first commitment examiners on its website;
- direct the Department to expand its standardized certification training program to include refresher training for all certified providers performing initial examinations;
- require a physician who finds that the respondent meets the criteria for outpatient commitment to contact the LME/MCO that serves the county in which the respondent resides or that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment;
- permit a hearing to be held by audio or video transmission between the treatment facility and a courtroom in a manner that allows: (1) the judge and the respondent to see and hear each other and (2) the respondent to communicate fully and confidentially with the respondent's counsel during the proceeding;
- require a 24-hour facility where a respondent has been held pending the district court hearing to identify for the court an outpatient treatment physician or center that meets listed criteria, prior to the court ordering any outpatient commitment;
- require any LME/MCO of which the respondent is a client to participate in a respondent's discharge planning, prior to a court's ordering any outpatient commitment; and
- protect commitment examiners and accompanying facilities and staff who follow accepted professional judgment, standards, and practice, from civil or criminal liability for taking reasonable measures, on reasonable and good faith belief of danger of bodily harm or life endangerment, to temporarily detain an individual for the time necessary to complete a commitment examination, submit an affidavit, and await issuance of a custody order.

**Introduced by Representatives Dobson, S. Martin, Lambeth, and Malone and referred to the House Health Committee.**

HOUSE BILL 565, An Act to Modify the Composition of the 911 Board, would add three members to the 911 Board within the Department of Information Technology, each member being an individual currently managing a PSAP appointed upon the recommendation of the NC Emergency Management Association, with one individual appointed by the Governor from the Central Branch, one appointed by the Speaker of the House of Representatives from the Western Branch, and one appointed by the President Pro Tempore of the Senate from the Eastern Branch, based on the branches defined by the NC Division of Emergency Management. **Introduced by Representative Clampitt and referred to the House Finance Committee.**

HOUSE BILL 570, K-12 Academic Freedom, would require the State Board of Education to adopt a policy to be implemented by local boards of education to ensure academic freedom in the classroom. The policy could not prohibit an educator from maintaining a safe and orderly classroom or a timely agenda, and would include, at a minimum, the following elements:

- students and educators are encouraged to respect the ideological, political, religious, or nonreligious viewpoints held by all persons in the classroom;
- students and educators are permitted to engage in open dialogue, critical thinking, and the free exchange of ideas related to the content of the course;
- a student shall not be discriminated against or mocked for the student's ideological, political, religious, or nonreligious viewpoints;
- an educator shall not take a student's ideological, political, religious, or nonreligious viewpoints into account when evaluating the student's performance; and
- educators may answer questions posed by students with openness and honesty.

**Introduced by Representatives Speciale, Pittman, Ford, and Boswell and referred to the House Education K-12 Committee.**

HOUSE BILL 571, Automatic Expunction/Wrongful Conviction, would provide for the automatic expunction of a person's record if the person is wrongly convicted, incarcerated, and later cleared of the charge. The bill would provide \$10,000 to the Administrative Office of the Courts to assist with the cost of implementing this requirement. **Introduced by Representatives Hanes, Hardister, Dobson, and Quick and referred to the House Judiciary I Committee.**

HOUSE BILL 575, Require Info. About Abortion Pill Reversal, would require:

- DHHS to publish on the website created pursuant to GS 90-21.84 the inclusion of materials designed to inform the woman about the possibility of reversing a drug induced abortion to be published;
- any physician who prescribed, dispenses, or otherwise provides any drug or chemical for the purpose of inducing an abortion to, immediately after administering the first drug or chemical for the purpose of inducing an abortion, offer the patient the written information made available by DHHS pursuant to GS 90-21.83(a)(3), enacted above; and
- the woman, in the case of a drug induced abortion, to certify in writing immediately after the administration of the first drug or chemical, that the information described in GS 90-21.83(a)(3) has been furnished to her and that she has had the opportunity to review the information.

**Introduced by Representatives McElraft, Hurley, R. Turner, and Presnell and referred to the House Health Committee.**

HOUSE BILL 588, Omnibus Gun Changes, would make various changes to the State's laws regarding firearms, including:

- allowing the sheriff, in the sheriff's discretion, to request disclosure of any court orders concerning the mental health or mental capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit to purchase a pistol;
- providing that, when a sheriff notifies the potential holder of a mental health order in writing that a particular individual has completed an application for a pistol purchase permit, the holder of any court orders that concern the mental health or mental capacity of an applicant for a pistol purchase permit shall, upon request, release to the sheriff of the county any and all mental health orders concerning the pistol purchase permit applicant;
- providing that, if educational property is the location of both a school and a building that is a place of religious worship, then a person who has a valid concealed handgun permit or is exempt from obtaining a permit, may possess and carry a handgun on the premises of the place of religious worship and any associated parking lot outside the operating hours of the school;

- allowing a person who has a concealed handgun permit to carry a concealed handgun on educational property if the educational property is an institution of higher education;
- providing that the term “educational property” does not include any of the following: (i) land, buildings, or other facilities owned, leased, or otherwise controlled by educational institutions but not used primarily for educational purposes; (ii) a religious institution for which facilities are used as a school on a part-time basis, provided such facilities are not currently in use as a school; (iii) a road or other publicly used thoroughfare which crosses an educational campus; or (iv) a medical facility for which the primary purpose is patient care rather than education;
- providing that restrictions on extracurricular activities do not apply to persons not participating in the extracurricular activity provided the extracurricular activity is conducted in a public place, including, but not limited to, a restaurant, public park, or museum;
- allowing the Governor and the Governor's immediate family to carry a weapon on the property of the Executive Mansion or the Western Residence of the Governor;
- extending the validity of permits to carry concealed handguns from five to ten years;
- requiring sheriffs to deny concealed handgun permits to applicants who were are or have been discharged from the Armed Forces under dishonorable conditions (was, under conditions other than honorable);
- authorizing legislators and legislative employees with concealed handgun permits to carry a concealed handgun on the premises of the State legislative buildings and grounds, notwithstanding any rule by the Legislative Services Commission (Commission);
- authorizing the Commission to adopt a rule requiring the legislator or employee to provide notice to the Chief of the General Assembly Special Police before carrying the handgun on the premises;
- authorizing the Legislative Services Commission to adopt a rule prohibiting the carrying of a firearm in the gallery of the State legislative building;
- authorizing legislators and legislative employees with concealed handgun permits to carry a concealed handgun on the premises of the state legislative building and grounds, subject to notice requirements adopted by the Commission;
- clarifying that weapons used in specified crimes must be returned to their rightful owners under specified conditions, unless the rightful owner is the convicted defendant, in which case the presiding judge may dispose of the weapon as specified at the judge's discretion; and
- making it a Class 1 misdemeanor for a person to arm himself or herself with an unusual and dangerous weapon for the purpose of terrifying others and goes about on public highways in a manner to cause terror to the people; however, no person would be convicted of a violation of this section based only on the person's possession or carrying of a handgun, whether openly or concealed.

**Introduced by Representatives Speciale, Pittman, and Millis and referred to the House Judiciary I Committee.**

HOUSE BILL 594, Healthy Mother, Healthy Child, would:

- enact new Article 84C, Treatment of Pregnant Prisoners and Detainees, in GS Chapter 15A;
- prohibit a correctional institution (defined as any unit of the State prison system, local confinement facility, juvenile detention facility, or other entity under the authority of any State or local law enforcement agency that has the power to detain or restrain a person under the laws of this State) from using restraints on a prisoner or detainee known to be pregnant, including during labor transport to a medical facility, delivery, and postpartum

recovery, unless the corrections official determines that the prisoner or detainee presents an extraordinary circumstance;

- define an extraordinary circumstance as a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner or detainee, the staff of the correctional institution or medical facility, other prisoners or detainees, or the public;
- specify that, despite a determination that there are extraordinary circumstances, if the health professional treating the prisoner or detainee requests that restraints not be used, the corrections officer accompanying the prisoner or detainee must immediately remove all restraints;
- prohibit using leg or waist restraints on any prisoner or detainee who is in labor or delivery under any circumstances;
- require that if restraints are used the type of restraint applied and the application of the restraint must be accomplished in the least restrictive manner necessary, and require the corrections official to make written findings within 10 days as to the extraordinary circumstance that dictated the use of the restraints;
- require the findings to be kept on file for at least five years and be made available for public inspection;
- require all correctional facilities in the State to develop the rules mandated under this act within 30 days of the date this act becomes law and to inform prisoners and detainees within their custody of those rules within 60 days of the date this act becomes law; and
- appropriate \$250,000 in recurring funds from the General Fund to the Department of Public Safety to be allocated to policy implementation, education, and training of the procedures outlined in the act.

**Introduced by Fisher, Cunningham, and Insko and referred to the House Health Committee.**

HOUSE BILL 599, Body-Worn Camera Recordings, would require law enforcement officers to wear and activate a body-worn camera during any recordable interaction;

- inform the person or people the law enforcement officer is interacting with that the interaction is being recorded except when doing so would be unsafe, impracticable, or impossible;
- not deactivate a body-worn camera until (i) the conclusion of the recordable interaction; (ii) the law enforcement officer has left the scene; (iii) a supervisor, while being recorded, authorizes the law enforcement officer to deactivate the body-worn camera; or (iv) a listed exception authorizes deactivation;
- announce, prior to deactivating a body-worn camera, that he or she is deactivating the body-worn camera and the reason why he or she is deactivating the body-worn camera;
- note in any incident report prepared after a recordable interaction that a recording was made.

A law enforcement officer would not be required to activate a body-worn camera in any of the following places or situations:

- interactions with confidential informants and undercover officers;
- during routine, non-law enforcement related activities, including when a law enforcement officer is engaged in a personal conversation, when a law enforcement officer is using a rest room or bathroom, or when a law enforcement officer is dressing or undressing in a locker room or dressing room;
- when a law enforcement officer is providing training or making a presentation to the public;

- when entering a private residence under nonexigent circumstances, unless written or on-camera consent is given by the owner or the occupier of the residence;
- when a law enforcement officer is conducting a strip search, unless written or on-camera consent is given by the person being strip searched; or
- interactions with a victim or witness, unless written or on-camera consent is given by the victim or witness.

The bill would also:

- allow a recording captured by a body-worn camera to be used as evidence in any relevant administrative, civil, or criminal proceeding;
- allow a law enforcement agency to disclose or provide a copy of any recording captured by a body-worn camera under this section to any person who submits a written request to the law enforcement agency;
- allow a law enforcement agency, prior to disclosing or providing a copy of a recording captured by a body-worn camera under this section, to redact any portion of the recording that (i) a law enforcement officer is not required to record or (ii) is otherwise prohibited by law from being disclosed. A law enforcement agency would provide a written statement to the person who requested access to the recording explaining why portions of a recording are redacted or why the law enforcement agency is declining to disclose or provide a copy of the recording;
- allow a person who is denied access to a recording or an unredacted recording to apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying, and the court will have jurisdiction to issue the order;
- require a law enforcement agency to provide training to a law enforcement officer on how to operate a body-worn camera prior to the law enforcement officer wearing and activating a body-worn camera;
- include similar requirements for a law enforcement officer to activate the dashboard camera when engaging in a traffic stop, vehicle pursuit, vehicle search, or other interaction with the public that is within the range of the camera; and
- provide \$5 million to the Governor's Crime Commission to provide grants to law enforcement agencies for the purposes of purchasing and maintaining body-worn cameras.

**Introduced by Representatives Brockman, Quick, B. Richardson, and Alexander and referred to the House Judiciary I Committee.**

HOUSE BILL 601, Healthy Mother, Healthy Child, would direct the North Carolina Medical Care Commission to amend the rules pertaining to the management of hospital medical records to require the medical records service for licensed hospitals be directed and supervised by a qualified health information management manager, and directing hospitals whose managers are not registered health information administrators or registered health information technicians to retain a person with those qualifications. **Introduced by Representatives Dobson, Lambeth, S. Martin, and Adcock and referred to the House Health Committee.**

HOUSE BILL 604, Repeal Death Penalty, would repeal the death penalty and require all current prisoners sentenced to death to be resentenced to life imprisonment without the possibility of parole. **Introduced by Representatives Meyer, Michaux, Holley, and Black and referred to the House Rules Committee.**

HOUSE BILL 612, Comprehensive Firearm Ed. Elective/Schools, would direct the State Board of Education to develop and identify a comprehensive firearm education course that can be offered as an elective at the high school level. The course would incorporate history,

mathematics, and science related to firearms and firearm safety education as recommended by law enforcement agencies or a firearms association. The course of instruction would not permit the use or presence of live ammunition, and would be conducted under the supervision of an adult who has been approved by the school principal. **Introduced by Representatives Adams, Henson, Boswell, and Presnell and referred to the House Education K-12 Committee.**

HOUSE BILL 615, Amend Substance Abuse Professional Pract. Act, would:

- amend the NC Substance Abuse Professional Practice Act by repealing the certified substance abuse residential facility director credential;
- clarify what constitutes independent study;
- modify the membership of the NC Substance Abuse Professional Practice Board; and
- increase the number of Board approved education hours required for certification as a substance abuse counselor.

**Introduced by Representatives Malone and S. Martin and referred to the House Health Committee.**

HOUSE BILL 618, Improve Healthcare IT Systems Efficiency, would require DHHS to ensure that the electronic software systems used by its service providers meet nationally accepted standards of interoperability for electronic health records. **Introduced by Representatives Stone, Dobson, and Murphy and referred to the House Health Committee.**

HOUSE BILL 631, Reduce Admin. Duplication/BH Providers, would require DHHS to establish a workgroup to examine and make recommendations about how to eliminate administrative duplication for behavioral health providers. **Introduced by Representatives Stone, Dobson, and Murphy and referred to the House Health Committee.**

HOUSE BILL 640, Repeal Certificate of Need Laws, is identical to Senate Bill 324, summarized in the March 27, 2017, Legislative Report. **Introduced by Representative Boswell and referred to the House Health Committee.**

HOUSE BILL 653, Report/Car Accident Caused by Seizure or Coma, would require accident reports to include information as to whether an accident was caused by a driver suffering an epileptic seizure or diabetic coma and to require the Division of Motor Vehicles to evaluate whether the driver can safely operate a motor vehicle after receiving the report. **Introduced by Representatives Dobson, Dollar, and Torbett and referred to the House Transportation Committee.**

HOUSE BILL 659, Filling Vacancies/U.S. Senate, would clarify the manner in which vacancies are filled in the office of United States Senator by providing that, if the Senator was elected as the nominee of a political party, the Governor will appoint from a list of three persons recommended by the State executive committee of the political party with which the vacating member was affiliated when elected if that party executive committee makes recommendations within 30 days of the occurrence of the vacancy. **Introduced by Representatives Burr, Saine, Bert Jones, and K. Hall and referred to the House Elections and Ethics Law Committee.**

HOUSE BILL 662, Carolina Cares. This is the first bill introduced by a Republican to expand Medicaid and would:

- direct the Department of Health and Human Service (DHHS) to design a Carolina Cares health coverage program for NC residents in accordance with the act;

- clarify that it is the intent of the General Assembly that coverage under the Carolina Cares program is to be offered coincident with the implementation of Medicaid transformation and Prepaid Health Plans operating under the 1115 demonstration waiver, as provided for in SL 2015-245, as amended;
- allow DHHS to modify the 1115 demonstration waiver for Medicaid transformation that was submitted on June 1, 2016, to include the Carolina Cares program;
- direct that NC residents must meet four criteria to be covered by the Carolina Cares program: (1) the resident is not eligible for Medicaid under the currently established North Carolina Medicaid program eligibility criteria; (2) the resident's modified adjusted gross income (MAGI) does not exceed 133% of the federal poverty level; (3) the resident is not entitled to or enrolled in Medicare Part A or Medicare Part B benefits; and (4) the resident is an adult who is no younger than age 19 and no older than age 64;
- direct DHHS to define residency in a manner consistent with the residency requirements of NC's Medicaid State Plan;
- direct DHHS to design the benefit package to be similar to the coverage provided under specified Plans, and require the package to comply with applicable federal requirements governing Alternative Benefit Plans. Directs the benefit package to focus on preventative care and participant wellness;
- establish that Prepaid Health Plans is to manage the benefits for the population covered by the Carolina Cares program through capitated contracts;
- detail participant contributions under the Carolina Cares program, including provisions relating to premium requirements and exemptions from premium requirements;
- detail additional requirements of the Carolina Cares program, including copayments, preventative care and wellness activities, and mandatory employment activities;
- require the Carolina Cares program to be built upon defined measures and goals for risk adjusted health outcomes, quality of care, patient satisfaction, access, and cost;
- require each component to be subject to specific accountability measures, including penalties;
- detail three sources of funding for the Carolina Cares program, federal funds, participant contributions, and state funds;
- direct that the program is not to be implemented if the funding from these sources is insufficient;
- direct DHHS to submit a Carolina Cares program design proposal, with a strategy for obtaining approval for federal funding for the program, to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by January 1, 2018; and
- direct DHHS to submit either a copy of the draft demonstration waiver under Section 1115 of the Social Security Act necessary to effectuate the Carolina Cares program or a draft of any modifications to the 1115 demonstration waiver for Medicaid transformation that was submitted on June 1, 2016.

**Introduced by Representatives Lambeth, Murphy, Dobson, and White and referred to the House Health Care Reform Committee.**

SENATE BILL 581, Establish Mandatory Dementia Care Training, would require adult care homes, nursing homes, and combination homes that provide special care for persons with Alzheimer's disease or other dementias to provide dementia care training to direct care staff, administrative staff, and nondirect care staff and establishing minimum standards for such training. **Introduced by Senator Woodard and referred to the Senate Rules Committee.**

SENATE BILL 585, Study Intergovernmental Relations, would direct the Legislative Research Commission (LRC) to authorize a Joint Committee to study the relationship between and

limitations and powers of the federal government, the State, and local governments in this State and, if appropriate based on the Committee's examination, provide recommendations for legislation, constitutional amendments, or other actions. The Committee would: (1) be composed of equal numbers of Senators and Representatives and include members of the majority and minority parties from each chamber; and (2) report its findings and recommendations, including recommended legislation, to the LRC no later than April 15, 2018. **Introduced by Senator Wells and referred to the Senate Rules Committee.**

SENATE BILL 587, Tax Returns Uniformly Made Public Act, would allow the name of a candidate for President or Vice President to appear on the general election ballot only if no later than 70 days before the date of the general election the candidate has filed with the State Board of Elections a copy of the candidate's federal income tax returns for the five years preceding the year of the general election and provided written consent for the public disclosure of the tax returns. The State Board of Elections would make the federal income tax returns publically available on its website within seven days after the income tax returns have been filed. However, before the income tax returns are made publically available, any personal or other information that should be kept confidential by law would be redacted. If a candidate for President or Vice President does not timely file with the State Board of Elections the federal income tax returns and written consent, the name of the candidate would not be printed on the official general election ballot. **Introduced by Senator Chaudhuri and referred to the Senate Rules Committee.**

SENATE BILL 588, Whole Woman's Health Act, would:

- establish that it is not unlawful to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a health care provider operating within his or her scope of practice;
- establish that it is not unlawful, after the twentieth week of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital or clinic licensed or certified by the Department of Health and Human Services;
- delete subsection which required qualified physician's advising, procuring, or causing a miscarriage or abortion after the sixteenth week or twentieth week of a woman's pregnancy to record certain information or analysis and provide that information to the Department of Health and Human Services;
- delete subsection which defined qualified physician to mean:
  - a physician who possesses, or is eligible to possess, board certification in obstetrics or gynecology
  - a physician who possesses sufficient training based on established medical standards in safe abortion care, abortion complications, and miscarriage management
  - a physician who performs an abortion in a medical emergency

**Introduced by Senators Chaudhuri, Van Duyn and Bryant and referred to the Senate Rules Committee.**

SENATE BILL 589, Fantasy Sports Regulation, is identical to House Bill 279, summarized in the March 14, 2017, Legislative Report. **Introduced by Senators Gunn, Blue, and Lee and referred to the Senate Rules Committee.**

SENATE BILL 590, NC Consumer Fireworks Safety Act, would allow the possession and use of consumer fireworks in the State, subject to the following conditions:

- the person possessing or using the consumer fireworks must be at least 18 years old;
- the use of consumer fireworks may occur only between the hours of 10:00 A.M. and 10:00 P.M., with the following exceptions:
  - on July 4, use is permitted until 12:00 A.M.; and
  - on December 31 and the following January 1, use is permitted from 8:00 A.M. on December 31 until 12:30 A.M. on January 1;
- the discharge of consumer fireworks is prohibited in the following locations:
  - in or on the premises of a public or private primary or secondary school, unless the person has written permission from the school;
  - on the campus of a college or university, unless the person has received written authorization from the college or university; and
  - within 1,500 feet of a hospital, veterinary hospital, licensed child care center, fireworks retailer, fireworks distributor, gas station, or bulk storage facility for petroleum products or other explosive or flammable substances; and
- the possession or discharge of consumer fireworks is prohibited in or on the premises of any public park or public space, except as otherwise permitted by the person, State agency, or unit of local government owning or otherwise controlling the park, property, or space.

The bill also includes provisions regarding permits for the sale of consumer fireworks, tax on sales of consumer fireworks, and penalties for violations. **Introduced by Senators Brock and Gunn and referred to the Senate Finance Committee.**

SENATE BILL 609, Uniform Group Practice Provider Credentialing, would:

- amend law concerning uniform health care provider credentialing;
- establish that an insurer that has an existing contract with a group practice to participate in a health benefit plan network and must maintain a process to assess and verify the qualifications of a new health care practitioner that joins the group practice within 60 days of receipt of a completed provider credentialing application form approved by the Commissioner of Insurance;
- require the insurer to provide to the group practice a list of all information and supporting documentation required for credentialing a new health care practitioner that joins the practice;
- spell out the parameters of the credentialing process for a new health care practitioner that joins a group practice that has an existing contract with an insurer to participate in a health benefit plan, including various notice requirements for an insurer in receipt of a new practitioner application, and provisions regarding claims filed while a credentialing application is pending and upon approval of the application; and
- add the term existing contract, and define the term to mean a participating provider agreement between a group practice and an insurer under which practitioners bill for services provided to patients covered by a health benefit plan provided by the insurer.

**Introduced by Senator Gunn and referred to the Senate Rules Committee.**

SENATE BILL 616, Limit Look-Back for Immaterial Irregularities, would provide that immaterial irregularities in the listing, appraisal, or assessment of property for taxation or in the levy or collection of the property tax or in any other proceeding or requirement could be taxed for the year in which the immaterial irregularity was discovered and for any of the preceding five years during which it escaped proper taxation in accordance with the assessed value it should

have been assigned in each of the years for with it is to be taxed and the rate of tax imposed in each such year. **Introduced by Senator J. Davis and referred to the Senate Rules Committee.**

SENATE BILL 620, Eliminate Duplication/PED Study, would direct the Program Evaluation Division to evaluate the duplicative professional services within State agencies. In particular, the evaluation would examine duplicative legal services provided to State agencies by in-house attorneys and attorneys located in the North Carolina Department of Justice. **Introduced by Senators Edwards and Newton and referred to the Senate Rules Committee.**

SENATE BILL 629, Health Care Services Billing Transparency. This bill is actively opposed by the College of Emergency Physicians. This bill would:

- set the amount to be provided by the insurer to an out-of-network healthcare provider;
- enact new limitations on balance billing;
- provide for the calculation of a benchmark amount for the provision of health care services;
- provide that a health care provider's total payment for services provided outside an insurer's health care provider networks or for emergency care services is presumed reasonable if the payment is equal to or higher than the benchmark amount. Basically instead of greater of three - it is the lesser of three which includes Medicare rates;
- provide that a benchmark amount applied to an insured's deductible, copayment, or coinsurance is considered payment for the services of this statute;
- provide that payment of the benchmark amount forecloses the health care provider from collecting any additional amount from the insured or any third party. The bill also clarifies that nothing in the statute requires an insurer to make any direct payment to a health care provider;
- provide that regular willful violations of this statute by billing additional amounts constitute unfair and deceptive trade practices;
- require health services facilities participating in an insurer's health care provider network to submit a written disclosure containing listed information to an insured individual when the facility (1) admits to receive emergency services, (2) schedules a procedure for nonemergency services for, or (3) seeks prior authorization from an insurer for the provision of nonemergency services to the insured individual;
- require health services facilities without a contract with an insured individual's insurer to provide the insured individual with a written notice containing listed information when the facility admits the insured individual to receive emergency services;
- prohibit health services facilities from billing for services at a rate greater than the benchmark amount unless contracting health care providers able to meet the needs of the insured are reasonably available to the insured without unreasonable delay;
- specify what is included as services and defines services to exclude bills received for health care services if a provider participating in an insurer's provider network is available and the insured individual has elected to obtain services from a nonparticipating provider;
- require health care facilities that contract with health care providers outside an insured's network to ensure the provider complies with this statute;
- require health care providers outside of an individual's insurance network, including hospital-based providers, to include a statement on any billing notice sent to an insured individual that the individual is responsible for paying the applicable in-network cost-sharing amount, but no obligation to pay the remaining balance when the benchmark applies; and

- the bill would be effective October 1, 2017, and apply to services provided on or after that date.

**Introduced by Senators Hise and Meredith and referred to the Senate Rules Committee. This bill is opposed by the North Carolina College of Emergency Physicians.**

SENATE BILL 630, *Revise IVC Laws to Improve Behavioral Health*, is identical to House Bill 564, summarized above in this Legislative Report. **Introduced by Senators Hise, Krawiec, and Randleman and referred to the Senate Rules Committee.**

SENATE BILL 632, *Protect NC Right to Work Constitutional Amend*, would amend the State Constitution, if approved by a majority of voters in a statewide election to be conducted on November 6, 2018, to provide that “the right to live includes the right to work and therefore the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor organization.” **Introduced by Senators B. Jackson, Daniel, and Edwards and referred to the Senate Rules Committee.**

SENATE BILL 639, *Healthy Mother, Healthy Child*, is identical to House Bill 594, summarized above in this Legislative Report. **Introduced by Senators Smith-Ingram, Van Duyn, and Foushee and referred to the Senate Rules Committee.**

SENATE BILL 644, *Increase Diversity Among Physician Assistants*, would appropriate an unspecified amount for the next two years to the UNC Board of Governors to be allocated to Winston-Salem State University (WSSU). The funds would be used to develop and implement curriculum at WSSU for a physician assistant degree program, and develop strategies and recruitment methods for encouraging talented students from diverse racial and ethnic backgrounds to enroll at WSSU in the physician assistant degree program. **Introduced by Senator Lowe and referred to the Senate Rules Committee.**

SENATE BILL 646, *Universal Voter Registration*, would provide for automatic voter registration at drivers license offices, public agencies, community colleges, and colleges and universities of the University of North Carolina; and require the State Board of Elections to implement an outreach campaign informing citizens about automatic voter registration. **Introduced by Senators Woodard, Clark, and Lowe and referred to the Senate Rules Committee.**

SENATE BILL 648, *Legalize Medical Marijuana*, is identical to House Bill 185, summarized in the February 27, 2017, Legislative Report. **Introduced by Senators Van Duyn and Foushee and referred to the Senate Rules Committee.**

SENATE BILL 649, *Public Records Access - NC Residents Only*, would provide that access to North Carolina public records are for North Carolina residents. **Introduced by Senators Daniel, Brock, and Hise and referred to the Senate Rules Committee.**

SENATE BILL 653, *SOG - Study Gubernatorial Transition*, would direct the UNC School of Government to convene a working group, which would include senior policy staff members for the past four North Carolina Governors' administrations, to study ways to improve the process of gubernatorial transition in the State. The study would include issues related to infrastructure, cabinet agency transition and leadership, the use of memorandums of understanding between the incumbent Governor and candidates for office, disclosure of executive actions taken during the last six to 12 months of the incumbent administration, and if necessary, funding requirements.

The working group would report its findings and recommendations, including any proposed legislation, to the Majority and the Minority Leaders of the Senate and the House of Representatives by no later than April 15, 2018. **Introduced by Senator Chaudhuri and referred to the Senate Rules Committee.**

SENATE BILL 655, Change Date When Primary Elections Held, would require primary elections to be held on the Tuesday after the first Monday in March (currently, May) preceding the general election, and require the presidential primary to occur every four years on the Tuesday after the first Monday in March, 2020. **Introduced by Senator Brock and referred to the Senate Rules Committee.**

SENATE BILL 656, Electoral Freedom Act of 2017, would change the definition of a "political party" by reducing the number of signatures required for the formation of a new political party and for unaffiliated candidates to obtain ballot access eligibility. The bill would:

- amend the petition requirement for a group of voters to be considered a new political party to lower the number of required signatures to 10,000 (currently, 2% of the total number of voters who voted in the most recent general election for Governor, with signatures of at least 200 registered voters from each of three (currently, four) NC congressional districts; and
- lower the number of signatures required for an unaffiliated candidate to put their name on a general election ballot for statewide office to 5,000 (currently, 2% of the total number of voters who voted in the most recent general election for Governor), with signatures of at least 200 registered voters from at least three (currently, each of four) NC congressional districts.

**Introduced by Senator Brock and referred to the Senate Rules Committee.**

SENATE BILL 668, Enhanced Penalty for Second Degree Trespass, is identical to House Bill 562, summarized above in this Legislative Report. **Introduced by Senators Britt, Daniel, and Ballard and referred to the Senate Rules Committee.**

SENATE BILL 672, Lack of Postmark/Absentee Ballots, would provide that absentee ballots received by a county board of elections by mail on the day after the election that are not postmarked are deemed to have been postmarked on or before election day upon verification of receipt by the county board of elections. **Introduced by Senator D. Davis and referred to the Senate Rules Committee.**

SENATE BILL 673, Knight-LeCount Advocacy for Marrow Ed and Reg, would designate the month of December as marrow donation awareness month and appropriate funds to DHHS to raise awareness about bone marrow. **Introduced by Senators Smith-Ingram and Pate and referred to the Senate Rules Committee.**

SENATE BILL 675, Lack of Postmark/Absentee Ballots, is identical to Senate Bill 672, summarized above in this Legislative Report. **Introduced by Senators Bryant, Tarte, and D. Davis and referred to the Senate Rules Committee.**

## BILL UPDATES

HOUSE BILL 181, First Responders Act of 2017. The proposed committee substitute would amend the list of persons required to be issued a custody order by the clerk or magistrate taking a respondent into custody for examination by a physician or eligible psychologist to eliminate from the list of persons a security officer employed by the facility or employed by a company contracting with the facility who is present at and assigned to the 24 hour facility or area facility where the respondent is located. **The bill as amended was approved by the House Transportation Committee and will next be considered by the House Finance Committee.**

HOUSE BILL 283, DHHS Recommend Telemedicine Policy. The original language of this bill was removed and replaced by language that would direct DHHS to study and recommend a telemedicine policy for consideration by the General Assembly, and to submit its findings on or before October 1, 2017 to the Joint Legislative Oversight Committee on Health and Human Services and direct the Committee to consider making a recommendation based on the findings to the 2017 General Assembly during the 2018 regular session. **The bill as amended was approved by the House Health Committee and will next be considered by the full House.**

HOUSE BILL 425, Improve Utilization of MH Professionals. As amended, the bill would add that professionals included in the bill are prohibited from being related by blood or marriage to the individuals meeting the criteria for examination. **The bill as amended was approved by the House and has been sent to the Senate for consideration.**

SENATE BILL 68, Bipartisan Bd. of Elections and Ethics Enforce. The provisions of this bill were removed in the House Elections and Ethics Law Committee and replaced with new provisions to consolidate the functions of elections, campaign finance, lobbying, and ethics under one quasi-judicial and regulatory agency by creating the North Carolina bipartisan State Board of Elections and Ethics Enforcement. A previous version of this idea was ruled unconstitutional by the Courts and the sponsor reported that they have addressed the Courts concerns in this legislation. The bill includes provisions to:

- provide that the rules and forms adopted by the State Ethics Commission, Secretary of State related to lobbying, and the State Board of Elections will remain in effect, and policies, procedures, and guidance will remain in effect until amended or repealed by the Bipartisan State Board of Elections and Ethics Enforcement;
- transfer to the Bipartisan State Board of Elections and Ethics Enforcement the authority, powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of: (1) the State Ethics Commission, (2) the State Board of Elections, and (3) the lobbying registration and lobbying enforcement functions of the Secretary of State; and
- require the Bipartisan State Board of Elections and Ethics Enforcement to report to the Joint Legislative Commission on Governmental Operations, Joint Legislative Elections Oversight Committee, and the Legislative Ethics Committee on or before April 1, 2018, and again on or before March 1, 2019, as to recommendations for statutory changes necessary to further implement this consolidation.

**The bill as amended was approved by the House Elections and Ethics Law Committee and the House Finance Committee. After an amendment to the bill on the House floor, the bill was approved by the House and sent by special message to the Senate.**

## LEGISLATION ENACTED

SENATE RESOLUTION 392, Confirmation/Secretary of DHHS, would confirm Mandy Cohen as Secretary of the Department of Health and Human Services. The bill as amended was approved and adopted by the Senate. **Effective: April 6, 2017.**

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