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Focusing on Legislative Representation

2017 FINAL LEGISLATIVE REPORT

INTRODUCTION

As is our custom, we have prepared the 2017 Final Legislative Report which includes summaries of new laws approved by the General Assembly and (sometimes) signed into law by the Governor. The interesting thing is that the legislative session doesn't quite feel over as two and maybe three special sessions have already been planned to deal with a variety of issues (See Senate Bill 686) and unfinished business. This makes lobbyists and probably legislators a little antsy as there does not seem to be a moment where one can relax and feel that no surprise legislation or bad ideas are lurking around the corner. I have never quite understood this as if I was a legislator (heaven forbid) I would want a complete break where no one was "lobbying" me to do something during the special sessions. Of course, since they are also fundraising during this time frame, maybe my question answers itself!

We have included bill summaries of relevant legislation, a final summary of the 2017-2019 Budget and some bills that are currently in conference committee and are eligible to be considered during both the August and September special sessions. The legislature is also expected to deal with the many bills vetoed by the Governor - 4 bills at the last count. Although the Republicans have a veto-proof majority, several of these bills had bi-partisan support and opposition so it may be difficult to over-ride the Governor's veto on some of these. So far, every bill vetoed by the Governor has been over-ridden by the legislature but I would predict that one of two of these vetoes will stand. The Governor also let 4 bills become law without his signature and we have noted those in the report.

It has been an interesting session with some troubling trends continuing. The process seems to be more and more controlled by politics instead of a search for the right policy. The news conferences, public statements and vengeful moves by politicians from BOTH parties makes it difficult to come together on legislation that needs a wide range of ideas and perspectives to make the best policy and the lack of trust makes any sort of cooperation difficult. There are legislators from both parties who are truly trying to find solutions to real problems and are working hard to do so within the confines of our political framework. They work hard to find



NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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the right policy and are not afraid to reach out to those on the other side of the aisle who may have good ideas or perspectives on the issue. We need more of these legislators from either party who I like to consider the "worker bees" of the legislature who do not always receive the headlines, but are the true public servants that we all need.

I had the rare pleasure of seeing the movie "Dunkirk" recently and was struck by the sacrifice and dedication of not only the military but the civilians who risked their lives for others. At the end of the movie they played Winston Churchill's famous speech and I was inspired enough to look it up and read it again. I thought I would share an excerpt with you in hopes that it would inspire you as well:

I have, myself, full confidence that if all do their duty, if nothing is neglected, and if the best arrangements are made, as they are being made, we shall prove ourselves once more able to defend our island home, to ride out the storm of war, and to outlive the menace of tyranny, if necessary for years, if necessary alone. At any rate, that is what we are going to try to do. That is the resolve of His Majesty's Government – every man of them. That is the will of Parliament and the nation. The British Empire and the French Republic, linked together in their cause and in their need, will defend to the death their native soil, aiding each other like good comrades to the utmost of their strength.

Even though large tracts of Europe and many old and famous States have fallen or may fall into the grip of the Gestapo and all the odious apparatus of Nazi rule, we shall not flag or fail. **We shall go on to the end. We shall fight in France, we shall fight on the seas and oceans, we shall fight with growing confidence and growing strength in the air, we shall defend our island, whatever the cost may be. We shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets, we shall fight in the hills; we shall never surrender**, and if, which I do not for a moment believe, this island or a large part of it were subjugated and starving, then our Empire beyond the seas, armed and guarded by the British Fleet, would carry on the struggle, until, in God's good time, the New World, with all its power and might, steps forth to the rescue and the liberation of the old.

It is our honor and great privilege to represent the North Carolina College of Emergency Physicians during the 2017 session and we look forward to continuing our work together during all the special session and the short session to come. Please let us know if you have any questions or concerns about this 2017 Final Legislative Report.

LEGISLATION ENACTED

HOUSE BILL 7, LRC/Strengthen Savings Reserve. This law, as recommended by the Legislative Research Commission, renames the Savings Reserve Account as the Savings Reserve and changes the rules regarding the general use of the Reserve Funds. The law also states the intent of the General Assembly to study during the 2019 Regular Session whether these changes have successfully accomplished their purpose of establishing and maintaining sufficient reserves to address unanticipated events and circumstances such as natural disasters, economic downturns, threats to public safety, health, and welfare, and other emergencies. **Effective: October 1, 2017.**

HOUSE BILL 21, Driver Instruction/Law Enforcement Stops. This law requires the Division of Motor Vehicles, in consultation with the State Highway Patrol, the North Carolina Sheriff's Association, and the North Carolina Association of Chiefs of Police, to include in the driver license handbook a description of law enforcement procedures during traffic stops and the actions that a motorist should take during a traffic stop, including appropriate interactions with law enforcement officers. The law also requires the driver education curriculum to include instruction on the same. **Effective: January 1, 2018. The driver education provision is effective July 12, 2017, and applies beginning with the 2017-2018 school year.**

HOUSE BILL 57, Enact Physical Therapy Licensure Compact. This law will establish an Interstate Compact for Physical Therapy Licenses that facilitates and regulates the interstate practice of licensed physical therapists; however, the Interstate Compact also will preserve the regulatory authority of each individual state through the current system of state licensure. This law further creates special privileges/permissions for licensed physical therapists who are spouses of relocating military members. The law enhances the exchange of investigative and disciplinary information on licenses between member states and recognizes a shared data system on licensees.

The “reciprocity” afforded out-of-state licensed physical therapists is referred to as a “compact privilege” under this new law, which is defined as the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist in the remote state under its laws and rules. In other words, this law would allow a licensed physical therapist from SC to practice in NC with only a SC license, assuming that SC is a member state of the Compact. There are certain prerequisites that any member state must meet in order to participate in the Compact, including, but not limited to, fully implementing a criminal background check requirement and complying with all rules of the newly-created Physical Therapy Compact Commission. This Commission will be a joint public agency that oversees the administration and oversight of the “compact privileges” of member states, among other things.

In order for a licensed physical therapist to have the benefit of the Interstate Compact, s/he must meet all of the following qualifications:

- Hold a license in the home state.
- Have no encumbrance on any state license.
- Be eligible for a compact privilege in any member state.
- Have not had any adverse action against any license or compact privilege within the previous two years.
- Notify the Commission that the licensee is seeking the compact privilege within a remote state(s).
- Pay any applicable fees, including any state fee, for the compact privilege.
- Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege.
- Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

Effective: October 1, 2017; however, the section pertaining to military-trained physical therapists and eligible military spouses became effective July 1, 2017, and applies to applications submitted on or after that date.

HOUSE BILL 98, Crim. Offense/Vandalize Fire and EMS Equipment. This law will increase criminal penalties for vandalism to ambulances and fire department equipment. More specifically, the law will make it a Class 1 misdemeanor if a person intentionally injures,

destroys, removes, vandalizes, or tampers with or intentionally interferes with the operation of (1) machinery, apparatus, or equipment used by a fire department or the North Carolina Forest Services for fighting fires, protecting property, or protecting human life; and (2) any ambulance or rescue squad emergency medical services vehicle or any equipment or apparatus used for emergency medical services. **Effective: December 1, 2017.**

HOUSE BILL 100, Restore Partisan Elections/Sup. & Dist. Court. This law repeals the current statute that governs the non-partisan process for conducting superior and district court races and restores partisan judicial elections for North Carolina superior and district courts - which means judicial candidates will list their party on the ballot. The law prohibits a person from filing a notice of candidacy for or being nominated as a superior court judge, unless that person is, at the time of filing the notice of candidacy, a resident of the judicial district as it will exist at the time the person would take office if elected. Also, the law establishes a filing fee of 1% of the annual salary of the office sought for justices and judges, and adds judges to those allowed to request a second primary. **Effective: For primaries and elections held on or after January 1, 2018. Governor Cooper vetoed this legislation; however, the Legislature overrode his veto, and the bill became law.**

HOUSE BILL 142, Reset of S.L. 2016-3. On March 23, 2016, the General Assembly met in a special session to pass legislation in response to an ordinance passed by the city of Charlotte, which (among other things) prohibited places of public accommodation from banning transgender men or women from using facilities that correspond to their gender identity. That provision in particular caused an outcry from social conservatives, who felt that its passage would endanger the safety of women and girls in public bathrooms (despite the lack of examples from the hundreds of cities and many entire states across the nation that have enacted similar ordinances). Then-Governor Pat McCrory and legislative leaders had warned the Mayor and Charlotte City Council that if they passed their nondiscrimination ordinance with the “bathroom provision” included, the legislature would respond.

By March 23rd, the ordinance had been passed but had not yet gone into effect, and the legislature met to pass what became known as House Bill 2, HB2, or “the bathroom bill.” While the bill did require the use of public facilities based on a person’s gender at birth (effectively forcing transgender women to use facilities designated for men, and vice versa), it went much further. HB2 established a state nondiscrimination policy for the first time but excluded LGBT citizens, and restricted local governments from passing any ordinance to expand protections to those groups. It also restricted local governments from establishing a minimum wage, and eliminated the right to bring civil actions for violations of the statewide nondiscrimination standard in state court.

While then-Gov. McCrory criticized the legislature for passing such a broad bill, he signed it the same day it was passed. The backlash to what was described in national news as the worst anti-LGBT bill in the country was immediate, and only grew as the following weeks went on. Each week brought more criticism of the bill and Gov. McCrory, boycotts from major artists, cancellations of concerts, conventions and sporting events, and national news coverage of the ongoing controversy. Estimates of the economic impact of the bill vary but range from hundreds of millions to billions in lost revenue, and pressure from major businesses and industries to repeal the bill increased throughout the year. As the months went on the image of the state, along with the poll numbers for Gov. McCrory, continued to decline.

Despite the controversy many legislators, particularly those from conservative districts where HB2 polled well, were steadfastly against any action to repeal HB2. The pressure intensified as the ACC and NCAA pulled championships, including ACC basketball tournaments and “March Madness” games, from the state. News of impending announcements from major employers swirled as the 2016 election neared and HB2 remained a constant topic of discussion in the political press, but the legislature could not muster the will to act in a way that would stop the controversy and boycotts. GOP leaders blamed then-candidate Roy Cooper for sabotaging bipartisan attempts to find a middle-ground compromise, though it was never clear that there were a sufficient number of Republican votes for any substantive changes to the bill.

When Pat McCrory was narrowly defeated – on the same night Donald Trump won North Carolina handily and many other statewide Republican candidates triumphed – most observers pointed to HB2 as the reason. McCrory himself conceded the bill (or, what he saw as the media’s inaccurate portrayal of it) made the difference in what became one of the closest races in North Carolina’s history. HB2 was also cited as a main reason four Republican House members in urban districts lost their seats to Democratic challengers. Yet despite the political fallout, it took nearly four more months, several failed attempts, and the continually ratcheting pressure from business and sports leaders for legislative leaders and Gov. Cooper to find a compromise solution. In the end, it passed just over a year to the day from when HB2 was passed, a year in which the bill and the fallout from it was a topic of constant discussion that overshadowed much of the beginning of this session.

While House Bill 142 does repeal HB2, it also restricts local governments from passing nondiscrimination ordinances until 2020, a provision that led LGBT rights groups to oppose the bill and publicly castigate Gov. Cooper, to whose campaign they had dedicated considerable resources. While it was not considered a clean political win for Cooper it was hailed by many civic and business leaders, and has led to almost all of the HB2-related boycotts and travel bans being lifted.

House Bill 142:

- repeals “House Bill 2”;
- provides that regulation of multi-occupancy facilities falls under the control of the State; and
- provides that local governments cannot pass their own nondiscrimination ordinances dealing with employment practices for private businesses or public accommodations until 2020.

Effective: March 30, 2017.

HOUSE BILL 208, Occup. Therapy/Choice of Provider. This law will enhance an individual’s right to choose the occupational therapist of his or her choice by adding occupational therapists to the list of health providers listed in the choice of provider statute. **Effective: October 1, 2017.**

HOUSE BILL 239, Reduce Court of Appeals to 12 Judges. This law will:

- provide that, on or after January 1, 2017, whenever the seat of an incumbent judge becomes vacant prior to the expiration of the judge's term due to the death, resignation, retirement, impeachment, or removal, that seat is abolished until the total number of Court of Appeals seats is decreased from 15 to 12;
- authorize the Supreme Court to make certification of discretionary review before a determination by the Court of Appeals when the Supreme Court determines that the

subject matter of the appeal is important in overseeing the jurisdiction and integrity of the court system; and

- create a right of appeal directly to the Supreme Court for any order that terminates parental rights or denies a petition or motion to terminate parental rights.

Effective: The Court of Appeals seats provision is effective April 26, 2017. The other provisions are effective January 1, 2019, and apply to appeals filed on or after that date. The House and Senate both voted to override Governor Cooper’s veto of House Bill 239. As the next three judgeship terms end, they will be ineligible for replacement. Governor Cooper originally vetoed the legislation citing concerns that the bill encroached on the Governor’s authority to replace vacancies in the court. Three vacancies are expected to occur during his first term in office and he will now be unable to appoint replacements.

HOUSE BILL 243, Strengthen Opioid Misuse Prevention (STOP) Act. This comprehensive law seeks to curtail the opioid epidemic in the state that is being seen Nationwide. North Carolina has been hit particularly hard by this epidemic with 4 of the top cities for overdose deaths being here in our State. This was bi-partisan legislation that was worked on by the legislature, the Attorney General's office and supported by the Governor. The **North Carolina College of Emergency Physicians** was active in discussing the details of the legislation with policy makers and explaining the impact of some of the proposals on our physicians and patients. We were able to convince them of the importance of improving the CSRS so that it is more user friendly and also allow for delegates in the Emergency Department among many other changes that were made to the bill along the way. Among those provisions most relevant to Emergency Physicians, are the following:

Provisions for Prescribers

A. Limitations on First-Time Prescriptions

(Effective: January 1, 2018)

1. Limit first-time prescriptions upon initial consultation for acute pain to no more than a five (5) day supply of any targeted controlled substance upon the initial consultation and treatment of a patient for acute pain, unless the prescription is for post-operative acute pain relief for use immediately following a surgical procedure.
2. Prohibit a practitioner from prescribing more than a seven (7) day supply of any targeted controlled substance for post-operative acute pain relief immediately following a surgical procedure. However, upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new prescription for a targeted controlled substance.
3. The above limitations and prohibitions do not apply to prescriptions for controlled substances issued by a practitioner who orders a controlled substance to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.
4. Practitioners who act in accordance with the limitations on prescriptions set forth above will be immune from any civil liability or disciplinary action from the practitioner’s occupational licensing agency for such actions.

B. Prescriber Requirements to Check the Controlled Substances Reporting System (CSRS) Prior to Prescribing Targeted Controlled Substances for the First Time and then Every 90 Days Thereafter if Prescription Continues

(Effective: After CSRS achieves certain improvements, including a fully operational upgraded CSRS database within the state Department of Information Technology as determined by the State Chief Information Officer)

1. Prior to initially prescribing a targeted controlled substance to a patient, the practitioner shall review the information in the CSRS for the 12-month period preceding the initial prescription.
2. For every subsequent 3-month period that the targeted controlled substance remains a part of the patient's medical care, the practitioner shall review the information in the CSRS pertaining to the patient for the 12-month period preceding the determination that the targeted controlled substance should remain a part of the patient's medical care.
3. Each such review (or CSRS check) must be documented in the medical record.
4. A CSRS check is permitted, but not required, for controlled substances administered in a health care setting, hospital, nursing home, outpatient dialysis facility, or residential care facility, or prescribed for hospice or palliative care or for the treatment of cancer pain.
5. DHHS shall conduct periodic audits of the review of CSRS by prescribers and shall report to the appropriate licensing board any prescriber found to be in violation of the requirement to check CSRS.
6. A violation **may** constitute cause for a licensing board to **suspend or revoke** prescriber's license. **(This wording was changed considerably from the first drafts to allow discretion to the Medical Board instead of requiring suspension or revocation of a license)**

C. Creation of Delegate CSRS Accounts for Emergency Department Prescribers

(Effective: July 1, 2017) **This provision to allow delegates in the Emergency Department who can access the CSRS on behalf of Emergency Physicians was specifically requested by the North Carolina College of Emergency Physicians, and we want to thank our members for their calls and emails to legislators regarding this important provision.**

1. "The administrator of a hospital emergency department or hospital acute care facility **shall** provide the Department [DHHS] with a list of prescribers who are authorized to prescribe controlled substances for the purpose of providing medical care for patients of the hospital emergency department or hospital acute care facility and a list of delegates who are authorized to receive data on behalf of the providers listed." (Emphasis added). Revising § 90-113.74(c)(1)a. "Confidentiality."
2. The administrator shall submit the lists to DHHS no later than December 1 of the calendar year before the year that delegates are to receive data. The administrator can update the lists at any time during the course of the year.
3. Within 1 week of receiving the initial or updated lists, HHS shall establish all of the delegate accounts necessary to enable each delegate listed by the administrator of the hospital emergency department or hospital acute care facility to receive data on behalf of the listed prescribers.
4. Delegations made under this section are valid during the calendar year for which submitted by the administrator.
5. The law also requires the CSRS system to work toward achieving interstate connectivity so that data can be checked from surrounding states which is one of the issues raised by the **North Carolina College of Emergency Physicians** as a way to make the system more effective.

D. Physician Assistant (PA) and Nurse Practitioner (NP) Obligations Prior to Prescribing a Targeted Controlled Substance

(Effective: July 1, 2017)

1. **PAs and NPs who treat patients in a facility "that primarily engages in the treatment of pain by prescribing narcotic medications or advertises in any medium for any type of pain management services" to "personally consult" with their**

supervising physician prior to prescribing a targeted controlled substance if use of the substance will exceed/is expected to exceed a period of 30 days.

2. PAs and NPs must verify with supervising physician that prescription is medically appropriate, and must re-consult with physician every 90 days if prescription continues.

E. Electronic Prescribing of Targeted Controlled Substances & Exceptions

(Effective: January 1, 2020)

1. Unless listed in the exceptions below, a practitioner shall electronically prescribe all targeted controlled substances.
2. Exceptions:
 - a. Practitioners, other than pharmacists, who dispense to an ultimate user.
 - b. Practitioners who order a controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility.
 - c. Practitioners who experience temporary technological or electrical failure, if this reason is documented in medical record.
 - d. Prescriptions to be dispensed by a pharmacy on federal property, if this reason is documented in medical record.
 - e. Prescriptions written by veterinarians.
 - f. Dispensers are not required to verify that practitioners properly fall into one of the exceptions above before dispensing from valid written, oral, or facsimile prescriptions.

Effective: As noted above.

HOUSE BILL 256, 2017 Appointments Bill. This law appoints persons to various public offices upon the recommendation of the Speaker of the House of Representatives, President Pro Tempore of the Senate, and the Majority and Minority Leaders of the House and Senate.

Effective: June 29, 2017, unless otherwise provided.

- Dr. Ryan P. Lamb of Orange County is appointed to the North Carolina Brain Injury Advisory Council for a term expiring on September 30, 2019, to fill the unexpired term of Dr. Erwin Manalo.
- Dianne M. Layden of Perquimans County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2019, to fill the unexpired term of Dr. Thomas A. Brant. Effective January 1, 2018, Charles J. Elledge of Wilkes County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2021.
- Effective January 1, 2018, Anita Bachmann of Guilford County, Brian L. McGinnis of Gaston County, and Lisa P. Shock of Orange County are appointed to the Board of Directors of the North Carolina Institute of Medicine for terms expiring on January 1, 2022. Effective January 1, 2017, Dr. Penney Burlingame Deal of Onslow County, Leonard A. Ellis of Mitchell County, and Keith S. Holtsclaw of Mitchell County are appointed to the North Carolina Institute of Medicine Board of Directors for terms expiring on December 31, 2021.
- Effective July 1, 2017, Donald Keith Branch of Johnston County, Ashley M. Honeycutt of Wake County, Representative Frank Iler of Brunswick County, Representative Larry Yarborough of Granville County, Representative Becky Carney of Mecklenburg County, Wanda Moore of New Hanover County, Ryan S. Swanson of Wake County, and Joseph "Joey" Propst of Wake County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task for terms expiring on June 30, 2019. Effective July 1, 2017, Senator Chad Barefoot of Wake County, Senator Kathy G. Harrington of Gaston County,

Senator Ronald J. Rabin of Cumberland County, Helen W. Brann of Person County, Shonda K. Corbett of Wake County, Chris C. Dobbins of Gaston County, Dr. David Y. Huang of Orange County, and Heather P. Breedlove of Wake County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2019.

- Effective July 1, 2017, Reverend Sidney Dunston of Franklin County and Marybeth Burns of Henderson County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2020.
- Effective July 1, 2017, Margaret Currin of Wake County, John R. Hemphill of Wake County, and Jeffrey T. Hyde of Guilford County are appointed to the Rules Review Commission for terms expiring on August 31, 2018; Anna Baird Choi of Wake County, Garth K. Dunklin of Mecklenburg County, and Andrew P. Atkins of Wake County for terms expiring on June 30, 2019; and Robert A. Bryan of Wake County and Jeffrey A. Poley of Wake County for terms expiring on August 31, 2019.
- Effective January 1, 2018, Lisa B. McCanna of Cabarrus County and Danielle Niedfeldt of Orange County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2019.
- Effective January 1, 2018, Amy T. Ward of Nash County is appointed to the 911 Board for a term expiring on December 31, 2020, to fill the unexpired term of Joshua Brown.

HOUSE BILL 258, Amend Med. Mal Health Care Provider Defin. This law will add paramedics to the definition of health care providers in the medical malpractice actions statute. **Effective: July 20, 2017.**

HOUSE BILL 283, DHHS Recommend Telemedicine Policy. This law requires the Department of Health and Human Services to study and recommend a telemedicine policy for consideration by the General Assembly, including what services are appropriate for telemedicine and telemedicine provider licensing standards. On or before October 1, 2017, the Department must submit a report containing findings and recommendations and a proposed telemedicine policy to the Joint Legislative Oversight Committee on Health and Human Services. **Effective: July 20, 2017.**

HOUSE BILL 399, Stop Images Taken Without Consent from Dissemination. This law will:

- further restrict the knowing disclosure of an image of another person with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person by:
 - removing the requirement of a personal relationship between depicted person and discloser to constitute the crime of disclosure of private images; and
 - including that the offending person has obtained the image without consent of the depicted person or under circumstances such that the person knew or should have known that the depicted person expected the images to remain private;
- expand the definition of image to include computer-generated images and other reproductions produced by electronic means; and
- direct the Joint Legislative Oversight Committee on Justice and Public Safety to study the issue of improper disclosure of an image of a person superimposed onto another image.

Effective: December 1, 2017.

HOUSE BILL 464, *Revise Schedule of Controlled Substances*. This law revises the schedule of controlled substances to add synthetic fentanyls, designer hallucinogenics, synthetic cannabinoids, system depressants, and other substances, and amends the circumstances when a person who commits second degree murder must be punished as a Class B2 felon to include murder proximately caused by the unlawful distribution and ingestion of certain controlled substances. In addition, the law establishes a 22-member Task Force on Sentencing Reforms for Opioid Drug Convictions to: (1) study and review cases of inmates who are incarcerated solely for convictions of opioid drug offenses that require active sentences under structured sentencing; (2) consider how to identify inmates who would be able to successfully reintegrate into society; and (3) develop and consider options for modifying existing statutes. The Task Force will report to the 2017 General Assembly when it reconvenes in 2018, and submit a final report, including findings and legislative recommendations, to the 2019 General Assembly. **Effective: December 1, 2017, and apply to offenses committed on or after that date. The remaining provisions are effective July 18, 2017.**

HOUSE BILL 511, *Game Nights/Nonprofit Fund-Raiser*. This law will allow nonprofit organizations to operate "game nights" and includes provisions to:

- define a nonprofit organization as an organization or association recognized by the Department of Revenue as tax exempt or any bona fide branch, chapter, or affiliate of that organization;
- require each regional or county chapter of a nonprofit organization to be eligible to conduct raffles independently of its parent organization;
- allow a nonprofit organization to hold no more than four raffles per year;
- increase the maximum total cash prize that can be offered or paid by a nonprofit organization from \$125,000 to \$250,000;
- prohibit any games at a game night event from being played for cash or cash prizes. Prizes will be awarded only through a raffle. Participants may exchange chips, markers, or tokens from the game night event for raffle tickets. The cost of the prizes and expenses to operate the game night event, excluding the cost of food, beverages, and entertainment, may not exceed the proceeds derived from the event. If the exempt organization hires a game night vendor for the event, payment must be by fixed fee;
- provide that this section does not prevent an employer from holding a game night event for employees and guests, a trade association from holding a game night event for its members and guests, or a private individual from holding a game night event at a private residence, as long as there is no cost or charge to the attendees. Such events may be held in venues without licenses to serve alcohol;
- provide for the reissuance of permit to a nonprofit organization that has received a limited special occasion permit or a special onetime within the preceding 18 months if the same individual representing the organization requests the reissuance of the permit for the same location; and
- amend the provisions regarding special permits for local governments and nonprofit or political organizations to serve wine, malt beverages, and spirits at a ticketed fundraiser event to allow nonprofit organizations to offer alcoholic beverages in the manufacturer's original closed container as a prize in a raffle or sell alcoholic beverages in the manufacturer's original closed container at auction at the ticketed event to allow the nonprofit organization to raise funds.

Effective: The permit reissuance section is effective December 1, 2017, and applies to offenses committed on or after that date. The remainder of this act is effective October 1, 2017. The Governor vetoed this legislation on July 12, 2017, stating that he believes the

legislation may unintentionally allow the for-profit video poker industry to infiltrate our communities.

HOUSE BILL 550, Establish New Nurse Licensure Compact. This law will repeal and replace North Carolina's Current Nurse Licensure Compact, and will enact a whole series of new state laws allowing party states to become members of an Interstate Compact. This legislation will create a joint public entity known as the “Interstate Commission of Nurse Licensure Compact Administrators.” Further, this law will:

- facilitate party states' (e.g., members of the Compact) responsibility to protect the public's health and safety;
- ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;
- promote compliance with the laws governing the practice of nursing in each jurisdiction;
- invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- decrease redundancies in the consideration and issuance of nurse licenses; and
- provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Effective: When at least 26 states have enacted the Nurse Licensure Compact or December 31, 2018, whichever is earlier.

SENATE BILL 55, School Bus Cameras/Civil Penalties. This law authorizes the use of photographic or video evidence recorded by automated school bus safety cameras installed and operated on any school bus for the civil enforcement of violations for passing a stopped school bus when the county adopts an ordinance to do so. The law will require a citation for the violation to be received by the registered owner of the vehicle no more than 60 days after the date of the violation. A person wishing to contest a citation must, within 30 days after receiving the citation, deliver to the officials or agents of the county that issued the citation a written request for a hearing accompanied by an affidavit stating the basis for contesting the citation. Violations of the ordinance will be deemed a noncriminal violation for which a civil penalty will be assessed and for which no points and no insurance points will be assigned to the registered owner or driver of the vehicle. The penalty will be \$400 for the first offense, \$750 for the second violation, and \$1,000 for each subsequent violation of the ordinance. **Effective: Most of the provisions are effective on July 25, 2017.**

SENATE BILL 68, Bipartisan Bd. of Elections and Ethics Enforce. This law consolidates 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. This legislation is the result of a court decision favoring the Governor over the legislative leadership on similar legislation. Legislative leaders stated that this legislation follows the directives of the Court in establishing this new Board. The legislation 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.

Effective: Except as otherwise provided, May 1, 2017. The Governor vetoed this legislation and both the House and Senate voted to override that veto and the legislation became law.

SENATE BILL 78, Cost to Comply/Fed Ed Funds/PED Study. This law will require the Department of Public Instruction, by no later than January 15, 2018, to study, report, and provide any supporting data to the Fiscal Research Division and the Program Evaluation Division of the General Assembly on the cost of compliance with federal education funding mandates to local school administrative units. The law also will establish the Joint Legislative Study Commission on Efficiency and Cost-Savings in State Government. The Commission will: (1) use a zero-based budgeting review process to study whether there are obsolete programs, cost-reduction opportunities, or any cases where existing funds can be redirected to meet new and changing demands for public services in the Department of the Secretary of State; and (2) make an interim report to the 2018 Regular Session of the 2017 General Assembly, and a final report to the 2019 General Assembly. **Effective: July 20, 2017.**

SENATE BILL 100, Aerial Adventure Financial Responsibility. This law, as recommended by the Legislative Research Commission Committee on Regulatory and Rate Issues in Insurance, prohibits a person from owning or operating a challenge course, zip line, or other similar device unless the person carries insurance coverage provided by an accepted insurer of at least \$1 million per occurrence and \$2 million in the aggregate against liability for injury to persons or property arising out of the operation of such facility or use of such device. This requirement does not apply to: (1) a challenge course or zip line installed at a private residence that is not open to the public and for which no fee is charged; or (2) a challenge course or zip line owned or operated by the State or a local government. **Effective: June 1, 2018.**

SENATE BILL 131, Regulatory Reform Act of 2016. This law will amend various environmental, natural resources, and other regulatory laws, including provisions to require databases purchased, leased, created, or otherwise acquired by every public agency containing public records to be designed and maintained in a manner that does not impair or impede the public agency's ability to permit the public inspection and examination of public records and provides a means of obtaining copies of such records. A public agency could satisfy the requirement to provide access to public records in computer databases by making public records in computer databases individually available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. A public agency that provides access to public records would not be required to provide access to the public records in the computer database in any other way; provided, however, that a public agency that provides access to public records in computer databases would also allow inspection of any of such public records that the public agency also maintains in a nondigital medium. **Effective: May 4, 2017.**

SENATE BILL 388, Incapacity to Proceed. This law will allow reports received by the court on a Defendant's lack of capacity to proceed to be shared with treatment providers. The new law also requires the Department of Health and Human Services to convene a workgroup to evaluate the laws governing the lack of capacity to proceed process, including the impact of the laws on the limited resources of the community mental health system, hospitals, state psychiatric hospitals, local law enforcement, court system, jails, crime victims, and criminal defendants. The workgroup shall be comprised of criminal justice and mental health experts who work directly with individuals who have been determined to lack the capacity to proceed. **Effective: July 20, 2017.**

SENATE BILL 548, Strengthen Human Trafficking Laws/Studies. This law will:

- increase the existing Class F felony of human trafficking with an adult victim to a Class C felony, and would increase the current Class C felony of human trafficking with a minor victim to a Class B1 felony;
- remove massage businesses from the definition of "adult establishment";
- prohibit the practice of massage and bodywork therapy in an adult establishment;
- establish standards for and require licensure of establishments providing massage and bodywork therapy services to the public, provide that these businesses would be regulated by the North Carolina Board of Massage and Bodywork Therapy, prohibit sexual activity in any licensed establishment, and provide that any person employing a person who is not licensed or exempt from licensure to provide massage and bodywork therapy services to the public would be guilty of a Class 1 misdemeanor; and
- direct the Department of Health and Human Services, in consultation with the North Carolina Human Trafficking Commission, to study the feasibility of training health care providers, emergency medical providers, and relevant first responders in human trafficking identification and response and preventative tools and measures.

Effective: July 20, 2017, except as noted. The enhanced felony level and new misdemeanor offense would become effective December 1, 2017.

SENATE BILL 569, Uniform Power of Attorney Act. This law will set up a whole new series of statutes under a new North Carolina General Statutes Chapter 32C entitled, "North Carolina Uniform Power of Attorney Act." Under this legislation, if a power of attorney becomes effective upon the principal's incapacity, but there is a question as to who is to determine whether the principal is incapacitated, then the power of attorney becomes effective upon a determination as follows:

- after a personal examination of the principal, by two individuals who are either a physician, a licensed psychologist, or both, that the principal is incapacitated; or
- by an attorney-at-law, a judge, or an appropriate governmental official that the principal is incapacitated.

Under this bill, "incapacity" is defined as the inability of an individual to manage property or business affairs because the individual has any of the following statuses:

- an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or
- is missing, detained, including incarcerated in a penal system, or outside the United States and unable to return.

The new law also includes standard power of attorney forms that comply with the new law. **Effective: January 1, 2018.**

SENATE JOINT RESOLUTION 686, Adjournment Resolution. This joint resolution adjourns the 2017 Regular Session of the General Assembly, and provides the dates and limits the matters that may be considered upon reconvening for the short session in 2018. The bill also provides for several special sessions as follows:

Reconvene on Thursday, August 3, 2017, at 12:00 noon to consider:

- Bills vetoed by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- Bills providing for the selection, appointment, or confirmation as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- Bills providing for action on gubernatorial nominations or appointments.
- Bills responding to redistricting, including actions related to litigation concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials' actions and any other litigation challenging the legality of legislative enactments.
- Bills returned on or after Wednesday, June 28, 2017, to the house in which the bill originated for concurrence.
- Adoption of conference reports for bills which were in conference on or after Wednesday, June 28, 2017, and conferees had been appointed by both houses on or after that date.
- Bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes.
- Bills that are subject to Section 23 of Article II of the North Carolina Constitution (Revenue Bills) that have passed second reading in the receiving house or have passed second reading for concurrence in the originating house, but have not been taken up for third reading.
- Simple resolutions addressing organizational matters of each respective house.
- A joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain.

When the House of Representatives and the Senate jointly adjourn the session convened on Thursday, August 3, 2017, they stand adjourned to reconvene on Wednesday, September 6, 2017, at 12:00 noon, and may consider the following matters:

- Bills:
 - Revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter.
 - Revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter.
- Bills:
 - Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter.
 - Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter other than statutory conforming changes to implement such bills.

- Solely making statutory and transitional changes to implement bills under subdivision a. of this subdivision.
- Bills vetoed by the Governor with his objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- Bills providing for the selection, appointment, or confirmation as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- Bills providing for action on gubernatorial nominations or appointments.
- Bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes.
- Bills responding to redistricting, including actions related to litigation concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials' actions and any other litigation challenging the legality of legislative enactments.
- A joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain.
- A joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain that is no later than November 15, 2017, for the purpose of considering bills:
 - Revising the Senate districts and the apportionment of Senators among those districts and containing no other matter.
 - Revising the Representative districts and the apportionment of Representatives among those districts and containing no other matter.
 - Revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter.
 - Revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter.

When the House of Representatives and the Senate jointly adjourn the session convened on Wednesday, September 6, 2017, they stand adjourned to reconvene on Wednesday, May 16, 2018, at 12:00 noon (this is the short session), and may consider the following matters:

- Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board for fiscal year 2018-2019, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Friday, May 18, 2018, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Thursday, May 31, 2018.
- Bills:
 - Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter.
 - Proposing an amendment or amendments to the North Carolina Constitution and containing no other matter other than statutory conforming changes to implement such bills.
 - Solely making statutory and transitional changes to implement bills under subdivision a. of this subdivision.

- Bills and resolutions introduced in 2017 and having passed third reading in 2017 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h), as appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.
- Bills and resolutions implementing the recommendations of:
 - Study commissions, authorities, and statutory commissions authorized or directed to report to the 2018 Regular Session.
 - The General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly.
 - The House Ethics Committee.
 - Select committees.
 - The Joint Legislative Ethics Committee or its Advisory Subcommittee.
 - A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Thursday, May 17, 2018, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 P.M. Wednesday, May 30, 2018.
- Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Thursday, May 24, 2018, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Thursday, June 7, 2018, and is accompanied by a certificate signed by the principal sponsor stating that (i) no public hearing will be required or asked for by a member on the bill, (ii) the bill is noncontroversial, and (iii) the bill is approved for introduction by each member of the House of Representatives and the Senate whose district includes the area to which the bill applies.
- Bills providing for the selection, appointment, or confirmation as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- Bills providing for action on gubernatorial nominations or appointments.
- Any matter authorized by joint resolution passed by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.
- A joint resolution authorizing the introduction of a bill pursuant to subdivision (8) of this section.
- Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Tuesday, May 22, 2018, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Tuesday, June 5, 2018.
- Joint resolutions and simple resolutions authorized for introduction under Senate Rule 40 or House Rule 31.

- Bills vetoed by the Governor with objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- Bills responding to redistricting, including actions related to litigation concerning the districts for Congressional, State House, State Senate, judicial, municipal, county, and other elected officials' actions and any other litigation challenging the legality of legislative enactments.
- Any bills relating to election laws.
- Bills to disapprove rules under G.S. 150B-21.3.
- Bills providing for impeachment pursuant to Article IV of the North Carolina Constitution or Chapter 123 of the General Statutes.
- A joint resolution adjourning the 2017 Regular Session, sine die.

The law allows the Speaker of the House of Representatives or the President Pro Tempore of the Senate to authorize appropriate committees or subcommittees of their respective houses to meet during the interims between sessions to: (1) review matters related to the State budget for 2017-2019 fiscal biennium; (2) prepare reports, including revised budgets; or (3) consider any other matters as the Speaker or the President Pro Tem deems appropriate. A conference committee may meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate. **Effective: June 30, 2017.**

BILLS IN CONFERENCE COMMITTEE

As we have reported, there will be several "special sessions" during the break that can take up specific issues. Bills that are in conference committee may be taken up in both the August 3rd session and the September 6th sessions. Bills in conference committee are bills that began in one chamber and then are modified in the other chamber. When the bill comes back to the originating chamber they can decide to "concur" which means they accept the changes and vote on the bill. Or they can vote to "not concur" which means the bill goes to conference committee which is made up of members of both the House and the Senate - normally those members who are involved and knowledgeable about the issues involved. Normally the changes to the bills are minor, but near the end of session bills were completely replaced with new provisions and major changes were made. Once the conference report is completed, neither chamber may amend the bill so it gets an up or down vote in both chambers. We have summarized below the bills that are currently in conference committee and are relevant so you can see what bills they might finalize in the special sessions.

HOUSE BILL 403, Behavioral Health and Medicaid Modifications. The most recent version of House Bill 403 was adopted by the Senate on June 28, but the House did not concur with the Senate's changes and the bill was sent to conference committee. The last version adopted by the Senate is broken into five parts as described below. This latest version did not include the Senate's earlier language to completely dissolve the MCO structure, but it does include salary restrictions similar to those found in the original HB 403. House Bill 403 is one of the bills eligible for consideration when the Legislature reconvenes in August and again in September.

Part I: Part I of the bill requires the Department of Health and Human Services (DHHS) to specify a single, nationally recognized standardized electronic format to be used by all MCOs

when submitting encounter data to DHHS. DHHS is also required to report to the Joint Legislative Oversight Committee on Health and Human Services on its progress regarding this change.

Part I also adds that area authorities must: (1) maintain disability-specific infrastructure and competency to address the clinical, treatment, rehabilitative, habilitative, and support needs of all disabilities covered by the 1915(b)(c) Medicaid Waiver; (2) maintain administrative and clinical functions, including requirements for customer service, quality management, due process, provider network development, information systems, financial reporting, and staffing; and (3) maintain full accountability for all aspects of Medicaid Waiver operations and for meeting all contract requirements.

In addition, Part I describes available actions by the Secretary upon an area authority or area director's failure to comply and provide minimally adequate services. The prohibitions on an area authority's use of alcohol, first-class airfare, charter flights, holiday parties or similar social gatherings, and any meeting outside the State are also included in Part I. This language was first seen in the Senate's first version of HB 403. Like the original HB 403, Part I of the latest version also includes language addressing salary ranges and restrictions for area directors.

Part II: Part II provides that DHHS shall have the authority to adopt rules related to the activities and regulations of Prepaid Health Plans (PHPs). Part II states that capitated PHP contracts shall cover all Medicaid and NC Health Choice services, including physical health services, prescription drugs, long-term services and supports, and behavioral health services for NC Health Choice recipients. PHP capitated contracts will not cover Medicaid recipients with a serious mental illness, a serious emotional disturbance, a substance use disorder, an intellectual/developmental disability, or those who have survived a traumatic brain injury for four years after the date capitated contracts begin. The number of PHP contracts in the State will be no less than three and no more than five.

MCOs will continue to manage the Medicaid services that are currently covered by the MCOs for Medicaid recipients with serious mental illness, serious emotional disturbance, substance use disorder, intellectual/developmental disability, or those who have survived a traumatic brain injury.

No later than November 1, 2017, DHHS must report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice with a plan for defining and determining whether a Medicaid recipient has a serious mental illness, a serious emotional disturbance, a substance use disorder, an intellectual/developmental disability, or has survived a traumatic brain injury. The report must also include a plan for ensuring that recipients who experience a change in status appropriately transition between the MCO delivery system and the PHP delivery system. DHHS must also report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice no later than March 1, 2018 with a plan for providing coordinated Medicaid services to these recipients.

Part III: Part III requires DHHS to notify the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division each time it submits a Medicaid State Plan amendment and also when it decides not to submit a proposed State Plan amendment that was posted to the DHHS website.

Part IV: Part IV makes changes to MCO appeals to conform with Medicaid federal regulations.

Part V: Part V states that except as otherwise provided, the act is effective when it becomes law.

Conferees: Rep. Dollar (House Chair), Rep. Lambeth, Rep. Dobson, Sen. Hise (Senate Chair), Sen. Pate, and Sen. Krawiec.

HOUSE BILL 482, County Commissioners Role in School Building Acquisition. This bill, which is subject to a Conference Committee with members noted below, had been a straightforward House bill that clarified the county commissioners' role in the acquisition of a public school building. It passed the House with bipartisan support almost unanimously. In the last week of Session, the Senate added some unrelated provisions with which the House did not agree; therefore, the respective chambers appointed Conferees. The Senate's revisions, and thus the main differences between the two versions of the bill, are the following:

- Two proposed studies: (1) one on the financial costs to the state and to local school systems of compliance with federal laws that result in millions of dollars in federal funds; and (2) a Joint Legislative Task Force on Sudden Cardiac Arrest in Student Athletes.
- Provisions allowing pro se (representing yourself without an attorney) representation on appeal; to create the Criminal Code Recodification Commission; and to provide that the chief district court judge may delegate authority to the clerk of superior court in matters relating to jury service excusals.
- A provision to clarify requirements related to search consultants for officers of community colleges.

Conferees: Rep. Hugh Blackwell, Sens. Barefoot, Daniel and Randleman.

FINAL 2017-2019 BUDGET

Health Information Exchange. The final budget establishes a successor HIE Network and provides that the following providers shall establish connectivity and commence submission of demographic and clinical data or encounter and claims data, in accordance with the following time line:

- Hospitals, physicians, physician assistants, and nurse practitioners by June 1, 2018;
- All other providers of Medicaid and State-funded health care services must submit demographic and clinical data by June 1, 2019;
- Prepaid Health Plans by the commencement date of a capitated contract with the Division of Health Benefits; and
- LME/MCOs by 2020.

Prepayment Claims Review Modifications. The final budget expands basis for prepayment claims review to include failure of the provider to timely respond to a request for documentation made by the Department or one of its authorized representatives.

MCO Single Stream Reduction. The MCO single stream reduction for 2017-2018 is \$31 million recurring and \$55 million nonrecurring. The reduction for 2018-2019 is \$36 million recurring and \$54 million nonrecurring. As also covered in this report, certain single stream funds are directed to support three-way beds, the US DOJ Settlement, Disability Rights Settlement, expanding 400 Developmental Disability Innovation Waiver slots, group homes, case management, and community substance abuse services.

Balanced Billing. The final budget **DID NOT** include language from SB 629, which would have restricted balanced billing. Keeping this language out of the final budget was a top legislative priority for the **NC College of Emergency Physicians**.

Department of Health and Human Coordination of Health Information Technology. The final budget provides that DHHS, in cooperation with the State Chief Information Officer, must coordinate health information technology policies and programs within NC. (One of these priorities is that the NCHIE will integrate with the CSRS database.)

Controlled Substance Abuse Reporting System (CSRS). The final budget provides \$1.2 million in funding for the next two years for contractual hours to develop and implement software via existing Government Data Analytic Center public- private partnerships for the performance of advanced analytics within the CSRS.

Graduate Medical Education. The final budget provides up to \$3 million in nonrecurring funds to be allocated to Cape Fear Valley Medical Center to support the establishment of residency programs affiliated with Campbell University School of Medicine.

Recommendation to Appoint a Subcommittee on Aging. The final budget allows the Joint Legislative Oversight Committee on Health and Human Services to consider appointing a subcommittee on aging to examine the State's delivery of services for older adults.

Traumatic Brain Injury Funding. The final budget provides \$2.3 million for the 2017-2018 fiscal year and the sum of \$2.3 million for the 2018-2019 fiscal year to be used exclusively to support traumatic brain injury (TBI) services.

Automated Background Check Management System. The final budget provides funding for the ongoing support of the Automated Background Check Management System used by long term care providers to fund background checks on non-licensed staff providing hands-on care to patients/residents as required by statute.

Study Continuing Education for Health Care Providers Licensed to Prescribe Controlled Substances. The final budget encourages, by December 1, 2017, the NC Area Health Education Centers Program to report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the feasibility of providing a continuing education course for health care providers licensed to prescribe controlled substances in the State. The course must include instruction on at least all of the following: (1) controlled substance prescribing practices; (2) controlled substance prescribing for chronic pain management; and (3) misuse and abuse of controlled substances.

Study of Site-of-Use Solutions for Safe Disposal of Prescription Medications. The final budget requires DHHS to study and report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on simple site-of-use solutions for the safe disposal of prescription medications.

Community Paramedicine Pilot Project. The final budget provides funding to continue the pilot to expand the role of paramedics to allow them to divert persons to community-based initiatives designed to avoid the non-emergency use of hospital emergency departments. The revised net appropriation for the Community Paramedicine Pilot Project is \$350,000 in each year of the biennium.

Graduate Medical Education Medicaid Reimbursement. The final budget provides that for the period of July 1, 2017 through June 30, 2019, the Division of Medical Assistance shall no longer be required to implement the prohibitions on reimbursement for Graduate Medical Education payments.

Plan to Establish Medicaid Coverage for Ambulance Transports to Alternative Appropriate Care Locations. The final budget requires DHHS to design a plan for adding Medicaid coverage for ambulance transports of Medicaid recipients in behavioral health crisis to behavioral health clinics or other alternative appropriate care locations instead of emergency departments.

Community Health Grants. The final budget increases by \$7.5 million the recurring funding for grants to community health centers, rural health centers, federally qualified health centers, free clinics, and other health services providers in rural and medically underserved community.

Alzheimer's Registry. The final budget provides \$600,000 in funding to support the development of an Alzheimer's Registry through the Duke Brain Research Center.

Guardianship Contract. The final budget provides federal Social Services Block Grant funding of \$605,101 to serve additional individuals in the state level guardianship contract and provides for a 15% increase to the rate paid to providers of corporate guardianship services.

Medicaid Non-Emergency Medical Transportation. The final budget realigns funding provided by county departments of social services for Medicaid non-emergency medical transportation to the Division of Medical Assistance. Funding for Medicaid non-emergency medical transportation is eliminated in the Division of Social Services budget. The revised net appropriation is \$356,326 in each year of the biennium.

Communicable Disease Testing. The final budget provides \$300,000 in recurring funding and \$300,000 in nonrecurring funding for Hepatitis C and other priority communicable disease testing.

Advisory Council on Rare Diseases. The final budget provides \$100,000 in nonrecurring funds for the Advisory Council on Rare Diseases.

UNC Craniofacial Center. The final budget provides \$250,000 in nonrecurring funds to the UNC Craniofacial Center.

Federal Elevated Blood Lead Standard. The final budget budgets Medicaid receipts to conform the State's elevated blood lead standard with the federal standard.

Traumatic Brain Injury Pilot. The final budget provides \$150,000 nonrecurring funding each year of the biennium to increase compliance with internationally approved evidence-based treatment guidelines for Traumatic Brain Injuries.

Substance Abuse Services. The final budget provides funding for substance abuse services by redirecting \$5,000,000 from single stream funds each year of the biennium.

Funds for Overdose Medications. The final budget provides that \$100,000 of the funds appropriated to DHHS must be used to provide opioid antagonists.

Inpatient Behavioral Health Beds and Case Management. The final budget transfers funds to the Department of Health and Human Service from the Dorothea Dix Hospital Property Fund for the purpose of expanding inpatient capacity in rural areas near counties with limited inpatient capacity relative to their needs through constructing new beds or renovating existing beds to form new inpatient psychiatric units. Of the funds transferred up to \$4 million will be used for inpatient beds at the Caldwell/UNC Health Care, \$4 million at Mission Health, \$4 million at Cape Fear Valley Medical Center, \$3 million at Good Hope Hospital and \$2 million for inpatient beds at Dix Crisis Intervention Center in Onslow County. Beds converted or constructed with these funds shall be named in honor of Dorothea Dix. Each facility that receives funds allocated under this section is exempt from certificate of need review for the establishment or expansion of behavioral health services at the facility at which the constructed or converted beds will be brought into operation, including any combination of the following: (1) the establishment or expansion of outpatient therapy services or substance use disorder treatment services, or both; (2) the replacement or relocation of a behavioral health facility, defined as a psychiatric facility, a facility-based crisis center, or any facility that is primarily engaged in providing services for the diagnosis and treatment of behavioral health issues; or (3) changes in inpatient behavioral health bed capacity.

Child Facility-Based Crisis Centers. The final budget provides funds to DHHS for start up costs to establish new child facility-based crisis centers.

Adult and Acute Care Inspections. The final budget provides funding to increase staff in the Acute and Home Care Section and the Adult Care Section to improve timeliness of inspections of various facilities, including hospitals, hospices, home care agencies, Ambulatory Surgical Centers, End Stage Renal Disease facilities and adult and family care homes. The additional positions will assist in meeting the Center for Medicare and Medicaid Services requirements for inspecting certain facilities.

Joint Oversight Subcommittees on Medical Education Programs and Medical Residency Programs. The final budget provides that the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee shall each appoint a subcommittee to jointly examine the use of State funds to support medical education and medical residency programs. In conducting the study, the subcommittees shall examine at least all of the following:

- (1) The health care needs of the State's residents and the State's goals in meeting those health care needs through the support and funding of medical education and medical residency programs located within the State.
- (2) The short-term and long-term benefits to the State for allocating State funds to medical education and medical residency programs located within the State.
- (3) Recommended changes and improvements to the State's current policies with respect to allocating State funds and providing other support to medical education programs and medical residency programs located within the State.
- (4) Development of an evaluation protocol to be used by the State in determining (i) the particular medical education programs and medical residency programs to support with State funds and (ii) the amount of State funds to allocate to these programs.

- (5) Any other relevant issues the subcommittees deem appropriate.

The subcommittees may seek input from other states, stakeholders, and national experts on medical education programs, medical residency programs, and health care as it deems necessary. By February 1, 2018, the Department of Health and Human Services and the University of North Carolina shall provide the subcommittees the following information regarding State funds and other support provided by the State to medical education programs and medical residency programs located in North Carolina:

- (1) The identity, location, and number of positions available in these medical education programs and medical residency programs, broken down by geographic area.
- (2) The specific amount of State funds or the nature of any other support provided by the State to medical education programs and medical residency programs, broken down by program.
- (3) The number of graduates of medical education programs and medical residency programs who are currently practicing in North Carolina, broken down by specialty areas in which North Carolina is experiencing a shortage, including: Anesthesiology, Neurology, Neurosurgery, Obstetrics/Gynecology, Primary Care, Psychiatry, Surgery, Urology, and any other specialty areas determined by the Department of Health and Human Services or the University of North Carolina to be experiencing a shortage.
- (4) The number of program graduates who practiced in North Carolina for at least five years after graduation.
- (5) Any other information requested by the subcommittees

The subcommittees shall jointly develop a proposal for a statewide plan to support medical education programs and medical residency programs within North Carolina in a manner that maximizes the State's financial and other support of these programs and addresses the short-term and long-term health care needs of the State's residents. Each subcommittee shall submit a report to its respective oversight committee on or before March 15, 2018, at which time each subcommittee shall terminate.

Expansion and Renaming of Prescription Drug Abuse Advisory Committee. The budget renames the Prescription Drug Abuse Advisory Committee the Opioid and Prescription Drug Abuse Advisory Committee.

UNC School of Medicine. The budget provides \$1 million (recurring) to increase the number of available medical student slots at the UNC School of Medicine.

Western School of Medicine – Asheville. The budget provides \$3.6M (recurring) and \$4.3M (non-recurring) for the UNC School of Medicine's Asheville Campus, a joint program between the UNC School of Medicine, other UNC system universities, and the Mountain Area Health Education Center. Funding will support administration, faculty, and related programs for this multi-disciplinary effort.

ECU Brody School of Medicine Stabilization Funds. The budget provides \$4M (recurring) to stabilize the Brody School of Medicine at East Carolina University.

Graduate Medical Education Expansion. The budget provides \$162,857 (recurring) in FY 2017-18 and \$803,804 (recurring) in FY 2018-19 for the planning and initial implementation of new residency programs at Vidant Duplin Hospital, Halifax Regional Medical Center, Carolina East, and Vidant Ahoskie Hospital. The new residency positions are intended to help expand medical services and increase the number of health-care providers in rural and under-served areas.

Medicaid Transformation Fund. The final budget directs the State Controller to reserve \$75 million from funds available in the General Fund for the 2017-18 fiscal year and transfer and deposit these funds in the Medicaid Transformation Fund.

Attorney General and Legislature Represent State. The final budget provides that it is the public policy of the State of North Carolina that in any action in any North Carolina State court or Federal Court in which the validity or constitutionality of an act of the General Assembly or a provision of the North Carolina Constitution is challenged, the General Assembly, jointly through the Speaker of the House of Representatives and the President Pro Tempore of the Senate, constitutes the legislative branch of the State of North Carolina and the Governor constitutes the executive branch of the State of North Carolina, and when the State of North Carolina is named as a defendant in such cases, both the General Assembly and the Governor constitute the State of North Carolina. A federal court presiding over any such action where the State of North Carolina is a named party is requested to allow both the legislative branch and the executive branch of the State of North Carolina to participate in any such action as a party.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate, as agents of the State, by and through counsel of their choice, including private counsel, have jointly have standing to intervene (by filing a notice of intervention of right in the trial or appellate court in which the matter is pending regardless of the stage of the proceeding) on behalf of the General Assembly as a party in any judicial proceeding challenging a North Carolina statute or provision of the North Carolina Constitution. In addition, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as agents of the State through the General Assembly, must be joined as defendants in any civil action challenging the validity of a North Carolina statute or provision of the North Carolina Constitution under State or federal law.

Health Analytics Program. The final budget directs the Department of Health and Human Services to continue to coordinate with the Government Data Analytics Center (GDAC) to further develop and fully operationalize the Health Analytics Program for Medicaid claims analytics and population health management. The purpose of the Health Analytics Program is to apply analytics to Medicaid data available to GDAC through the Department in a manner that maximizes health care savings and efficiencies to the State, optimizes positive impacts on health outcomes, and assists in the transition to, and management of, the transformed North Carolina Medicaid and North Carolina Health Choice programs.

School Nurses. The final budget requires State funds appropriated for the School Nurse Funding Initiative to be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose, and to ensure that communities maintain their current level of effort and funding for school nurses. These funds may not be used to fund nurses for State agencies, and will be distributed to local health departments according to a formula that includes all of the following: (1) school nurse-to-student ratio; (2) percentage of students eligible for free or reduced-price meals; (3) percentage of children in poverty; (4) per capita income; (5)

eligibility as a low-wealth county; (6) mortality rates for children between one and 19 years of age; (7) percentage of students with chronic illnesses; and (8) percentage of county population consisting of minority persons.

The Division of Public Health will ensure that school nurses funded with State funds (1) do not assist in any instructional or administrative duties associated with a school's curriculum and (2) perform all of the following with respect to school health programs: (1) serve as the coordinator of the health services program and provide nursing care; (2) provide health education to students, staff, and parents; (3) identify health and safety concerns in the school environment and promote a nurturing school environment; (4) support healthy food services programs; (5) promote healthy physical education, sports policies, and practices; (6) provide health counseling, assess mental health needs, provide interventions, and refer students to appropriate school staff or community agencies; (7) promote community involvement in assuring a healthy school and serve as school liaison to a health advisory committee; (8) provide health education and counseling and promote healthy activities and a healthy environment for school staff; and (9) be available to assist the county health department during a public health emergency.

Every Week Counts. The final budget provides \$2.2 million in nonrecurring funds from the federal Maternal and Child Health Block Grant funds to the Department of Health and Human Services, Division of Public Health, for the 2017-2018 fiscal year and for the 2018-2019 fiscal year to conduct a demonstration project in Robeson and Columbus counties to do the following: (1) investigate the effectiveness of in-home prenatal care for the prevention of preterm birth among multiparous women of low income; and (2) conduct a nested randomized controlled trial of Alpha-Hydroxyprogesterone Caproate (17P) for preterm birth prevention among women without a prior preterm birth, but with a significant constellation of risk factors that increases their likelihood of having a preterm birth in the current pregnancy.

No later than six months after the conclusion of the demonstration project, the University of North Carolina at Chapel Hill will report on the demonstration project to the Department that addresses:

- Percent preterm and low birth weight relative to overall county statistics in current and prior years using vital statistics data, within categories of race/ethnicity and parity.
- Percent initiating breastfeeding at delivery and the average duration of breastfeeding.
- Percent reporting active smoking at the time of delivery.
- Uptake of contraception postpartum.
- Average length of interpregnancy interval.
- Percent of children meeting developmental milestones in the first year.
- Number of emergency room visits related to child health in the first two years.

No later than three months after the Department receives the report due from UNC, the Department will submit a final report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division evaluating the demonstration project that includes: (1) an estimate of the cost to expand the program incrementally and statewide; (2) an estimate of any potential savings of State funds associated with expansion of the program; and (3) if expansion of the program is recommended, a time line for expanding the program.

Case Management Pilot Program. The final budget states the intent of the General Assembly to reduce avoidable emergency department readmissions and emergency department boarding times among individuals with behavioral health needs. To that end, of the funds appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, \$2 million in nonrecurring funds for the 2017-2018

fiscal year will be allocated for the development and establishment of a two-year pilot program at a hospital in Wake County to support a hospital-based, comprehensive community case management program. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with the local LME/MCOs responsible under the 1915(b)/(c) Medicaid Waiver, will oversee the development and establishment of the pilot program to ensure it is designed to reduce avoidable emergency department readmissions and emergency department boarding times among individuals with behavioral health needs. The pilot program will be conducted at the hospital in Wake County with the largest number of emergency department visits that agrees to participate in the two-year pilot program authorized by this subsection. By December 1, 2020, the Department will report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the effectiveness of the pilot program in reducing avoidable emergency department readmissions and emergency department boarding times among individuals with behavioral health needs.

Mental Health/Substance Use Disorder Central Assessment and Navigation System Pilot Program. The final budget requires the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to use \$250,000 in each of the next two years to oversee, in consultation with the local management entity/managed care organization (LME/MCO) in New Hanover County, the establishment of a two-year pilot program to focus on assessing and navigating individuals seeking mental health or substance use disorder services, or both, to appropriate community-based services or other community resources in order to reduce the utilization of hospital emergency department services for mental health and substance use disorder services. The pilot program will be conducted at New Hanover Regional Medical Center (NHRMC) and at Wellness City, operated by Recovery Innovations, Inc., by a three-person centralized team. By July 1, 2018, the LME/MCO responsible for the management and provision of mental health, developmental disabilities, and substance abuse services in New Hanover County, in collaboration with New Hanover Regional Medical Center and Recovery Innovations, Inc., will report on the effectiveness of the pilot program to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Division). By October 1, 2018, the Division will report on the effectiveness of the program and the costs associated with administering the program to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division. By October 1, 2019, the Division shall then submit a final report of the program to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division, including the Division's recommendations with respect to sustaining or expanding the program.

Provider Application and Recredentialing Fee. The final budget requires each provider that submits an application to enroll in the Medicaid program to submit an application fee, which will be the sum of the amount federally required and \$100. The fee will be charged to all providers at re-credentialing every five years.

LME/MCO Intergovernmental Transfers. The final budget requires local management entities/managed care organizations (LME/MCOs) to make intergovernmental transfers to the Department of Health and Human Services, Division of Medical Assistance (DMA), of over \$17.7 million in the 2017-2018 fiscal year and over \$18 million for the 2018-2019 fiscal year. The due date and frequency of the intergovernmental transfer required will be determined by DMA.

Pilot Project to Treat Opiate Overdose. The final budget directs the Department of Public Safety, in conjunction with the City of Wilmington, to develop and implement a pilot project to establish a Quick Response Team (QRT) to address the needs of opiate and heroin overdose victims who are not getting follow-up treatment. The QRT will be staffed by firefighters, police officers, medics, behavioral health specialists, and other law enforcement as determined by the Department of Public Safety and the City of Wilmington. The Department of Public Safety and the City of Wilmington will work together to develop the policy and procedures for the QRT, and will consider the following: (1) increasing engagement and treatment with family counseling and recovery groups; (2) providing follow-up care to survivable overdose incidents with police or medics and licensed counselors; (3) providing short-term and long-term support to overdose victims and families; (4) providing follow-up within three to five days after an initial incident; and (5) creating a fatality review panel to analyze and keep track of the deaths of those served by QRT. The Department of Public Safety and the City of Wilmington will report on the results of the pilot project to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2019.

Strengthen Human Trafficking Laws. The final budget includes provisions to require adult establishments, other specified businesses, and hospital emergency rooms/emergency departments to prominently display on the premises in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information.

Study Health Insurance High-Risk Pools. The final budget directs the Department of Insurance to study the establishment of a State-based health insurance high-risk pool in the event that the provisions of the Patient Protection and Affordable Care Act prohibiting denial of health insurance benefit coverage due to a preexisting condition are repealed. No later than March 1, 2018, the Department of Insurance must report to the Joint Legislative Commission on Governmental Operations on the following information: (1) an update on the status of the provisions of the Patient Protection and Affordable Care Act prohibiting denial of health insurance benefit coverage due to a preexisting condition, and any other changes in federal law, regulations, or policy related to the establishment of both federal and State-based health insurance high-risk pools; (2) options for the design of a State-based high-risk pool and the cost of these options; (3) potential sources of funding for the cost of the options studied, including federal funding; (4) findings and recommendations regarding the options studied; and (5) any proposed legislation related to the findings and recommendations.

Lower Personal Income Tax Rate. The final budget lowers the personal income tax rate from 5.499% to 5.25%) of the taxpayer's North Carolina taxable income.

Increase Standard Deduction. The final budget increases the standard income tax deductions as follows:

- Married, filing jointly/surviving spouse – from \$17,500 to \$20,000
- Head of Household – from \$14,000 to \$15,000
- Single – from \$8,750 to \$10,000
- Married, filing separately from \$8,750 to \$10,000.

Convert Child Tax Credit to a Deduction. The final budget provides that a taxpayer who is allowed a federal child tax credit is allowed a deduction under this subsection for each dependent child for whom the taxpayer is allowed the federal tax credit. The amount of the deduction is

equal to the amount listed in the table – ranging from \$0 to \$2,500 – based on the taxpayer's adjusted gross income.

Lower Corporate Income Tax Rate. The final budget lowers the corporate income tax rate on every C Corporation doing business in this State from 4% to 3%, effective for taxable years beginning on or after January 1, 2017, and then from 3% to 2.5%, effective for taxable years beginning on or after January 1, 2019.

Lower Franchise Tax for S Corporations. The final budget imposes an annual franchise or privilege tax on a corporation doing business in this State for the privilege of doing business in this State and for the continuance of articles of incorporation or domestication of each corporation in this State. For a C Corporation, the tax rate is \$1.50 per \$1,000 of the corporation's tax base as determined. For an S Corporation, the tax rate is \$200 for the \$1 million of the corporation's tax base as determined and \$1.50 per \$1,000 of its tax base that exceeds \$1 million. In no event may the tax imposed by this section be less than \$200.

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