



North Carolina Spine Society

PO Box 27167

Raleigh, NC 27611

Tel: 919-833-3836

Fax: 919-833-2023

ncspine@ncmedsoc.org

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Legislative Update - 2016 End of Session Wrap Up

The 2015-2016 session of the NC General Assembly concluded on July 1, 2016. The final weeks of the session saw a flurry of legislative committee meetings and action on a number of health-related items of interest to spine surgeons and other physicians. This report provides a summary of legislation considered during the session and outlook for next year's "long" session. No bills will carry over into the 2017-2018 session, which is scheduled to convene on January 11, 2017.

The electronic version of this report is available at <http://bit.ly/NCSS2016LegSum>

Certificate of Need Reform/Repeal

A coalition of physician and public advocacy organizations continues to inch toward reform/repeal of the state's anti-competitive certificate of need (CON) regulations. Five bills were considered in the 2015-2016 legislative session that addressed CON. However, despite strong support in the Senate to repeal CON, support for CON reform in the House has been elusive. The most recent action on this issue was a June 2016 hearing of the Senate Health Committee in which [CON repeal language was considered as a proposed committee substitute](#) (PCS) to a bill that would name the bobcat as the state cat. Representatives from the North Carolina Orthopaedic Association, North Carolina Society of Otolaryngology-Head and Neck Surgery, John Locke Foundation and Americans for Prosperity testified that CON contributes to rising health care costs and decreases patient access to care. The Committee did not vote on the PCS.

Dr. Richard Bruch, an orthopaedic surgeon from Durham, spoke about the inadequate supply of operating rooms in North Carolina. He also relayed the comments of **Dr. Timothy Jordan**, an ophthalmologist in Raleigh, who struggles to get morning operating times for his pediatric patients. Dr. Bruch told legislators, "There is no 'need' in our certificate of need mechanism for ambulatory surgery centers. We have stifled operating rooms in this state."

Otolaryngologist **Dr. Charles Ford**, of Boone, testified at that hearing, saying, "CON limits patient access and choice, allowing the most costly models to flourish." He testified that patients are increasingly seeking out alternative sites of care, and that they are traveling from Boone to have ENT procedures done at ambulatory surgery centers in the region. He reported the cost of ear tube procedures at the hospital in Boone at \$5,200 compared to the ASC cost of \$1,700. You can [watch video coverage](#) of the meeting online (begins at 28:15).



Bill	Title	Last Action	Sponsors
HB 161	<p>Adopt State Cat.</p> <p>Summary: A bill to adopt the bobcat as the official state cat that was passed by the House in April 2015 garnered attention in June 2016 when the Senate Health Care Committee considered replacing the cat language with new legislative language that would repeal Certificate of Need regulation in NC. The Committee did not vote on the CON proposal. No additional action.</p>	6/7/2016	Sponsors (of the original state cat bill): Bill Richardson; Rick Glazier; Nathan Baskerville; Larry Bell; Cecil Brockman; Debra Conrad; Susan Fisher; Elmer Floyd; Charles Graham; Susi Hamilton; Jon Hardister; Pricey Harrison; Yvonne Lewis Holley; Howard Hunter; Verla Insko; Ralph Johnson; Grier Martin; Garland Pierce; Phil Shepard; Brian Turner; Ken Waddell; Michael Wray
SB 698	<p>Legacy Medical Care Facility/CON Exempt.</p> <p>Summary: Exempts from certificate of need review the acquisition or reopening of a Legacy Medical Care Facility. The person seeking to operate a Legacy Medical Care Facility must give the Department written notice (i) of its intention to acquire or reopen a Legacy Medical Care Facility and (ii) that the hospital will be operational within 36 months of the notice. A "Legacy Medical Care Facility" is defined by the legislation as an institution that: 1) is not presently operating, 2) has not continuously operated for at least the past six months, and 3) within the last 24 months was operated by a person holding a license under G.S. 131E-77, and was primarily engaged in providing to inpatients, by or under supervision of physicians, (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons. SL 2015-288</p>	10/29/2015	Sponsors: Ralph Hise; Andrew Brock; Jeff Tarte



HB 97	2015 Appropriations Act.	9/18/2015	Sponsors: Nelson Dollar; Linda Johnson; Chuck McGrady; Donny Lambeth
	Summary: A provision to repeal CON appeared in early versions of H97, but that provision did not make it into the final budget. SL 2015-241		
SB 702	Repeal CON and COPA Laws.	3/30/2015	Sponsors: Tom Apodaca; Bill Cook; Fletcher Hartsell; Ralph Hise; Jeff Tarte
	Summary: A bill to repeal Certificate of Need and Certificate of Public Advantage Laws. Referred to the Committee on Rules. No action.		
HB 200	Amend Certificate of Need Laws.	3/11/2015	Sponsors: Marilyn Avila; Dan Bishop; Jeff Collins; Henry Michaux; Kelly Alexander; Larry Bell; Jimmy Dixon; Howard Hunter; Ralph Johnson; Susan Martin; Michael Speciale
	Summary: A bill to reform the state's Certificate of Need program. Referred to the House Health Care Committee. No action.		

Medicaid Reform & Medicaid Reform Implementation

Following passage in 2015 of the historic Medicaid reform law (SB 372, *Medicaid Transformation and Reorganization*), the NC Department of Health and Human Services worked with over 50 stakeholder organizations, held 12 public hearings across the state and received comments from over 750 organizations and individuals in developing its final waiver application, which was submitted to CMS on June 1, 2016. Federal review of the state's plan to capitate payment for services provided to NC's Medicaid population through a network of statewide and regional Medicaid carriers could take up to two years.

The North Carolina Medical Society (NCMS) continues to work toward the best possible Medicaid infrastructure for physicians and patients through the implementation phase of our state's new Medicaid program. The NCMS was successful in securing some enhancements related to provider involvement in risk-bearing entities that will contract with the new Department of Health Benefits within DHHS to provide services in Medicaid.

One legislative priority that remains unaddressed at the close of the 2015-2016 session is sensible regulation of the program through Chapter 58 provisions. Chapter 58 is the section of the General Statutes that regulates the Department of Insurance. The NCMS position is that new health plans entering the NC Medicaid market must comply with the patient and provider protection provisions that address prompt pay, fair contracting, network adequacy, and other issues that support a positive carrier-physician relationship.



Bill	Title	Last Action	Sponsors
SB 838	Medicaid Transformation Modifications.	7/1/2016	Sponsors: Ralph Hise; Bill Cook; Louis Pate; Norman Sanderson
	Summary: Clarified Medicaid reform law to allow risk-bearing entities to partner with providers. Ratified.		
SB 372	Medicaid Transformation and Reorganization.	9/23/2015	Sponsors: Nelson Dollar; Donny Lambeth; Brian Brown; Bert Jones; Josh Dobson; Larry Pittman; Phil Shepard; Chris Whitmire
	Summary: Reforms the Medicaid program in NC to establish a network of pre-paid health plans to provide services to NC's Medicaid population. SL 2015-245		

Physician Supervision of Advanced Practice Nurses

The General Assembly considered several bills during the 2015-2016 session that would remove physician supervision requirements for many non-physician practitioners. Among the most aggressive of these proposals is one introduced by Sen. Ralph Hise (SB 695, *Modernize Nursing Practice Act*) which enhances the already broad authority of the North Carolina Board of Nursing. We anticipate that these issues will resurface in 2017.

Bill	Title	Last Action	Sponsors
SB 695	Modernize Nursing Practice Act.	3/30/2015	Sponsors: Ralph Hise; Louis Pate; Brent Jackson
	Summary: The bill would let nurse practitioners (NPs), nurse midwives (CNMs), and nurse specialists (CNSs): prescribe any drug, including potentially harmful medications; consult with other medical providers any way they wish; and direct the complex medical care of North Carolinians -- All without the supervision or input of a trained, licensed medical doctor. The Senate Health Care Committee held two hearings but did not take action.		
SB 240	Define Scope of Practice of CRNAs.	3/12/2015	Sponsors: Jim Davis; Don Davis; Louis Pate
	Summary: Eliminates the requirement of physician supervision of nurse anesthetists (CRNAs) and defines the practice of nursing by a CRNA. No action.		



Step Therapy Pharmaceutical Coverage Policies

Insurance companies and pharmacy benefit managers took to the defensive in 2016 when legislation to regulate step therapy (or “fail first”) pharmaceutical coverage policies surfaced following recommendation by a House study committee. The bill also included provisions for health benefit plans’ coverage of abuse-deterrent opioids. Rep. Greg Murphy, MD, the only physician currently serving in the legislature, is one of the Primary Sponsors of the bill. No action was taken on the bill this session.

Step therapy was a concern raised in the 2015 session of the NC General Assembly and a study committee was convened in the 2015-2016 interim to investigate step therapy restrictions in North Carolina. At a February 24, 2016 hearing, physicians representing several medical specialties offered testimony expressing concerns over the challenges physicians face in treating patients due to step therapy denials from insurance companies. A subsequent [hearing on June 22, 2016 was dominated by opponents of the bill](#) who emphasized the increased cost that would result if step therapy protocols were restricted in any way.

Bill	Title	Last Action	Sponsors
HB 1048	Reduce Barriers to Improve NC Health & Safety. Summary: Increase access to abuse-deterrent opioid analgesics and to ensure the proper administration of step therapy protocols for prescription drugs, as recommended by the House Select Committee on Step Therapy. A hearing was held by the House Insurance committee, but the committee did not vote on the measure.	5/9/2016	Sponsors: David Lewis; Darren Jackson; Gregory Murphy; Josh Dobson; Beverly Earle; Susan Martin; Michael Wray

Opioid Abuse Epidemic and Deaths in North Carolina

According to Project Lazarus, a statewide public health non-profit that is partnered with Community Care of North Carolina, our state has higher than average overdose death rates. Nearly all of these deaths involve prescription opioid pain relievers (like methadone, oxycodone, fentanyl, morphine, tramadol, or hydromorphone). The state is taking steps to combat the harmful and rippling effects of prescription drug abuse. Several bills took aim at the opioid abuse epidemic during the 2015-2016 session.

Most recently, the 2016 Appropriations Act established a medication-assisted opioid use disorder treatment pilot program with a goal of studying the effectiveness of combining behavioral



therapy with the utilization of a nonnarcotic, non-addictive, extended-release, injectable formulation of opioid antagonist approved by the United States Food and Drug Administration for the prevention of relapse to opioid dependence.

Also significant, Governor Pat McCrory signed into law on June 20, 2016 an act authorizing the State Health Director to prescribe opioid antagonists by means of a statewide standing order, with immunity from civil and criminal liability for such action.

A provision in the 2015 Appropriations Act established a requirement - effective January 1, 2017 - that all NC Medical Board licensees complete at least one hour of continuing education annually regarding controlled substance prescribing. To help meet your needs, the NCMS is offering a series of opioid prescribing events at locations throughout the state. The next NCMS-sponsored opioid prescribing event will be held in conjunction with the upcoming M3 Conference, Sept. 105-18 at the Grandover Resort in Greensboro, NC.

Bill	Title	Last Action	Sponsors
HB 1030	2016 Appropriations Act.	7/14/2016	Sponsors: Nelson Dollar; Linda Johnson; Donny Lambeth; Chuck McGrady; Josh Dobson
	Summary: Modified the current operations and capital improvements Appropriations Act of 2015 and made other changes in the budget operations of the state, including establishing a medication-assisted opioid use disorder treatment pilot program. SL 2016-94		
SB 734	Statewide Standing Order/Opioid Antagonist.	6/20/2016	Sponsors: Louis Pate; Tommy Tucker; Gladys Robinson; Jim Davis
	Summary: Authorizes the State Health Director to prescribe opioid antagonist by means of a statewide standing order, with immunity from civil and criminal liability for such action. SL 2016-17		
HB 1048	Reduce Barriers to Improve NC Health & Safety.	5/9/2016	Sponsors: David Lewis; Darren Jackson; Gregory Murphy; Josh Dobson; Beverly Earle; Susan Martin; Michael Wray
	Summary: Increase access to abuse-deterrent opioid analgesics by prohibiting insurers from imposing prior authorization for an abuse-deterrent opioid analgesic, provided that similar prior authorization requirements apply to non-abuse-deterrent versions of that opioid analgesic. Ensures the proper administration of step therapy protocols for prescription drugs. A hearing was held by the House Insurance committee, but the committee did not vote on the measure. No action.		



HB 97	2015 Appropriations Act.	9/18/2015	Sponsors: Nelson Dollar; Linda Johnson; Chuck McGrady; Donny Lambeth
	Summary: The 2015 budget bill included a provision that requires physicians to complete one hour of continuing medical education annually on opioid prescribing. SL 2015-241		
SB 154	Clarifying the Good Samaritan Law.	6/19/2015	Sponsors: Stan Bingham
	Summary: Clarifies the operation of the limited immunity from prosecution for certain drug- or alcohol-related offenses committed by an individual experiencing a drug- or alcohol-related overdose and an individual who seeks medical assistance for an individual experiencing a drug- or alcohol-related overdose, and other provisions. SL 2015-94		
HB 744	Abuse-Deterrent Opioid Analgesics.	4/20/15	Sponsors: Chris Malone; Craig Horn; John Faircloth; Susi Hamilton
	Summary: Directs health benefit plan to cover abuse-deterrent opioid analgesic drugs on a basis that is no less favorable than the coverage provided for non-abuse-deterrent opioid analgesics, provides instructions for cost-sharing, prohibits reclassification of opioid analgesics, and prohibits insurers from imposing a “fail first” policy on abuse-deterrent formulations. Referred to the House Insurance Committee. No action was taken.		

Controlled Substances Reporting System

Legislators, faced with an opioid abuse epidemic, also have concerns that CSRS usage among physicians remains low. In response, the 2016 Appropriations Act enacted two notable provisions with regard to the state’s Controlled Substances Reporting System (CSRS). First, the budget appropriated \$600,000 to facilitate connectivity between our CSRS and the CSRSs in surrounding states and integration with NC’s Health Information Exchange (HIE) and more than \$650,000 to develop and implement software for the performance of advanced analytics within the CSRS. Second, it requires physicians to register with the CSRS once the upgrades are complete.



Bill	Title	Last Action	Sponsors
HB 1030	2016 Appropriations Act. Summary: Modified the current operations and capital improvements Appropriations Act of 2015 and made other changes in the budget operations of the state, including funds to improve the state's CSRS. Also, it requires physicians to register with the CSRS when the upgrades are complete. SL 2016-94	7/14/2016	Sponsors: Nelson Dollar; Linda Johnson; Donny Lambeth; Chuck McGrady; Josh Dobson

NC Medical Board and Other Professional Licensing Boards

Following four years of advocacy by the NCMS and others to ensure that the NC Medical Board has adequate revenue to operate and to clarify and refine the Board's processes, legislation was ratified July 1, 2016. The bill amends laws and fees pertaining to the NC Medical Board, including increasing licensing fees from \$175 per year to \$250 per year; limiting service on the Board to no more than two complete 3-year terms in a lifetime; limiting the use of Maintenance of Certification as part of licensing decisions and increasing access to Physicians Health Program (PHP) assessments.

Earlier this year, several professional licensing boards faced an uncertain future. Responding to the U.S. Supreme Court ruling in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, the legislature considered dissolving 15 occupational licensing boards and consolidating five different boards into the purview of existing boards. That bill passed the House, but did not gain traction in the Senate.

Bill	Title	Last Action	Sponsors
HB 728	Amend Various Licensing Board Laws/Fees. Summary: Sets licensee fee increases for specified licensure boards, including the NC Medical Board. The bill also established terms limits for members of the NC Medical Board, limits the use of MOC in licensing decisions, and increases access to the Physicians Health Program (PHP) assessments. This bill has been ratified by the legislature and now awaits the Governor's signature.	7/1/2016	Sponsors: Debra Conrad; Rob Bryan; Mitchell Setzer; Nathan Baskerville; Tricia Ann Cotham; Susi Hamilton; Michael Wray
HB 1007	Amend Occupational Licensing Boards Statutes.	6/21/2016	Sponsors: Jonathan Jordan; Sarah Stevens; Rob Bryan;



	Summary: Lists by name the licensing boards that will be authorized in North Carolina. Engrossed by the House on June 16, 2016. Referred to the Senate Finance Committee. No additional action.		George Cleveland; Elmer Floyd; Pricey Harrison; Gary Pendleton
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Zika Virus Control and Surveillance

As part of the response to Zika virus infection, the Centers for Disease Control and Prevention (CDC) has created the Zika Pregnancy Registry to ensure complete and accurate case reporting and to develop more comprehensive information on the effects of Zika infections during pregnancy. The North Carolina Division of Public Health currently is working with CDC to enroll all pregnant women with positive or indeterminate Zika virus test results in the Pregnancy Registry. [This memo provides more information](#) on the registry.

The state is in the process of hiring two entomologists. In addition, the 2016 Appropriations Act includes almost \$500,000 to help counties with vector control and surveillance.

Bill	Title	Last Action	Sponsors
HB 1030	2016 Appropriations Act. Summary: Modified the current operations and capital improvements Appropriations Act of 2015 and made other changes in the budget operations of the state, including \$477,500 in recurring funds to develop an infrastructure to detect, prevent, control and respond to the Zika virus and other vector-borne illnesses. The Division of Public Health (DPH) will use the funds to establish 3 positions and to provide \$177,500 in aid to counties statewide. The revised net appropriation for the Zika infrastructure is \$477,500. SL 2016-94	7/14/2016	Sponsors: Nelson Dollar; Linda Johnson; Donny Lambeth; Chuck McGrady; Josh Dobson