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## Health

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The 2003 General Assembly enacted several pieces of legislation affecting health care, health insurance, and health care providers, the most significant being legislation requiring changes to statutes governing the North Carolina Medical Board and emergency medical services. In addition, the legislature offered a significant proposal this session that would require a large-scale review and assessment of the state's public health system and the implementation of a statewide plan for the delivery of public health services.

### **Budget**

#### **Public Health**

The 2003 appropriations act, S.L. 2003-284 (H 397), cuts several programs and positions in the Division of Public Health within the North Carolina Department of Health and Human Services (DHHS). The largest reductions came from eliminating state funds for the purchase of home health care (\$3 million) and reducing inflationary increases for the purchase of medical care, energy, and utilities (\$1.7 million). In addition, charging local health departments for the processing of pap smear specimens will generate more than \$1 million. Funding for several programs was entirely eliminated, including the Area Health Education Center at the UNC School of Public Health, the Dusty Trades Program, the Intensive Home Visitation Program, and the Farmer's Market Program. Funding for many other programs was also significantly reduced, including

- a \$170,000 reduction in recurring funds for pediatric primary care clinics within local health departments (this reduction was replaced with federal funds and other funding sources);
- a \$144,000 reduction in recurring funds for Women's and Children's Health Programs, comprising reductions in the Sickle Cell Program, Community Transition Coordination, and the Perinatal Outreach and Education Training Program;
- a \$100,000 reduction in recurring funds for health promotion; and
- a \$33,000 reduction in recurring funds to support aid to local governments for the childhood lead poisoning program.

Despite cuts to existing programs, new funding was made available for several public health initiatives. The legislature appropriated \$500,000 in nonrecurring funds for upgrading the automation and management of vital records within the Division of Public Health. The Cabarrus Public Health Authority was awarded a one-time \$100,000 grant in support of a new clinic to serve the Latino community. Other new funding includes

- \$300,000 in recurring funds to the North Carolina affiliate of the National Society to Prevent Blindness for the purpose of increasing vision screenings of children in child care settings;
- \$300,000 in recurring funds for the support of the statewide folic acid campaign;
- \$250,000 in recurring funds to the Healthy Start Foundation for the purpose of improving birth outcomes;
- \$100,000 in nonrecurring funds to the Heart Disease/Stroke Prevention Task Force.

The appropriations act also includes several special provisions affecting public health. Currently, the qualifications for a local health director, including the educational requirements applicable to the position, are specified in G.S. 130A-40. Section 10.33C adds new G.S. 130A-40.1 authorizing a pilot program whereby one local board of health may appoint a local health director who has an educational background in nursing. The section also requires the nurse/health director to complete extra continuing education requirements.

Section 10.30 provides that of the funds allocated for childhood immunization programs, \$1 million may be used for projects and activities designed to increase immunization rates, including outreach efforts and development of an automated immunization registry.

Section 10.31 specifies that for fiscal years 2003–2004 and 2004–2005, an HIV-positive individual may be eligible to participate in the AIDS Drug Assistance Program (ADAP) if his or her income is at or below 125 percent of the federal poverty level. Section 10.31A, however, directs DHHS to pursue alternatives to the current financing for ADAP such that eligibility may be expanded. In addition to establishing the eligibility level, S.L. 2003-284 requires DHHS to report to the General Assembly on utilization of ADAP.

In 2001 the General Assembly enacted the Infant Homicide Prevention Act, S.L. 2001-291, which permits a parent to surrender an infant without being subject to prosecution. Section 10.8B of S.L. 2003-284 directs the DHHS Divisions of Public Health and Social Services to incorporate education and awareness of the act into other state-funded programs at the local level.

## **HIPAA**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) required the U.S. Department of Health and Human Services to develop several federal regulations governing the electronic transmission, privacy, and security of health care information. Several state agencies and hundreds of local government agencies are required to comply with these complex regulations. Section 6.6 of the 2003 appropriations act allocates \$2 million to the Reserve to Implement HIPAA and directs that the reserve be located in the Office of State Budget and Management. In addition, a special provision in Section 6.7 directs the Governor or his designee to coordinate the state's implementation of HIPAA, including coordinating correspondence with the federal government, obtaining interpretations from the North Carolina Attorney General, and establishing deadlines for state agencies.

## **Medicaid**

Special provisions in the 2003 appropriations act affecting the Medicaid Program are addressed in Chapter 21, "Social Services."

## **Pharmacy**

Section 10.8D of the 2003 appropriations act adds a new section to the Pharmacy Practice Act. New G.S. 90-85.21B provides that it is unlawful for any person not licensed or registered under the act to hold himself or herself out as licensed or registered to practice pharmacy in North Carolina.

## **Liability Insurance**

Section 10.7 of S.L. 2003-284 authorizes DHHS and the North Carolina Department of Environment and Natural Resources (DENR) to provide medical liability coverage up to \$1 million per incident for physicians and dentists working for the state, for certain physicians working on contract for DHHS, and for certain physicians in residency training programs.

## **Department of Health and Human Services Administration**

Section 10.2 of S.L. 2003-284 directs DHHS to establish an Office of Policy and Planning to promote coordinated policy development and strategic planning for health and human services programs. The director of the Office will have the authority to direct other components of DHHS to conduct periodic reviews of policies, plans, and rules and will advise the DHHS Secretary about any recommended changes.

## **Other DHHS Requirements**

Section 10.8A of S.L. 2003-284 directs DHHS to review its information technology infrastructure and report on its findings to the General Assembly. Section 10.8F requires DHHS to implement an initiative to support local coordination of long-term care and pilot the establishment of local lead agencies to facilitate the coordination process at the county or regional level. Section 10.32 requires DHHS to submit a report to the General Assembly on the newborn hearing screening program.

## **Public Health**

### **Infrastructure**

The introduction of S 672 this past session launched a major initiative designed to bolster the state's public health infrastructure. The bill proposes to redefine the mission of the public health system as well as the "essential public health services" to be provided by state and local public health agencies. It would direct each county to develop "local priorities" for public health that would then be used by the state to develop a state plan for public health services. In addition, it would require state and local public health agencies to obtain accreditation. The bill passed the Senate late in the 2003 session and is eligible for consideration by the House in the 2004 short session.

### **Lead Poisoning**

S.L. 2003-150 (S 519) makes several changes to Chapter 130A, Article 5, Part 4, the statutes relating to lead poisoning in children. Perhaps most importantly, the law modifies the remediation standards for certain lead dust and soil poisoning hazards. For example, the remediation standard for lead dust on floors is reduced from 100 micrograms per square foot to 40 micrograms per square foot. The act also amends the standard for lead levels in soil to remove a flexible standard that allowed the Department of Environment and Natural Resources to allow lead levels above 400 parts per million depending upon "the condition and use of the land and . . . other relevant

factors.” The flexible standard is replaced with a more specific standard requiring lead levels of less than 400 parts per million in certain areas within three feet of residential housing units or child-occupied facilities and less than 1,200 parts per million in other locations of the yard. These changes correspond with federal regulations promulgated by the U.S. Environmental Protection Agency in 2001.

The law makes changes to the definitions of *lead-based paint hazard* and *lead poisoning hazard* and deletes the definitions of *mouthable lead-bearing substance* and *persistent elevated blood level*. Previously, a child had to have a persistent elevated blood level, which meant a blood lead concentration of 15 to 19 micrograms per deciliter according to a specific blood testing protocol, before DENR could require a child to be tested and investigate the child’s residence. S.L. 2003-150 replaces the term *persistent elevated blood level* with *elevated blood level* so that the statutory standard for testing and investigation is now 10 micrograms per deciliter.

The law also eliminates the use of the term *abatement* and incorporates all such activities under the term *remediation*. Finally, the list of prohibited methods for remediation of lead-based paint hazards is modified to include dry scraping except in limited circumstances.

## **Vaccinations**

S.L. 2003-227 (H 916) directs DHHS and local health departments to offer a vaccination program for first responders. The program must offer several different vaccinations, including hepatitis A and B, diphtheria-tetanus, influenza, pneumococcal, and any others recommended by the U.S. Public Health Service and in accordance with the Federal Emergency Management Directors Policy. The program is voluntary for all first responders except those classified as having occupational exposure to blood-borne pathogens. First responders include state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, or emergencies. The law directs DHHS to work with local employers to attract federal funding to support the vaccination program.

## **Smoking**

Under Chapter 143, Article 64, only certain classes of state-controlled buildings may be designated nonsmoking, including libraries and museums. All other buildings must have a designated smoking area. S.L. 2003-292 (H 1016) amends the statute to provide that certain buildings of the University of North Carolina may be designated nonsmoking, including health services facilities, enclosed student recreational centers, laboratories, and residence halls. Each UNC institution must, however, make a reasonable effort to provide residential smoking rooms in residence halls in proportion to student demand.

Another new law, S.L. 2003-421 (S 583), requires local boards of education to adopt policies prohibiting the use of tobacco products in public school buildings. S.L. 2003-421 is addressed in Chapter 8, “Elementary and Secondary Education.”

## **Jail Health**

S.L. 2003-392 (S 661) amends G.S. 153A-225 to provide that when a jail transfers an inmate to another jail, the transferring jail must provide the receiving jail with any health information it has in its possession pertaining to the inmate.

## Emergency Medical Services

S.L. 2003-392 (S 661) makes several significant changes to Chapter 131E, Article 7, Regulation of Emergency Medical Services. First, it adds definitions to G.S. 131E-155 for the terms *emergency medical services instructor* and *emergency medical services peer review committee*. Within the definition of emergency medical services (EMS) peer review committee, the law provides that such a committee, including its members, proceedings, records, and materials, shall be afforded the same protections afforded Medical Review Committees under G.S. 131E-95. The law amends the definitions of *emergency medical services-nurse practitioner*, *emergency medical services-physician assistant*, and *mobile intensive care nurse* to provide that those professionals may, after completion of an orientation program, be approved by the medical director to issue instructions to EMS personnel in accordance with approved protocols.

The law revises the applicability of the credentialing requirements reflected in G.S. 131E-159 such that the requirements are no longer applicable to some classes of EMS personnel and are applicable to several new classes.

G.S. 131E-162 directs DHHS to establish a statewide trauma system and the North Carolina Medical Care Commission to adopt rules governing the system. S.L. 2003-392 amends the statute to require the commission to adopt rules establishing regional trauma peer review committees. The law also specifies some of the committees' responsibilities as well as the required composition of the committees. It affords the members, proceedings, records, and materials of the committees the same protections as those of Medical Review Committees under G.S. 131E-95. G.S. 143-508 directs the Medical Care Commission to adopt several different types of rules that are intended to govern the Statewide Emergency Medical Services System. S.L. 2003-392 requires the commission to adopt rules to establish occupational standards for EMS systems, EMS educational institutions, and specialty care transport programs.

G.S. 143-518 outlines strict confidentiality provisions that apply to certain EMS-related medical records compiled or maintained in connection with dispatch, response, treatment, or transport of patients or in connection with the statewide trauma system. S.L. 2003-392 amends the statute so that it applies not only to medical records of DHHS and EMS providers but also to medical records of hospitals participating in the statewide trauma system.

G.S. 143-519 establishes the Emergency Medical Services Disciplinary Committee, which is charged with making recommendations to DHHS regarding disciplinary matters related to credentialing. S.L. 2003-392 amends the statute to increase the number of committee members from five to seven and requires that one member be an EMS educator and that two members, rather than one, be currently practicing and credentialed EMS personnel. The law also amends the statute to require the committee to elect a chairperson and vice-chairperson on an annual basis.

## Health Professions

### Medicine

S.L. 2003-366 (H 886) makes several changes to the North Carolina Medical Board. Under current law, the Governor appoints the twelve members of the board, seven of whom are nominated by the North Carolina Medical Society. The new law directs the Governor and the Medical Society to make an effort to ensure that the appointees and nominees reflect the composition of the state with regard to gender, ethnic, racial, and age composition. The law also now requires that the board include at least one osteopathic physician, one medical school faculty member who utilizes integrative medicine in his or her clinical practice, or one member of the Old North State Medical Society. *Integrative medicine* is defined in the law to include treatment that may not be considered a conventionally accepted medical treatment but that the physician believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatment.

The law also revises the disciplinary authority of the Medical Society Board to provide that in order to annul, suspend, deny, or revoke a license, the board must find by the greater weight of the evidence that the care provided was not in accordance with the standards of practice for the procedures or treatments administered. In addition, when disciplining a physician who practices integrative medicine, the board is now required by law to consult with a licensee who practices integrative medicine.

Finally, the law amends the provisions that govern the type of evidence that is admissible in disciplinary proceedings. Specifically, the law allows a licensee under investigation to call witnesses and allows the admission of statements contained in medical or scientific literature.

## **Nursing**

Currently, state law provides that certain communications—such as communications between a physician and a patient, a psychologist and a patient, and a member of the clergy and his or her communicants—are privileged. If a communication is privileged, the holder of the information, such as a physician, is not required to disclose information about the communication in the course of court proceedings except in limited circumstances. S.L. 2003-342 (H 743) establishes a new privilege for nurses. Under the new law, information that is acquired while rendering professional nursing services and that is necessary to the provision of such services is now privileged. The nurse may not be required to disclose the information unless a court determines that disclosure is necessary to the proper administration of justice and that such disclosure is not prohibited by other law.

Another new law makes several changes to the statutes governing the Board of Nursing. S.L. 2003-146 (S 522)

- amends G.S. 90-171.21 to reduce the number serving on the board from fifteen to fourteen;
- revises the board's composition requirements by reducing the number of registered nurses from nine to eight, reducing the number of licensed practical nurses from four to three, and increasing the number of members of the public from two to three;
- provides the Governor with the authority to appoint one public member and the General Assembly with the authority to appoint two public members;
- revises the mandatory qualifications applicable to each of the members and changes the terms from three to four years;
- revises G.S. 90-171.22 to provide that the chairperson of the Board of Nursing is no longer required to be a registered nurse;
- revises G.S. 90-171.23(b) and G.S. 90-171.40 to provide that the board is only required to review nursing programs every eight years rather than every five years;
- provides that the terms of all current board members expire on December 31, 2004;
- provides for the appointment and election of new board members; and
- creates a new requirement that, before hiring a nurse, every health care facility must verify the applicant's license.

## **Dental Health**

S.L. 2003-348 (S 800) raises the licensure fees for dentists and dental hygienists.

## **Respiratory Care**

S.L. 2003-384 (H 1257) amends the Respiratory Care Practice Act to provide the North Carolina Respiratory Care Board additional authority to investigate the background of an applicant and to assess civil monetary penalties for violations of the act. It also establishes a procedure for the board to grant temporary licenses under certain circumstances.

## **Chiropractic**

S.L. 2003-155 (H 278) amends the provisions of G.S. 90-143 relating to the examination for licensure to practice chiropractic medicine. The amendments allow the North Carolina Board of Chiropractic Examiners to include as part of the North Carolina examination any examination developed and administered by the National Board of Chiropractic Examiners, as long as the North Carolina Board sets the passing scores.

## **Speech and Language Pathologists and Audiologists**

S.L. 2003-222 (H 1260) raises the licensure fees for speech and language pathologists and audiologists.

## **Massage and Bodywork Therapy**

S.L. 2003-348 authorizes the North Carolina Board of Massage and Bodywork Therapy to assess civil penalties and the costs of disciplinary actions against licensees for violations of Chapter 90, Article 36 (Massage and Bodywork Therapy Practice) and any rules promulgated by the board.

## **Financing**

### **Managed Care**

In 2001 the General Assembly established the Managed Care Patient Assistance Program to provide information and assistance to individuals enrolled in managed care plans. S.L. 2003-105 (H 744) directs health insurers to provide information to enrollees about the availability of the program, including the telephone number and the address of the program. Insurers are required to provide such information in several instances; for example, the information must be included in the member handbook and must be provided to enrollees at several different stages in the insurer's grievance process. S.L. 2003-105 also directs the Commissioner of Insurance to notify individuals of the availability of the Managed Care Patient Assistance Program after receiving a request for external review.

### **Insurance**

S.L. 2003-223 (S 887) requires all health benefit plans and small employer carrier standard plans to provide coverage for surveillance tests for women age twenty-five and older at risk for ovarian cancer. A woman is "at risk for ovarian cancer" if she tests positive for a hereditary ovarian cancer syndrome or if she has a family history of cancer. The law requires that the surveillance tests be subject to the same deductibles, coinsurance, and other limitations as similar services covered under the plan.

Another new law makes several statutory changes intended to reflect recent medical advances in screening for the early detection of cervical cancer. S.L. 2003-186 (S 388) requires all health benefit plans, small employer carrier standard plans, hospital and medical service plans, health maintenance organizations, and the Teachers' and State Employees' Comprehensive Major Medical Plan to provide coverage for examinations and tests for the early detection of cervical cancer. The law replaces the term "pap smear" with a more general phrase referring to several tests, including the pap smear, designed to screen for cervical cancer. The law does not specify how and when these screenings should be covered but rather provides that coverage must be in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control.

In general, when a provider submits a claim to an insurer, the insurer often charges a fee for processing the claim. S.L. 2003-369 (H 1066) requires each insurer to make available to providers a schedule of the fees associated with the services or procedures for which bills are submitted. Schedules must be made available to contracted providers as well as prospective contracted providers. The law also requires insurers to disclose a description of their policies with respect to claims submission and reimbursement. Insurers must notify providers about changes to the schedule of fees or the claims submission or reimbursement policies. The law specifies two limited exceptions to these requirements. All insurers must submit to the Commissioner of Insurance a written description of their policies and procedures for complying with these requirements.

Consistent with the requirements of federal law, including the Graham-Leach-Bliley Act and the security regulations promulgated under HIPAA, S.L. 2003-262 (S 966) requires insurers and others to implement a comprehensive written information security program by April 1, 2005. The purpose of the program is to protect the privacy of information about applicants and policyholders. The law authorizes the Commissioner of Insurance to adopt rules necessary to carry out this purpose.

### **Medicaid**

Legislation affecting the Medicaid program is addressed in Chapter 21, "Social Services."

### **State Employees' Health Benefit Plan**

Legislation affecting the State Employees' Health Benefit Plan is addressed in Chapter 18, "Public Personnel."

### **Advisory Committees**

S.L. 2003-114 (S 704) establishes the North Carolina Traumatic Brain Injury Advisory Committee. The Committee is charged with, among other things, studying the needs of individuals with traumatic brain injuries and making recommendations to the Governor, the General Assembly, and the Secretary of Health and Human Services regarding a comprehensive statewide service delivery system for persons suffering from traumatic brain injuries.

In 1993 the General Assembly established the Advisory Committee on Cancer Coordination and Control. S.L. 2003-176 (S 648) establishes the Cervical Cancer Elimination Task Force to serve the advisory committee. The task force has several duties, including the obligation to raise public awareness about cervical cancer; examine existing laws, programs, and services with regard to coverage and awareness issues for cervical cancer; and develop a statewide cervical cancer prevention plan. Beginning in April 2004, the task force is required to submit annual progress reports to the advisory committee. The task force is set to expire in 2008.

### **Anatomical Gifts**

Article 21 of Chapter 130A establishes the Advance Health Care Directive Registry, a statewide, on-line central registry for advance health care directives, including health care powers of attorney and declarations of anatomical gifts. Previously, all documents and revocations of documents filed with the registry were required to be notarized. S.L. 2003-70 (S 422) amends G.S. 130A-466 to remove the notarization requirement for declarations of anatomical gifts.

## Other Laws of Interest

- S.L. 2003-169 (H 273), which amends the state workers' compensation laws to include diseases or injuries resulting from certain employees' having received a smallpox vaccination, is addressed in Chapter 18, "Public Personnel."
- S.L. 2003-194 (H 825), which requires some postsecondary institutions to provide meningitis immunization information to students, is addressed in Chapter 11, "Higher Education."
- S.L. 2003-304 (S 421), which includes some changes to the statutes governing the State Child Fatality Review Team, is addressed in Chapter 21, "Social Services."
- S.L. 2003-393 (S 1016), which requires nursing homes to establish medication management advisory committees and to take certain steps to reduce medication-related errors, is addressed in Chapter 20, "Senior Citizens."

*Aimee N. Wall*