

Vaya Provider Advisory Council May Meeting

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NCGA Updates

2023 LONG SESSION



The State Budget Process Continues. . .

- ▶ House and Senate leaders are reporting a mid-September vote at the earliest.

- ▶ Medicaid Expansion is not the basis for the budget delay, but implementation is *contingent* on an enacted budget.

- ▶ Still under negotiation at the NCGA:
 - Casinos
 - Teacher and State employee and retiree raises
 - Capital improvements
 - State income tax rates

Medicaid Expansion was enacted with a contingency . . .

S.L. 2023 – 7 effective date is the “later of”:

- Effective date of the 2023 Appropriations Act
- Effective date of CMS approval
- ▶ Medicaid Expansion is contingent on the 2023 Appropriations Act being enacted by 06/30/2024 .
- ▶ Secretary Kinsley has CMS approval to implement Medicaid Expansion on 10/1 IF a State budget is enacted by 9/1. Otherwise, 12/1 earliest. [DHHS press release: State Takes Action To Start Medicaid Expansion Oct. 1; Launch depends on General Assembly acting by Sept. 1 | NCDHHS]
- ▶ Governor Cooper has called for the decoupling of Medicaid Expansion from the State budget.

Additional State Budget Provisions to Wait for...

Innovations Waiver DSP Wages

Innovations Waiver slots

LME/MCO system regulatory reform

Single Stream Funding

Statewide Children and Families
Specialty Plan

Bill Activity Today at the NCGA

MH-SUD; IDD; CHILD & FAMILY WELFARE

MH-SUD

House Finance Committee

HB563: Regulate Hemp-Derived Consumables and Kratom

- Regulate the sale and distribution of hemp-derived consumable products and kratom products. [“Kratom is currently not a controlled substance and is unregulated and legal in North Carolina.”]
- Require a license to sell, distribute, or manufacture hemp-derived consumable products and kratom products.
- Ban hemp-derived consumable products from school grounds.

IDD

Up for Third Reading in the Senate (if passes, will be ratified and sent to Gov.)

HB323 Retain Adult Devel. Voc. Rehab. Programs.

NCGA bill summary excerpt: “House Bill 323 would prevent DHHS from enacting a policy that reduces or eliminates services provided by ADVPs or CRPs without seeking stakeholder notification and input and appropriately funding a robust array of services that reflect choice. DHHS would not be able to reduce the number of individuals admitted to the programs until current services are adequately reviewed and new services approved.”

IDD

House Rules Committee

SB308: Guardianship Rights

- Require respondents in guardianship proceedings to be informed of their rights before and after an adjudication of incompetency.
- Provide that a respondent is not incompetent who is able, by means of a less restrictive alternative, to sufficiently manage the respondent's affairs and communicate important decisions concerning the respondent's person, family, and property.
- Provide that examples of less restrictive alternatives include supported decision making, appropriate and available technological assistance, appointment of a representative payee, and appointment of an agent by the respondent, including appointment of a health care or financial power of attorney.
- Require a petition to state what less-restrictive alternatives were considered before seeking adjudication and why those alternatives are insufficient to meet the respondent's needs.
- Strengthen the clerks' oversight of guardians of the person. *And more. . .*

Child & Family Welfare

Up for a veto override vote in the House:

HB808 Gender Transition/Minors

NCGA bill summary excerpt: “House Bill 808 would prohibit medical professionals from performing surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors, with some exceptions. Medical professionals who violate these provisions would have their licenses revoked, and minors who underwent a surgical gender transition procedure or who were prescribed or provided with puberty-blocking drugs or cross-sex hormones would have a private right of action against the medical provider who performed the procedure or prescribed or provided the drugs. State funds could not be used for surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors.”

Child & Family Welfare

House Rules Committee

SB579: Prevent Harm to Children

[disseminating obscenity to minors, sexual contact with minors]

2023 Session Laws Enacted to Date

HEALTH CARE LEGISLATION

Subject Matter	Session Law Number
Child and Family Welfare	S.L. 2023-5 S.L. 2023-8 S.L. 2023-14 S.L. 2023-40 S.L. 2023-65 S.L. 2023-78 S.L. 2023-82 S.L. 2023-87 S.L. 2023-96
Facility Regulation	S.L. 2023-3 S.L. 2023-7 S.L. 2023-80
Hospital Regulation	S.L. 2023-7 S.L. 2023-33
Intellectual and Developmental Disabilities Services	S.L. 2023-10 S.L. 2023-92
LME/MCO Regulation	S.L. 2023-65
Medicaid Expansion	S.L. 2023-7
Mental Health Disorder Services	S.L. 2023-3 S.L. 2023-78 S.L. 2023-95
NC DHHS Regulation	S.L. 2023-65 S.L. 2023-80
Provider Regulation	S.L. 2023-14 S.L. 2023-83 S.L. 2023-95
Substance Use Disorder Services	S.L. 2023-15 S.L. 2023-65 S.L. 2023-83

[Session Laws - North Carolina General Assembly \(ncleg.gov\)](https://www.ncleg.gov/Sessions/2023/SessionLaws.aspx)

Session Laws Enacted to Date

S.L. 2023-3

AN ACT CREATING A CERTIFICATE OF NEED EXEMPTION FOR THE CONVERSION OF A FORMER STATE-OPERATED FACILITY UNDER THE JURISDICTION OF THE SECRETARY OF HEALTH AND HUMAN SERVICES INTO A PSYCHIATRIC HOSPITAL FOR CHILDREN AND ADOLESCENTS; AND REMOVING THE R.J. BLACKLEY ALCOHOL AND DRUG TREATMENT CENTER FROM THE FACILITY CLOSURE REQUIREMENTS OF G.S. 122C-181.

See also: [NC DHHS: R.J. Blackley Alcohol and Drug Abuse Treatment Center](#)

Session Laws Enacted to Date

S.L. 2023-7 AN ACT TO PROVIDE NORTH CAROLINA CITIZENS WITH GREATER ACCESS TO HEALTHCARE OPTIONS.
[“Medicaid Expansion”]

- The Medicaid Expansion provisions of this law are contingent on the NCGA enacting a State budget by 6/30/2024.
- Certain additional provisions of this law take effect one, two, or three years after the effective date of 3/27/2023. Staggered implementation of **Certificate of Need exemptions** will begin as follows:
 - i. **Immediately**: psychiatric beds and facilities; chemical dependency treatment beds and facilities; replacement equipment up to \$3 million, indexed to inflation; aggregate total of \$3 million for all the equipment at a diagnostic center that individually exceeds \$10,000; and Early and Periodic Screening, Diagnosis, and Treatment services to children under age 21 at home health agencies in compliance with federal law.
 - ii. **Two years after first Healthcare Access and Stabilization Program (HASP) payment**: ambulatory surgical centers that commit 4% of earned revenue to charity care and operate in counties with >125K population.
 - iii. **Three years after first HASP payment**: MRI machines in counties with >125K population.

Session Laws Enacted to Date

S.L. 2023-14

AN ACT TO MAKE VARIOUS CHANGES TO HEALTH CARE LAWS AND TO APPROPRIATE FUNDS FOR HEALTH CARE PROGRAMS.

- NC abortion law revisions, including increased abortion facility licensure fees;
- Reforms to reduce infant and maternal mortality and morbidity, including Certified Nurse Midwife definitions and scope of practice parameters;
- Appropriations for competitive grants to local health departments and non-profit community health centers for expanding access to long-acting contraceptives;
- Authorization of paid parental leave for State employees;
- Reforms for child permanency, safe surrender of infants, foster care adoption, and support for new mothers;
- Division of Child Development and Early Education childcare subsidy market rate increases and decoupling of private tuition payment rates from the subsidized child care market rates for licensed child care centers and homes; and
- Expanded satellite-based monitoring for violent and repeat sexual offenders, increased punishment for assault on a pregnant woman, and establishment of the crime of misdemeanor domestic violence.

Session Laws Enacted to Date

[S.L. 2023-15](#)

AN ACT TO AMEND THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT TO ESTABLISH NEW VIOLATIONS INVOLVING COUNTERFEIT CONTROLLED SUBSTANCES AND CONTROLLED SUBSTANCES; TO EXPAND THE STATE'S DEFINITION OF OPIOID ANTAGONIST TO INCLUDE ALL OPIOID ANTAGONISTS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE; AND TO ALLOW THE USE OF ALL SUCH FEDERAL FOOD AND DRUG-APPROVED OPIOID ANTAGONISTS IN NEEDLE AND HYPODERMIC SYRINGE EXCHANGE PROGRAMS; TO CONTINUE TO AUTHORIZE PHARMACISTS, PHARMACY INTERNS, AND PHARMACY TECHNICIANS TO ADMINISTER VACCINATIONS AND IMMUNIZATIONS IN RESPONSE TO THE EXPIRING PUBLIC READINESS AND EMERGENCY PREPAREDNESS ACT; AND TO CONTINUE THE ACUTE HOSPITAL CARE AT HOME PROGRAM.

See also: [NC State Health Director Standing Orders for Pharmacists \(ncdhhs.gov\)](https://www.ncdhhs.gov/ncdhhs/standing-orders)

S.L. 2023-65 AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER MODIFICATIONS TO LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO SESSION LAW 2023-14.

- **Division of Aging and Adult Services** provisions authorize DHHS to adopt rules to implement the Emergency Solutions Grant Program; remove the property tax threshold from eligibility determination for the State-county Special Assistance (SA) program; and create parity in SA payments for individuals whether they live in home or facility settings.
- **Division of Central Management and Support** provisions authorize a three-month, automatic extension of State contracts when nonprofit grantees have federal or State nonrecurring financial assistance contracts that have not been renewed within ten business days of a contract's expiration date.
- **Division of Child and Family Wellbeing** provisions create a 36-member North Carolina Child Fatality Task Force to work with the 11-member State team.
- **Division of Health Service Regulation** provisions clarify the scope of Medical Care Commission rulemaking powers and duties.
- **Division of Mental Health, Developmental Disabilities and Substance Abuse Services** provisions *rename the Division* to end with "Substance Use Services;" and makes technical and clarifying changes to the language regarding the populations covered by LME/MCOs.
- **Division of Public Health** provisions add dentists, physical therapists, emergency medical technicians, and pathologists' assistants as qualified professionals who are eligible to serve as appointed county medical examiners; and expand the permissible uses for the newborn screening equipment replacement and acquisition fund.
- **Division of Social Services** provisions amend the law to require triennial versus biennial Work First/TANF County Plans; repeal a requirement for public school units to prominently display "available resources developed pursuant to G.S. 115C-105.51, including the anonymous safety tip line application" in relation to child abuse and neglect; authorize the use of federally mandated (U.S. Dept. of Treasury) tools to enforce child support payments; authorize DSS to accept as meeting training criteria, individuals who "have child welfare work experience in another state and have completed child welfare training equivalent to training in this State;" and clarify that the County DSS or a designee of the Board of County Commissioners may set the maximum daily rate for adult day care services.
- **Division of Vocational Rehabilitation Services** provisions *rename the Division* to be the Division of Employment and Independence for People with Disabilities and implement technical changes to reflect the name throughout applicable statutes.

S.L. 2023-65 AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER MODIFICATIONS TO LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO SESSION LAW 2023-14.

ADDITIONAL MISCELLANEOUS PROVISIONS:

- Modify educational requirements for registered environmental health specialists
- Extend until 12/31/2024 authorization to align with federal law for the administration of COVID-19 vaccinations, testing, and treatment
- Authorize Opioid treatment program medication units and mobile units
- Authorize over-the-counter distribution and use of Opioid antagonists
- Add Gabapentin to the Controlled Substances Reporting System
- Require electronic prescribing of Codeine cough syrup
- Make technical changes to State Employee paid parental leave legislation in S.L. 2023-14
- Amend the revised abortion law in S.L. 2023-14 to require, as a part of informed consent, “in-person consultation conducted by a qualified professional or a qualified physician;” make it unlawful to “procure or cause” a miscarriage or an abortion in NC under specific circumstances, but not to “advise” an abortion under the same specific circumstances; require consent forms to include the surgical abortion physician’s hospital admitting privileges and whether s/he accepts the pregnant woman’s insurance; and require a physician prescribing, administering, or dispensing an abortion-inducing drug to verify the probably gestational age (repeals “70-day” language) and the existence of an intra-uterine pregnancy.

Session Laws Enacted to Date

S.L. 2023-80 AN ACT TO MAKE REGULATORY CHANGES AND CREATE OVERSIGHT REQUIREMENTS TO THE DIVISION OF HEALTH SERVICE REGULATION'S MENTAL HEALTH LICENSURE AND CERTIFICATION SECTION.

- Effective 10/1/2023, this bill will hold DHSR more accountable in its daily operations. A new public facing DHHS Dashboard will show, in the aggregate versus by provider agency: monthly trends for licenses granted; violations cited; and sanctions implemented.
- The Dashboard will also show quarterly trends regarding outcomes at the Office of Administrative Hearings for provider agency contested cases under the NC Administrative Procedure Act. E.g., it will be helpful to see whether DHSR decisions are upheld versus overturned so Plans and providers can infer whether DHSR is accurately applying its rules when citing providers, implementing sanctions, etc.

Session Laws Enacted to Date

- [S.L. 2023-82](#) AN ACT TO ALLOW ONE CHILD OR SIBLINGS IN FOSTER CARE TO BE PLACED IN A FAMILY FOSTER HOME IF THE FOSTER FAMILY HAS FIVE BIOLOGICAL CHILDREN.
- [S.L. 2023-83](#) AN ACT TO MODIFY THE SUPERVISION REQUIREMENTS FOR CERTIFIED ALCOHOL AND DRUG COUNSELORS AND CERTIFIED CRIMINAL JUSTICE ADDICTIONS PROFESSIONALS.
- [S.L. 2023-95](#) AN ACT TO MODIFY THE LAW PERTAINING TO THE RELEASE OF CONFIDENTIAL INFORMATION BY MENTAL HEALTH PROVIDERS TO CONFORM TO FEDERAL REGULATIONS
- [S.L. 2023-96](#) AN ACT TO SET CERTAIN CRITERIA FOR CHILDREN'S ADVOCACY CENTERS TO BE ELIGIBLE TO RECEIVE STATE FUNDS, TO GOVERN THE SHARING OF INFORMATION AND RECORDS OF CHILDREN'S ADVOCACY CENTERS AND MULTIDISCIPLINARY TEAMS, AND TO ESTABLISH CERTAIN IMMUNITY FOR CHILDREN'S ADVOCACY CENTERS.