



2013

LEGISLATIVE SUMMARY

LEGISLATIVE HIGHLIGHTS IMPACTING THE PROFESSION OF MEDICINE

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2013 Overview of the Session

LEGISLATIVE SUMMARY

Message from the NCMS Legislative Cabinet Chairman

The 2013 legislative session of the North Carolina General Assembly (NCGA) got off to a unique start with Republican leadership in both the House of Representatives and the Senate as well as a Republican in the Governor's office. Additionally, over half of the General Assembly's members were in their first or second terms of office. With so many new faces in chambers, NCMS members and our lobbying team had a lot of relationships to build and information to offer.

As the new administration took shape within the first weeks of session, the state's Department of Health and Human Services (DHHS), particularly the Medicaid program, quickly assumed center stage in budgetary and policy debates. Interested parties were asked to reply to a Request for Information by DHHS, soliciting comments on how to improve the State's current Medicaid system. Respondents were asked to be bold and to think outside of the box. The NCMS as well as 160 others submitted responses to the Department.

Within weeks of the RFI deadline Governor McCrory held a press conference announcing his plan for sweeping Medicaid reform - a plan that would move North Carolina's Medicaid program into a commercial managed care environment. The plan requires a waiver from the Centers for Medicare and Medicaid Services (CMS) and legislative approval prior to implementation. With session in full swing, we then turned our efforts to the General Assembly.



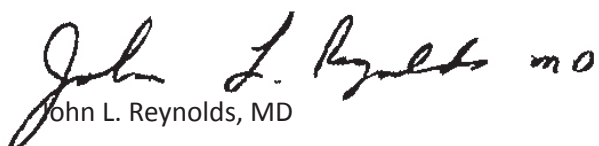
John L. Reynolds, MD, (left) Chair of the Legislative Cabinet, speaks with Chip Baggett, NCMS Director of Legislative Relations.

NCGA budget writers worked behind the scenes for months, ultimately drafting language to study Medicaid reform after session recessed. However, in addition to the questions of reform and managed care, the NCGA also had decisions to make regarding Medicaid expansion and the creation of Health Benefit Exchanges as federal deadlines grew closer. In January Senate Bill 4 was filed, taking a stand against Medicaid Expansion and the State-Based Health Benefit Exchanges proposed by the Affordable Care Act. The bill would quickly gain approval and North Carolina did not expand its Medicaid rolls and all efforts toward developing exchanges in North Carolina ended.

The future of the Medicaid program was the paramount legislative issue for the NCMS this year, and our work continues with the impending study of Medicaid reform, the implementation of a shared savings program as directed in the state budget and the unsuccessful launch of NC Tracks on July 1st. However, as you'll read in the pages of this summary, our advocacy team also acted on a number of other issues this year. We protected our patients by fighting attempts at independent practice by Certified Nurse Midwives and Certified Registered Nurse Anesthetists, and successfully defeated a measure to decriminalize direct-entry midwives. The NCMS negotiated several updates to the Controlled Substance Reporting System and engaged in discussions surrounding facility regulation in North Carolina. This list could go on and on.

The 2013 legislative session may have come to a close, but now is the time for our real work to begin – building relationships with legislators and educating ourselves on the issues that lie ahead.

Please join me in shaping the future of medicine in North Carolina.


John L. Reynolds, MD

2012-2013 ADDITIONAL MEDICAID APPROPRIATION

House Bill 980/Senate Bill 335

Sponsors: Burr (R – Stanly)
Status: Passed, S.L. 2013-56

CONTINUING BUDGET AUTHORITY

House Bill 336/Senate Bill 424

Sponsors: Conrad (R – Forsyth), Lambeth (R – Forsyth), Hanes (D – Forsyth), Terry (D – Forsyth)
Status: Passed, S.L. 2013-184

2013 APPROPRIATIONS ACT

Senate Bill 402

Sponsors: Brunstetter (R – Forsyth), Brown (R – Onslow), Hunt (R – Wake)
Status: Passed, S.L. 2013-360

BUDGET TECHNICAL CORRECTIONS BILL

House Bill 112

Sponsors: Dollar (R – Wake); Collins (R – Nash); McElraft (R – Carteret)
Status: Passed, S.L. 2013-363

The NC General Assembly (NCGA) passed two bills this session that provide the comprehensive vision for how state agencies should spend the limited resources of the State. Those bills were [Senate Bill 402](#) – Appropriations Act of 2013 ([Session Law 2013-360](#)) and [House Bill 112](#) – Modifications/Appropriations Act of 2013 ([Session Law 2013-363](#)).

Background

Every two years, the NC General Assembly develops a biennium budget. The chambers alternate the responsibility for drafting the initial proposal. That responsibility fell to the NC Senate this year. As such, you see that the Appropriations Act is a Senate bill (SB 402). The modifications bill (HB 112), often referred to as the Budget Technical Corrections, is not required to be a bill from the leading Chamber. Both bills are read in conjunction with one another when interpreting the

authority and intent of lawmakers. Additionally, a document referred to as the [Money Report](#) also provides insight into how law makers intend for appropriations to be allocated and accounted for over the next two years.

Budget goals

The NCMS prioritizes the budget and protecting access to care for Medicaid patients every year. This year was no different. The NCMS recognized that this was going to be an especially difficult year to protect access to care and Medicaid reimbursement rates because of numerous threats including an Executive Branch desire to turn Medicaid over to a private corporate managed care entity, constant budget overages by the Department of Health and Human Services (DHHS) and reducing State taxes as a top priority for the majority party.

As explained elsewhere in this summary, the NCGA passed SB 4 – [NO NC Exchange/No Medicaid Expansion](#) early in the session (February) stating that NC would not be expanding Medicaid enrollment as allowed in the Federal Affordable Care Act nor create or partner on the creation of a State-based health insurance exchange. Though the budget bills were not passed until much later (July), the passage of SB 4 provided an early glimpse into the priorities of lawmakers for this year. Specifically, legislators wanted to gain meaningful control of spending in Medicaid, create assurances of predictability in the Medicaid budgeting process and shift financial “risk” away from the State to providers.

Medicaid overruns

Over the past three years, the NCGA has had to allocate additional funds (above and beyond budgeted allocations) for NC Medicaid on at least three different occasions. This regular overspending by DHHS appears to be primarily in areas outside of the traditional functions of medical services, although many have attempted to blame the increased costs on physician and hospitals. As a result, legislator confidence has been significantly compromised. That breach of confidence has spilled over into finger-pointing at physicians and others in the provider community even though spending on physicians, hospitals and nursing homes has historically mirrored increases in enrollment while spending on optional services, personal care services and other non-essential services has grown at an exponential rate.

DHHS call for RFIs

A premium has been placed on efficiency and privatization of government operations by Gov. McCrory’s administration. In turn, corporate managed care entities have seized the opportunity in an attempt to convince lawmakers that they can control costs and provide predictable budgeting in the Medicaid system; though the evidence has not shown this to be the case in numerous states across the country nor did it prove to be the case when a managed care pilot was attempted in Charlotte years ago. Even so, DHHS sent out a Request for Information (RFI) in February 2013. Hundreds of organizations, including the NCMS, responded. You can read the NCMS RFP [here](#).* After receiving those RFIs, DHHS developed an outline Medicaid Reform Proposal and began to promote it as a plan of action. At the heart of the plan were “three-ish” Comprehensive Care Entities (CCEs) that would essentially manage capitated populations of Medicaid patients across the state. The gaps in that plan left many unanswered questions that caused widespread unrest in the medical community across NC.

* <http://www.ncmedsoc.org/blog/wp-content/uploads/2013/03/NCMS-Response-to-RFI-Final.pdf>

Budget outcomes

There are too many provisions within this budget to summarize every one that will impact physician practices in the coming year. Here are a few of the broad areas that gave us the most concern.

Medicaid Reform (pg. 161-163) – An overhaul of the NC Medicaid system dominated the debate during this legislative session. In lieu of reaching a plan, the NCGA decided to include a formal advisory committee to be named by the Governor to study Medicaid and propose solutions moving forward. That advisory committee will be made up of five members including one Senator and one House Representative. In addition to the Advisory Group, lawmakers gave DHHS authority to develop a Medicaid reform plan. The authority included a mandate to work with providers. It allowed for DHHS to discuss their proposal with the Federal government but it stopped short of providing authority to DHHS to submit any proposal without first returning to the NCGA for approval. This point has been highlighted in recent days by the Governor in interviews with the media. In the end, final approval remains with the NCGA.

Rate Cut / Withhold / Shared Savings (pg.171-172) – The NCMS has advocated for real shared savings as an incentive for both the State and physicians to partner in achieving significant savings in Medicaid. You can read more details about how true shared savings works in our RFI reference previously. Instead of adopting this kind of shared savings, the NCGA decided to withhold 3% of already reduced Medicaid fee-for-service rates. Legislators further directed DHHS to work with providers to develop a process to earn back a portion, the State share of 1%, of the withhold. At best, that makes this a 2% rate cut. Likely it will just be a 3% rate cut. As of the compilation of this document, DHHS has not yet accepted an invitation to discuss how a withhold would be implemented, though DHHS was mandated to do so in the budget.

Codified policy (pg.164-171) – A number of policies were codified into state law this year that have traditionally been left as un-codified language that has to be rewritten into each budget. Among those provisions is the requirement to pay \$100 enrollment fee for Medicaid. NCMS has opposed this fee from its inception and oppose moving it to more permanent language this year. Our opposition has been justified by the abusive use of the fee in light of the system changes this year in Medicaid. The fee was always touted as an every three year requirement that helped to relieve administrative costs for the State. Instead, it has turned into a penalty used against physicians that have been mistakenly removed from the system or dropped during the migration process to NC Tracks. NCMS will continue to endeavor to have this burden removed from statute.

Certificate of Need (pg.161) – See a detailed explanation of this provision later in this summary document.

Implementation

The NCMS continues to work to ensure that implementation of the budget is done appropriately, timely and within the authority directed by the NCGA. As we are reporting this to you, errors have already been identified within the area of crossover claims where Medicaid is the secondary payer. Another area of significant concern is the new withhold rate cut set to be implemented in January. Nearly three months after passage of the budget, DHHS has yet to meet with physicians and other providers, as directed by the



Palmer Edwards, MD meets with Senator Pete Brunstetter (R – Forsyth) in his District

budget, nor prepare a State Plan Amendment (SPA) for submission to the Federal Government for approval.

The challenge that we face moving forward is envisioning a new system of care for Medicaid where high-quality care for patients is quantitatively proven, reimbursement is based on value rather than number of services and the cost curve for the State and Federal government is bent down. NCMS remains committed to the principles outlined in our RFI and continues to work aggressively to ensure that NC remains a leader in Medicaid innovation as well as broader, systematic healthcare reform.

AUTOPSY FEE INCREASE

Senate Bill 164

Sponsors: Parmon (D – Forsyth)
Status: Referred to Senate Finance Committee, Included in Budget

Summary: This legislation proposed to raise the North Carolina Medical Examiner autopsy fee from \$1,000 to \$1,500. Senate Bill 164 was not discussed publicly during the 2013 legislative session. However, a provision of the approved state budget (Sect. 12E.8 of Senate Bill 402), does increase the fee to \$1,250 effective August 1, 2013.

Abortion Regulation

PROHIBIT SEX-SELECTIVE ABORTION

House Bill 716

Sponsor: Samuelson (R – Mecklenburg), McElraft (R – Carteret), Schaffer (R – Mecklenburg), Turner (R – Iredell)
Status: Passed the House, Pending in Senate Rules Committee

Summary: House Bill 716 proposed to prohibit a healthcare provider from performing an abortion procedure should that provider have *“knowledge or an objective reason to know that a significant factor in the pregnant woman seeking the abortion is related to the sex of the unborn child.”* The bill would not require a physician to ask patients for this information. Potential violations of this law could be brought forward by the patient, her parent/guardian, spouse, or her former and current licensed healthcare providers.

Additionally the bill would not guarantee anonymity for patients involved in related court proceedings – it would allow the court to determine whether patients should remain anonymous on a case by case basis. While HB 716 did not pass as a standalone bill, its provisions were included in [SB 353](#), an omnibus abortion regulation bill which did become law and is effective October 1, 2013.

INSURANCE AND HEALTH CARE CONSCIENCE PROTECTION

House Bill 730

Sponsor: Schaffer (R – Mecklenburg), Conrad (R – Forsyth), R. Brown (R – Davidson), S. Martin (R – Wilson)
Status: Passed the House, Pending in Senate Insurance Committee

Summary: Current statute does not require healthcare providers who object to abortion procedures on moral, ethical or religious grounds to participate in such procedures. The Insurance and Health Care Conscience Protection Act proposes to make more substantive changes by preventing qualified health plans offered under ACA Exchanges from offering abortion coverage except in the cases of physical danger to the life of the mother or cases of rape or incest. Additionally the bill would limit counties and municipalities from offering employees coverage for abortion services that exceed the State Health Plan coverage for the same service. While HB 730 did not pass as a standalone bill, its provisions were included in SB 353, an omnibus abortion regulation bill which did become law and is effective October 1, 2013.

HEALTH CURRICULUM PRETERM BIRTH

Senate Bill 132

Sponsors: Daniel (R – Burke), Tillman (R – Randolph), Randleman (R – Wilkes)
Status: Passed, S.L. 2013-307

Summary: This new law adds to the curriculum of the current Reproductive Health and Safety Education Program information regarding preventable risks of pre-term birth. This program is provided to public school students beginning in 7th grade. As originally filed the curriculum would only have listed induced abortions as a “cause” of pre-term birth in subsequent pregnancies. However after a number of public committee hearings and debates the final bill lists a number of “preventable risks” for pre-term births rather than “causes.” Induced abortion is included alongside smoking, alcohol consumption, illicit drug use and inadequate prenatal care. The law requires that this information be provided to public and charter school students as well as made available for use by private schools in the state. Curriculum changes take place beginning with the 2013-2014 school year.

AMEND THE WOMAN’S RIGHT TO KNOW ACT

Senate Bill 308

Sponsors: Daniel (R – Burke), Randleman (R – Wilkes), Hunt (R – Wake)
Status: Referred to Senate Rules Committee

Summary: Passed in 2011, the Woman’s Right to Know Act placed many requirements on physicians who perform abortion procedures in North Carolina. Senate Bill 308 proposed changes to that law placing additional requirements on physicians. The bill proposes that a physician performing an abortion procedure be physically present during the entire procedure and on premises and immediately available to patients until they leave the premises.

The Woman's Right to Know Act required physicians to notify patients if the physician did not have hospital admitting privileges within 30 miles of their clinic. Senate Bill 308 proposed to prohibit physicians from performing procedures without such privileges. While SB 308 did not pass as a standalone bill, the provision requiring physicians to remain on site during and immediately following procedures was included in SB 353, an omnibus abortion regulation bill which did become law and is effective October 1, 2013. The requirement for hospital privileges was not included in SB 353 and did not become law.

HEALTH AND SAFETY LAW CHANGES

Senate Bill 353

Sponsor: Harrington (R – Gaston)

Status: Passed, S.L. 2013-366

Summary: Senate Bill 353 received statewide and national attention after being introduced during the final weeks of legislative session as an omnibus abortion regulation bill attached to a bill regarding actions against drivers that cause danger or injury to motorcyclists. No portion of the motorcycle safety regulations passed in this bill relate to helmet laws (see House Bill 109 for more information regarding motorcycle helmet laws).

Senate Bill 353 includes the provisions proposed in HB 716, HB 730, and one provision from SB 308, including:

- Prohibiting a healthcare provider from performing an abortion procedure should that provider have “knowledge or an objective reason to know that a significant factor in the pregnant woman seeking the abortion is related to the sex of the unborn child.”
- No guarantee of anonymity for patients involved in court proceedings surrounding sex-selective abortion procedures – it allows the court to determine whether patients should remain anonymous on a case by case basis.
- Prevents qualified health plans offered under ACA Exchanges from offering abortion coverage except in the cases of physical danger to the life of the mother or cases of rape or incest.
- Limits counties and municipalities from offering employees coverage for abortion services that exceed the State Health Plan coverage for the same service.
- Physicians performing an abortion procedure must be physically present during the entire procedure and remain on premises and immediately available to patients until they leave the premises.

Additionally, SB 353 requires the Department of Health and Human Services to amend its rules pertaining to abortion clinics. These rules may be amended to go as far as to meet Ambulatory Surgical Center rules if the Department deems necessary while not “unduly restricting access.” DHHS shall report on these rule changes to the Joint Legislative Oversight Committee on Health and Human Services no later than January 1, 2014.

Certificate of Need

ENACT CON COMMITTEE RECOMMENDATIONS

NCMS Position: Oppose

House Bill 83

Sponsors: Torbett (R – Gaston), Glazier (D – Cumberland), Collins (R – Nash), Boles (R – Moore)

Status: House Appropriations Committee

AMEND CERTIFICATE OF NEED LAWS

House Bill 177/Senate Bill 202

Sponsors: Avila (R – Wake), Collins (R – Nash), Burr (R – Stanly)

Status: Passed the House, Pending in Senate Rules Committee

EXEMPT CONTINUING CARE FACILITIES FROM CON

House Bill 900

Sponsors: Avila (R – Wake), Samuelson (R-Mecklenburg), Burr (R – Stanly), Setzer (R – Catawba)

Status: Referred to House Rules Committee

Summary: Four separate bills were filed in 2013 to amend the CON law, but only two of them are directly relevant to physicians. House Bill 177 would encourage the development of single specialty operating rooms, as recommended by a legislative study committee created to consider a wide range of potential CON reforms. This legislation would have primarily benefitted entities seeking to compete with current owners of licensed operating rooms. House Bill 83 reflected other study committee recommendations aimed at benefitting existing hospital providers at the expense of potential competitors. Ultimately, although House Bill 177 passed the House, neither was enacted. Instead, the budget was amended to include a provision that accomplished most of the pro-hospital changes sought in House Bill 83 by exempting existing hospital providers from the CON law as they invest, with few limitations, in renovations, replacements and expansions. The changes, however, will not allow any potential competitors to enter the market without first shouldering the full burden of the CON law. In passing this provision, the General Assembly deepened the disparate and unfair treatment of physicians under the CON law.

Other Facility Regulations

STANDARDIZE EMERGENCY HOSPITAL CODES

House Bill 634

Sponsor: Lambeth (R – Forsyth), Hanes (D – Forsyth), Jones (R – Rockingham), Malone (R – Wake)
Status: Passed the House, Pending Senate Health Committee

Summary: In an attempt to create uniformity across hospitals in our state, House Bill 634 was proposed to require the Medical Care Commission to adopt a uniform emergency code no later than January 1, 2015. Hospitals would be required to begin using these codes by July 1, 2015. Codes would be designated to address emergency and safety events such as natural disasters, lock-down procedures, etc. and would not pertain specifically to the medical care of patients. This bill passed the House and is now pending in the Senate Committee on Health Care. It remains eligible for discussion in 2014.

DESIGNATE PRIMARY STROKE CENTERS

Senate Bill 456/House Bill 827

Sponsor: Pate (R – Wayne), Bingham (R – Davidson), Wade (R – Guilford)
Status: Passed, S.L. 2013-44

Summary: Effective October 1, 2013 the Department of Health and Human Services must designate qualified hospitals as primary stroke centers. In order to qualify and subsequently advertise itself as a stroke center, a hospital must be certified by the Joint Commission or other nationally recognized accrediting body that requires conformance to best practices for stroke care.

PATIENT SAFETY IN OPERATING ROOMS

NCMS Position: Oppose

Senate Bill 371

Sponsor: Bingham (R – Davidson)
Status: Pending in the Senate Health Committee



NCMS Board of Directors meets Senate Majority Leader Harry Brown (R – Onslow) in Raleigh.

Summary: Senate Bill 371 proposes new definitions to the Nursing Practice Act, including definitions for a “circulating nurse” and “perioperative nursing.” The bill would then require the Medical Care Commission to develop rules to require every hospital and ambulatory surgical facility

to have one circulating nurse physically present in each operating room. Circulating nurses would be required to have RN degrees, something that is not specified under current law.

Patient safety is of the utmost importance and national regulations currently exist to provide for safety through the use of OR circulators.

Controlled Substances and Prescribing

REVISE THE CONTROLLED SUBSTANCES REPORTING SYSTEM

NCMS Position: Amend

Senate Bill 222 /House Bill 173

Sponsor: Allran (R – Catawba), Bingham (R – Davidson)

Status: Passed, S.L. 2013-152

Summary: Senate Bill 222 would become one of the most heavily debated and time-consuming pieces of legislation for the NCMS lobbying team during the 2013 session. Several bills which would have undermined the effectiveness of the Controlled Substance Reporting System (CSRS) were introduced this year but unsuccessful in passing. Senate Bill 222 would become the vehicle for all changes to the CSRS enacted this session.

The NCMS supports the final version of the bill, following a technical correction made in the last hours of session to preserve physician immunity from liability when accessing the system.

The new law was negotiated with the Department of Health and Human Services, Child Fatality Task Force, NCMS, North Carolina Medical Board and the NC Retail Merchants Association among many others. It accomplishes the following:

- Specifically excludes veterinarians from CSRS regulations.
- Shortens the mandatory reporting window for pharmacies from seven days to three business days.
- Dispensing physicians are now required to report into the system as pharmacies do.
- Dispensers and pharmacies must now record the method of payment used by the purchaser.
- Reporting is not required for prescriptions provided directly to the user if the supply does not exceed a 48 hour dosage.
- The Department of Health and Human Services may notify practitioners if one of their patients is suspected of doctor shopping.
- The Department of Health and Human Services may notify a licensee's regulatory board (for example, the North Carolina Medical Board) of potentially improper prescribing patterns, but only after the regulatory board adopts rules to set criteria for receiving such information.
- Physicians may now delegate someone else in their office to access the CSRS system in order to improve the likelihood of patient screening. DHHS is currently in the process of developing this technical capability; it is expected to be in place by January 2014.
- This bill does NOT allow Sheriffs to access the system without a lawful court order. However, the Attorney General may refer investigations to Sheriffs.
- This bill does NOT require physicians to access the CSRS prior to prescribing a controlled substance.

AMEND PHARMACY LAWS

House Bill 675

Sponsors: Murry (R – Wake), S. Martin (R – Wilson), Wray (D – Northampton), Wilkins (D – Person)

Status: Passed, S.L. 2013-379

Summary: In addition to changes regarding pharmacy technician certification and pharmacy audit procedures, House Bill 675 also clarifies that no Schedule II substance shall be dispensed pursuant to a written prescription more than six months after it was prescribed. The change applies to acts occurring after October 1, 2013.

GOOD SAMARITAN LAW/NALOXONE ACCESS

NCMS Position: Support

Senate Bill 20

Sponsor: Bingham (R – Davidson), Allran (R – Catawba)

Status: Passed, S.L. 2013-23

Summary: Heavily supported by the North Carolina Harm Reduction Coalition and other advocates, Senate Bill 20 offers a certain level of immunity from prosecution for drug possession to individuals who seek medical assistance for an overdose victim in their presence. Under the new law individuals who seek medical assistance for such victims are immune from misdemeanor or felony prosecution for possession of less than one gram of cocaine or heroin. This immunity applies only if the evidence for such prosecution is obtained as a result of the call for help. Those under 21 years of age have the same protection for alcoholic beverages.



Will Barnett; Jessica Scott, MD, JD; Prashant Patel, MD; and Bill Farrell, MD at NC General Assembly.

Directly related to medicine, the law now also allows physicians to prescribe opioid antagonists by standing order to third parties that are in the position to assist individuals at risk of an overdose. This law became effective on April 9, 2013, when signed by the Governor.

STRENGTHEN CSRS

NCMS Position: Oppose

Senate Bill 206

Sponsors: Davis (R – Macon)

Status: Pending in Senate Judiciary II Committee

Summary: One of many bills proposing changes to the operation of the State’s Controlled Substance Report System (CSRS), Senate Bill 206 would have required the State to upgrade the database to provide real time information. However, no funding was provided for upgrades or to expand the system. Additionally, the proposal would have required physicians to access the system and review 12 months of history before a prescription is written. Pharmacies would also have been required to check the system after the physician, and before filling the prescription as well as report dispensing activity to the system within 24 hours.

The NCMS supports use of the Controlled Substance Reporting System, however opposes mandated use prior to prescribing. Senate Bill 222, supported by the NCMS, enacts many changes that improve the system without compromising patient care. Senate Bill 206 did not pass and is not eligible for consideration during the 2014 Session.

INCREASE PENALTY CONTROLLED SUBSTANCES CRIMES

Senate Bill 252

Sponsors: Davis (R – Macon)

Status: Passed, S.L. 2013-90

Summary: Senate Bill 252 elevates the level of felony offense from a Class I to a Class G for practitioners or their employees who intentionally divert controlled substances for his or her own use or for illegal use.

LAW ENFORCEMENT MAY INSPECT PHARMACY RECORDS

NCMS Position: Oppose

Senate Bill 253

Sponsor: Davis (R – Macon)

Status: Pending in Senate Judiciary II Committee

Summary: Similar to bills proposed in the past, Senate Bill 253 would allow Sheriffs, their deputies, Police Chiefs and their officers to access the CSRS system and to inspect prescription and pharmacy records not found in the system whenever involved in a related investigation. Under current statute law enforcement officers can receive such information from the Attorney General’s office or with a specific court order. The NCMS supports the current system for law enforcement access to records and finds SB 253 to be unnecessary. This bill did not pass and is not eligible for the 2014 Session.

MANDATE USE OF THE CSRS

NCMS Position: Oppose

Senate Bill 286

Sponsor: Davis (R – Macon)
Status: Pending in Senate Judiciary II Committee

Summary: As proposed in SB 206, this bill would also have required physicians to access the CSRS and review 12 months of history before any controlled substance prescription is written. Pharmacies would also have been required to check the system after the physician, and before filling the prescription. This bill did not pass and is not eligible for the 2014 Session.

UPDATE ELECTRONIC PRESCRIPTION RULES

Senate Bill 364

Sponsor: Brock (R – Davie)
Status: Pending in Senate Health Committee

Summary: Although it was not discussed during the 2013 legislative session, this bill proposed to require the North Carolina Board of Pharmacy to adopt new rules regarding electronic prescriptions. The law would have required that these rules follow HIPAA guidelines, allow patients to opt out of having prescriptions sent to pharmacies electronically, and require payers to make coverage information available to prescribers in real time through electronic means, including prior authorization requests.

STANDARDS FOR ELECTRONIC PRESCRIPTIONS

Senate Bill 570

Sponsor: Brock (R – Davie)
Status: Pending in Senate Health Committee

Summary: Senate Bill 570 was not discussed by the Health Committee during the 2013 legislation session. However, it would have added to state law the ability for providers to submit electronic prescriptions for controlled substances.

North Carolina Health Plan

House Bill 70

Sponsor: Brandon (D – Guilford)
Status: Pending in House Insurance Committee

Summary: Introduced early in session, House Bill 70 proposed to create a single payer healthcare system in the state of North Carolina. This system would be implemented in lieu of a state Health Benefit Exchange. However, the legislature opted for a federally run exchange with the passage of SB 4, and HB 70 was never debated.

FREEDOM TO NEGOTIATE HEALTH CARE RATES

NCMS Position: Support

House Bill 247/Senate Bill 359

Sponsor: Burr (R – Stanly), Starnes (R – Caldwell), Avila (R – Wake),
McElraft (R – Carteret)
Status: Passed, S.L. 2013-46

Summary: Representative Justin Burr introduced the Freedom to Negotiate Health Care Rates bill, which allows healthcare providers and health insurers to freely negotiate reimbursement rates and prohibits contract provisions that restrict such negotiations. This is also known as Most Favored Nation legislation.

Specifically, the bill eliminates contract provisions that prohibit a provider from contracting with another insurance carrier to provide services at an equal or lower rate. It also prohibits payers from requiring providers to accept a lower payment rate if that provider contracts with another carrier at an equal or lower rate.

After hitting several roadblocks last year, this bill passed quickly through both the House and Senate during the 2013 session. It was signed into law on May 8, 2013 and becomes effective October 1, 2013.

NONCOVERED VISION SERVICES

House Bill 511/Senate Bill 477/Senate Bill 644

Sponsor: Meredith (R – Cumberland), Newton (R – Wilson), Walters (D – Robeson)
Status: Pending in House Insurance Committee

Summary: This bill attempts to prohibit insurers from fixing the fee that an optometrist may charge for noncovered services or materials. The legislation passed through the Senate but was not debated in the House in 2013. It remains eligible for consideration in 2014.

NC CANCER TREATMENT FAIRNESS ACT

NCMS Position: Support

House Bill 609

Sponsor: Lewis (R – Harnett), T.Moore (R – Cleveland), L.Hall (D – Durham), Burr (R – Stanly)
Status: Passed the House, Pending in Senate Health Committee

Summary: One of the most debated health insurance bills of 2013, House Bill 609 passed through the House of Representatives and is now pending in the Senate Committee on Health Care. It is eligible for continued debate in 2014. This bill proposes to require payers to follow the same standards for coverage for orally administered cancer drugs as it does for intravenously administered or injected cancer drugs. If a plan currently covers intravenous or injected cancer drugs without prior authorization, a dollar limit, co-pay, or deductible this bill would require the same for orally administered anticancer drugs. As currently drafted, and if passed next year, this bill would take effect January 1, 2015.

DISCLOSURE OF PREMIUM INCREASES DUE TO PPACA

House Bill 651

Sponsor: Collins (R – Nash), Hager (R – Rutherford), Burr (R – Stanly), S. Martin (R – Wilson)
Status: Pending in House Insurance Committee

Summary: Although not discussed or passed in 2013, this bill would have required all North Carolina insurers to indicate on their premium statements to consumers if there is any premium increase that is attributable to the federal Patient Protection and Affordable Care Act.

RIGHT TO CHOOSE ATHLETIC SPORTS TRAINER

House Bill 740

Sponsor: Dobson (R – McDowell)
Status: Pending in House Insurance Committee

Summary: House Bill 740 sought to stipulate that when an insurer provides coverage or reimbursement for athletic training services, such services would be reimbursed as long as services are within the athletic trainer’s scope of practice under North Carolina law. This bill would also have allowed patients to choose their athletic trainer, with exceptions for network provider requirements of payers. Current law provides the same rights to patients of optometrists, podiatrists, dentists, chiropractors, physical therapists and many other healthcare providers.

INFORM PATIENT IF DRUG COSTS LESS THAN INSURANCE CO-PAY

House Bill 771

Sponsors: R. Brawley (R – Iredell)
Status: Pending in House Commerce Committee

Summary: Introduced by Representative Robert Brawley, House Bill 771 proposed to require pharmacists and dispensing physicians to inform patients if the cost of any dispensed drug was less than the cost of the insurance co-payment under the patient’s health insurance plan.

CHOICE OF HEARING AID SPECIALIST

Senate Bill 248

Sponsors: Hartsell (R – Cabarrus)
Status: Passed, S.L. 2013-296

Summary: Senate Bill 248 stipulates that when an insurer provides coverage or reimbursement for hearing aid specialists’ services, such services would be reimbursed as long as services are within the hearing aid specialists’ scope of practice under North Carolina law. This bill also allows patients to choose their hearing aid specialist, with exceptions for network provider requirements of payers. Current law provides the same rights to patients of optometrists, podiatrists, dentists, chiropractors, physical therapists and many other healthcare providers.



Craig Burkhart, MD speaks to the Legislative Committee

INSURANCE PREMIUM ASSISTANCE FOR PREGNANCY

NCMS Position: Oppose

Senate Bill 560

Sponsor: Hise (R – Mitchell)

Status: Pending in Senate Insurance Committee

Summary: The purpose of this bill was to move uninsured, lower-income, pregnant women from Medicaid to private health insurance through premium assistance. Premium assistance would have been paid from State funds but would have been used to purchase insurance through federal Health Benefit Exchanges under the Affordable Care Act. This would apply after January 1, 2014 for those women with an income below 185% of the federal poverty level. Women with income that is equal to or less than 133% of the federal poverty level would remain eligible for Medicaid. This attempt to lower the State's costs for Medicaid deliveries was not discussed as SB 560, but was included in the Senate's budget proposal. This plan was not included in the final budget adopted this session.

CHIROPRACTOR CO-PAY PARITY

NCMS Position: Oppose

Senate Bill 561

Sponsor: Hise (R – Mitchell)

Status: Pending in Senate Insurance Committee

Summary: Similar to legislation introduced in past sessions, SB 561 would require insurance co-pays for medically necessary chiropractic services to be equal to or less than co-pays required for primary care services that are medically necessary. This bill was introduced and referred to the Senate Committee on Insurance but was not debated before the end of the 2013 session.

Medicaid

NO NC EXCHANGE AND NO MEDICAID EXPANSION

NCMS Position: Amend

Senate Bill 4/House Bill 16

Sponsor: Apodaca (R – Henderson), Brown (R – Onslow), Rucho (R-Mecklenburg)

Status: Passed, S.L. 2013-5

Summary: Senate Bill 4 passed quickly through both chambers, becoming law within the first weeks of the 2013 legislative session. The bill clarifies the State's intent not to operate a state-run

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ONLINE RESOURCES

The Medical Society has a rich online presence, with resources and tools to help you handle the latest issues such as tort reform, health information technology, ICD-10 implementation, end-of-life care, quality improvement, fraud and abuse defense and more. Take a look at www.ncmedsoc.org.

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The NCMS provides members with a weekly e-newsletter, the *Bulletin*, which includes the latest news on managed care, legislative actions, and more. Members also receive the North Carolina Medical Journal and discounts on magazines and coding publications through the NCMS Partners Guide.

or state-federal partnership Health Benefit Exchange as well as rejects the Affordable Care Act's optional Medicaid expansion.

Senate Bill 4 does allow NC FAST to provide Medicaid eligibility determinations for the federally facilitated Health Benefit Exchange. If funds for a state match are available from existing appropriations for NC FAST and the total amount does not exceed \$5 million then the Department shall seek available 90/10 Medicaid funding for NC FAST to make eligibility determinations.

NCMS has a long-standing policy supporting the expansion of health insurance coverage for all citizens of our state because of the positive impact coverage has on access to preventive care, the improvement of the health status of our citizens and the resulting controls on the cost of healthcare. Accordingly, we believe expanding Medicaid coverage to include poor adults would be beneficial not only to those persons who would be covered by the expansion, but to others already paying for health insurance.

However, NCMS also appreciates the challenge of predicting and controlling costs in Medicaid. High unemployment, longer life expectancy and new technologies are driving up costs for health programs. Even though the federal government has offered to pay the full cost of expansion initially, the long-term obligations of the State are a concern we also share. We support a full exploration of financing options and we believe the expansion of Medicaid should occur only if stable financing can be identified and the State can be assured of it

CONTAIN COUNTIES' INMATE MEDICAL COSTS

NCMS Position: Amend

Senate Bill 321 /House Bill 448

Sponsor: Davis (R – Macon), Newton (R – Wilson), Goolsby (R – New Hanover)

Status: Passed, S.L. 2013-387

Summary: This bill caps the reimbursement by counties to medical providers and facilities for requested or emergency care outside of the local confinement facility to the lesser amount of either 70% of the provider's then current prevailing charge or two times the then current Medicaid rate for any given service. The bill also requires counties to make reasonable efforts to equitably distribute prisoners among all hospitals or other facilities located in the county based upon bed capacity.

For purposes of this bill "requested or emergency medical care" includes all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting. The NCMS together with the College of Emergency Physicians and the Hospital Association sought clarifying language to further define "custody" as including individuals placed under arrest. This language was successfully added to the bill, however was removed during the conference process between the two chambers immediately before final passage.

CHRONIC CARE COORDINATION ACT

House Bill 459/Senate Bill 606

Sponsor: Dollar (R – Wake), Murry (R – Wake), Hollo (R – Alexander), Lambeth (R – Forsyth)
Status: Passed, S.L. 2013-207

Summary: Passed through both chambers this year, the new law requires the DHHS Divisions of Public Health and Medical Assistance and the Division in the Department of State Treasurer responsible for the State Health Plan for Teachers and State Employees to collaborate to reduce the incidence of chronic disease and improve chronic care coordination within the State by doing all of the following:

- Identify goals and benchmarks for the reduction of chronic disease.
- Develop wellness and prevention plans specifically tailored to each of the Divisions.
- Submit annual reports on or before January 1 of each odd-numbered year to several legislative oversight committees including action plans and budgets for implementing these goals.

COLLABORATION AMONG STATE DIABETES PROGRAMS

Senate Bill 336/House Bill 571

Sponsor: Pate (R – Wayne)
Status: Passed, S.L. 2013-192

Summary: Passed through both chambers this legislative session, the new law requires the Department of Health and Human Services and the State Treasurer working with the State Employees Health Plan to work collaboratively to each develop plans to reduce the incidence of diabetes, to improve diabetes care, and to control the complications associated with diabetes. Each entity's plans shall be tailored to the population the entity serves and must establish measurable goals and objectives. These groups are required to report on the progress of this initiative no later than December 1st of each even-numbered year.



NCMS Board of Directors meets House Health Committee Chair and fellow NCMS member Mark Hollo (R-Alexander) in Raleigh

STUDY MEDICAID PROVIDER HEARINGS

House Bill 674

Sponsor: Stevens (R – Surry)
Status: Passed the House, Pending in Senate Rules Committee

Summary: This bill did not see final passage in 2013 but remains eligible for consideration in 2014. It proposed to allow the Program Evaluation Division to study and make recommendations for changes to the contested case process for Medicaid provider appeals.

MEDICAID COUNTY OF RESIDENCE

House Bill 867

Sponsor: Avila (R – Wake), Burr (R – Stanly), Hollo (R – Alexander), Brisson (D – Bladen)
Status: Passed the House, Pending in Senate Health Committee

Summary: This bill would have exempted services to individuals served by the Medicaid 1915(b)/(c) managed care waiver from Medicaid home origin requirements. Alternatively coverage would be based on the individual’s current county of residence.

PROHIBIT CO-PAY WAIVER BY CERTAIN MEDICAID PROVIDERS

Senate Bill 137

Sponsor: Tillman (R – Randolph)
Status: Passed, S.L. 2013-145

Summary: This new law applies only to pharmacies and dispensing physicians, and is specifically targeted at the practices of out of state mail order pharmacies. In an attempt to reduce fraud and abuse, Senate Bill 137 prevents these providers from waiving the co-payment of Medicaid and Health Choice payments for their products.

Medical Liability and Tort Reform

RELEASE OF MEDICAL RECORDS

NCMS Position: Oppose

House Bill 798

Sponsor: D. Hall (D – Wake), Moffit (R – Buncombe), Murry (R – Wake), Baskerville (D – Vance)
Status: Referred to House Rules Committee

Summary: This legislation was proposed to the bill sponsors by the North Carolina Advocates for Justice and attempts to broaden the definition of medical records under current law as well as limit the time allowed for the release of this information during civil proceedings. The proposal would also require providers to release financial records and information when requested by the individual or the individual’s personal representative (attorney) in civil proceedings. All information requested would be due within 15 business days of receiving a written request. Under the proposal the statute of limitations for a medical malpractice action would be tolled one day for each day a health care provider failed to comply. Finally, this legislation would have weakened the current G.S. 1A-1, Rule 9(j) by allowing this information to satisfy that expert witness certification requirement.

The NCMS finds this legislation to be unnecessary and potentially in conflict with HIPAA guidelines. Additionally the proposed changes to the 9(j) evidence rules weakens the entire process for substantiating medical liability claims.

ENCOURAGE VOLUNTEER CARE IN FREE CLINICS

NCMS Position: Amend

Senate Bill 83

Sponsor: Bingham (R – Davidson)

Status: Passed, S.L. 2013-49

Summary: The North Carolina Association of Free Clinics advocated for Senate Bill 83 which removes the requirement for free clinics to obtain medical liability insurance so long as notice is given to patients regarding the liability protection for healthcare providers practicing in the clinic. The notice must specify that providers shall not be liable for damages for injury or death unless caused by gross negligence, wonton conduct or intentional wrongdoing of the provider. Free clinics are also now included under the immunity offered to physicians that receive patients from nonprofit community health referral services. These changes become effective on October 1, 2013 and apply to claims that arise on or after that date.

DEVELOP RULES FOR RELEASE OF PATHOLOGICAL MATERIALS

Senate Bill 240

Sponsor: Goolsby (R – New Hanover)

Status: Passed, S.L. 2013-43

Summary: The debate surrounding the release of pathological materials began during the 2012 legislative session. That year House Bill 795 was introduced with the goal of reducing the amount of paperwork required of patients when attempting to access their own pathological materials. At the end of session a bill that would have required hospitals and labs to release all cytological materials, bodily fluids, tissues, organs, medical waste, slides, blocks and records whenever requested was instead converted to a legislative study. In 2013 Senate Bill 240 was filed as the recommendation of the study committee. The bill requires the Department of Health and Human Services and the North Carolina Medical Board to develop rules governing requests for and release of pathological materials. The rules developed must be consistent with the North Carolina Hospital Association’s Best Practices Principles and the College of American Pathologists’ 2003 Professional Relations Manual – standards supported by the NCMS and the North Carolina Society of Pathologists.



Frank Harrison, MD speaks to House Health Committee regarding dangers of CPM licensure.

NC COMMERCE PROTECTION ACT OF 2013

Senate Bill 648

Sponsor: Jackson (R – Sampson), Meredith (R – Cumberland), Davis (R – Macon)

Status: Pending in Senate Rules Committee

Summary: In addition to proposing many changes regarding statutes on employment fraud and third party lending, SB 648 also lowers the calculation of interest for actions of personal injury or wrongful death which would be applicable to medical liability cases. The bill proposes *“In an action brought to recover damages for personal injury or wrongful death, the portion of a money judgment designated by the fact finder as compensatory damages for past economic damages bears interest from the date 90 days after the action is commenced until the judgment is satisfied. No other portion of a money judgment in an action for personal injury or wrongful death shall bear interest. Interest on any portion of a money judgment on which interest is allowed in an action for personal injury or wrongful death shall be calculated using a per annum rate of five percent (5%).”*

Mental Health

PUBLIC PAID CLAIMS DATA/HEALTH INFORMATION EXCHANGE

Senate Bill 552

Sponsor: Hise (R – Mitchell)

Status: Pending in the Senate Health Committee

Summary: This bill was not debated during the 2013 session but would have required all Local Management Entities (LMEs) to submit monthly reports to CCNC regarding all client specific paid claims, encounter data and shadow claims necessary to track and analyze state and federal mental health care expenditures.

MEDICAID MANAGED CARE/BEHAVIORAL HEALTH SERVICES

Senate Bill 553/House Bill 320

Sponsor: Hise (R – Mitchell)

Status: Passed, S.L. 2013-397

Summary: The new law proposes to require LME/MCOs to establish internal grievance and appeal procedures for enrollees receiving behavioral health services under the 1915(b)(c) waiver. Basic framework includes:

- Each LME/MCO must establish internal grievance and appeal procedures.
- Requests for grievances and LME/MCO level appeals may be filed orally or in writing. An oral

filing must be followed by a written and signed grievance or appeal unless the enrollee or provider is requesting an expedited appeal.

- The LME/MCO cannot attempt to influence or interfere with the decision to file a grievance or appeal. However, the LME/MCO may offer alternative services, engage in clinical or education discussions with the enrollee or informally attempt to resolve concerns prior to a formal resolution.
- Punitive action may not be taken against a provider for filing a grievance or appeal on behalf of an enrollee or for supporting a grievance or appeal.

AUTISM HEALTH INSURANCE COVERAGE

NCMS Position: Amend

House Bill 498

Sponsor: McGrady (R – Henderson), Murry (R – Wake), Cotham (D – Mecklenburg), Shepard (R – Onslow)

Status: Passed House, Pending in Senate Insurance Committee

Summary: One of the most actively debated bills during the week of crossover, House Bill 498 would pass the House but stall in the Senate. However, it does remain eligible for consideration in the 2014 short session. House Bill 498 would require health plans, including the State Employees Health Plan, to provide coverage for the treatment of Autism spectrum disorders. Additionally this bill would allow the covered behavioral health treatment to be provided by Board Certified Behavior Analysts, or performed by other individuals supervised by Board Certified Behavior Analysts – providers not currently licensed to practice in North Carolina.

The NCMS was successful in amending the bill to remove a number of non-physician providers that would have been permitted to diagnose autism spectrum disorders. Additionally, the practice of unlicensed providers is concerning, and the NCMS supported an amendment proposed by Representative Jim Fulghum (R – Wake) which would have required licensure of Behavior Analysts prior to implementation of the bill. However, that amendment was unsuccessful following a lengthy floor debate.

ESTABLISH STATEWIDE TELEPSYCHIATRY PROGRAM

NCMS Position: Support

House Bill 580/Senate Bill 562

Sponsor: S. Martin (R – Wilson), Burr (R – Stanly), Avila (R – Wake), Lambeth (R – Forsyth)

Status: Pending in House Appropriations, Included in Budget

Summary: Although House Bill 580 did not pass as a standalone bill, its provisions were included in SB 402, the final budget that passed this session. Enacted into law are the following standards for the Statewide Telepsychiatry Program.

- The program will be administered by the ECU Center for Telepsychiatry and will resemble the Albemarle Hospital Foundation telepsychiatry project currently underway in the area.
- Hospitals will participate as either consultant sites or as referring sites.
- The program will allow referring sites to utilize consulting site providers to provide assessment

and initiate treatment for patients experiencing an acute mental health or substance abuse crisis.

- Implementation should begin no later than January 1, 2014; annual performance reporting will be required.
- Two million dollars is appropriated to purchase the equipment and for ECU to manage the program.

INVOLUNTARY COMMITMENT CUSTODY ORDERS

NCMS Position: Amend

House Bill 635/Senate Bill 687

Sponsor: Lambeth (R – Forsyth), Conrad (R – Forsyth), Terry (D – Forsyth), Hanes (D – Forsyth)

Status: Passed, S.L. 2013-308

Summary: Effective October 1, 2013, House Bill 635 allows a clerk or assistant or deputy clerk of superior court or a magistrate to fax or e-mail an involuntary inpatient commitment custody order to a petitioning physician, eligible psychologist, or designee at a twenty-four-hour facility when the respondent is already physically present at the twenty-four-hour facility. Upon receipt of the custody order the provider shall immediately notify the respondent that they are not under arrest but are being taken into custody to receive treatment for their own safety and the safety of others, then take the respondent into custody and sign and return the forms electronically to the clerk or magistrate. The original form must be mailed back within five days.

The bill also establishes protocols for the training of physicians and eligible psychologists in managing involuntary commitments. Training must be completed in order to involuntarily commit a respondent via electronic approval.

EFFECTIVE OPERATION OF 1915(B)(C) WAIVER

Senate Bill 208

Sponsor: Tucker (R – Union), Barringer (R – Wake)

Status: Passed, S.L. 2013-85

Summary: Following last session's enactment of the LME/MCO waiver model for Medicaid behavioral health patients (S.L. 2012-264), Senate Bill 208 was put in place to guide the program's operations. Requirements include:

- DHHS must develop and use a standard contract for all LME/MCOs operating under the waiver.
- The DHHS Secretary must certify LME/MCO compliance every six months beginning August 1, 2013.
- LME/MCOs must submit financial reports, including monthly balance sheets to DHHS for review. The ratio of current assets to liabilities must not fall below 1.0 in any consecutive three months.
- LME/MCOs must make timely provider payments, paying 90% of clean claims within 30 days of receipt for every three month period.
- Within ten days of receiving notice of non-compliance an LME/MCO's contract may be assigned to another compliant LME/MCO or be given 30 days to correct compliance issues or negotiate a merger with another LME/MCO.

- Counties are permitted to disengage from a LME/MCO and realign with another with the approval of the Secretary of DHHS.
- Area authorities may add additional counties to their catchment area by agreement of the majority of the existing member counties and upon the adoption of a resolution to that effect by a majority of the members of the area board – subject to approval by the Secretary of DHHS.
- A County Commissioner Advisory Board is created for each catchment area. There will be one Commissioner from each county.

Patient Safety

YOUTH SKIN CANCER PREVENTION ACT

NCMS Position: Support

House Bill 18/Senate Bill 167

Sponsor: Hollo (R – Alexander), Fulghum (R – Wake), Horn (R – Union), Murry (R – Wake)

Status: Passed the House, Pending in Senate Rules Committee

Summary: Current law permits children over the age of 13 to use indoor tanning equipment without restriction. Those 13 and younger may use indoor tanning equipment only if prescribed by a physician. The Youth Skin Cancer Prevention Act proposes to ban any child under the age of 18 from using indoor tanning equipment and removes the ability to tan by prescription.

This bill is heavily opposed by the indoor tanning industry; however the North Carolina Dermatology Association saw quick progress with the bill receiving House approval early in the session. House Bill 18 is still eligible for consideration in the 2014 short session and remains pending in the Senate Rules Committee.

REQUIRE PULSE OXIMETRY NEWBORN SCREENING

Senate Bill 98/House Bill 105

Sponsor: Brock (R – Davie), Pate (R – Wayne), Stein (D – Wake)

Status: Passed, S.L. 2013-45

Summary: Senate Bill 98 was signed into law on May 8, 2013 and requires the expansion of the State's Newborn Screening Program to include pulse oximetry screening to detect congenital heart defects.

The Department of Health and Human Resources is required to establish follow-up protocols, including telemedicine, for the treatment of newborns with heart defects. The State will also create a system for tracking the process and outcomes of newborn screenings.

MOTORCYCLE HELMET LAW/STUDY

NCMS Position: Oppose

House Bill 109

Sponsor: Torbett (R – Gaston), Speciale (R – Craven)

Status: Passed the House, Pending in Senate Rules Committee

Summary: As originally filed, House Bill 109 would allow motorcyclists to ride without helmets as long as the operator has held a license for at least one year or has successfully completed a motorcycle safety instruction program. Operators and riders would also be required to hold \$10,000 in medical insurance in order to ride without a helmet.

This original legislation was strongly contested by the medical community. A second version of the bill was introduced to raise the proposed age to 21 years – however this legislation also failed to pass.

During the final days of crossover, the bill was converted to a study to allow the Joint Legislative Transportation Oversight Committee to study the issue after session. The bill then passed the House of Representatives. However House Bill 109 failed to be heard in the Senate and is now pending in the Senate Committee on Rules. It is eligible for consideration in the 2014 short session.

BREAST DENSITY NOTIFICATION AND AWARENESS

NCMS Position: Support

House Bill 467/Senate Bill 519

Sponsor: Faircloth (R – Guilford), Adams (D – Guilford), Harrison (D – Guilford), Fulghum (R – Wake)

Status: Passed, S.L.2013-321

Summary: Representative John Faircloth filed House Bill 467 following a large turnout from concerned women at a Guilford County delegation public meeting. Passed into law shortly thereafter, this bill requires that all health care facilities that perform mammography exams include in the summary of the report to the patient information that also identifies the patient's individual breast density classification. If a patient has heterogeneously or extremely dense breasts a specific disclosure is now required by law.

“Your mammogram indicates that you may have dense breast tissue. Dense breast tissue is relatively common and is found in more than forty percent (40%) of women. The presence of dense tissue may make it more difficult to detect abnormalities in the breast and may be associated with an increased risk of breast cancer. We are providing this information to raise your awareness of this important factor and to encourage you to talk with your physician about this and other breast cancer risk factors. Together, you can decide which screening options are right for you. A report of your results was sent to your physician.”(b) Patients who receive diagnostic or screening mammograms may be directed to informative material about breast density. This informative material may include the American College of Radiology’s most current brochure on the subject of breast density.”

ELIMINATE EXCEPTIONS/MED TREATMENT OF MINORS

NCMS Position: Oppose

House Bill 693/Senate Bill 675

Sponsor: Whitmire (R – Transylvania),
Fulghum (R – Wake), Brisson
(D – Bladen),
Schaffer (R – Mecklenburg)

Status: Pending in House Judiciary
Committee



Speaker of the House Thom Tillis joins the NC Dermatology Association at NCGA Skin Cancer Screening Event.

Summary: Similar to legislation introduced in past sessions, House Bill 693 proposed to require notarized parental consent before a healthcare provider can discuss prevention of, diagnose or treat sexually transmitted diseases including HIV, substance abuse, mental illness or pregnancy in minors. This bill was discussed and approved by the House Health Committee this session and was subsequently referred to the House Judiciary Committee where it was not debated. Language to study issues related to parental rights was rolled into House Bill 711. House Bill 711 would pass the House but was not heard in the Senate before the end of the 2013 session. Therefore this bill is ineligible for debate in 2014.

EPI PENS IN SCHOOLS

NCMS Position: Support

House Bill 824/Senate Bill 700

Sponsor: Glazier (D – Cumberland), Murry (R – Wake), Holloway (R – Stokes),
Fulghum (R – Wake)

Status: Passed House, Pending in Senate Education Committee

Summary: House Bill 824 proposes to require public schools to have emergency epinephrine auto-injectors on school property for use in case of an emergency. EPI pens would be supplied by the local Board of Education after prescriptions are received from the medical director of the local health department or EMS director. School personnel would receive training in how to recognize anaphylaxis and how to administer EPI pens in case of emergency. This legislation passed the House but was not debated by the Senate before the end of session. It remains eligible for debate in 2014.

REGULATORY REFORM

House Bill 74

Sponsor: Murry (R – Wake), Moffitt (R – Buncombe), Samuelson (R – Mecklenburg), Bryan (R – Mecklenburg)
Status: Passed, S.L. 2013-413

Summary: The Regulatory Reform bill was one of the most heavily debated pieces of legislation this year. It is a very broad bill affecting a number of policy areas and did not receive passage until the final days of session. The following provisions relate to the practice of medicine.

- Rule-making agencies (including the North Carolina Medical Board) will be required to submit fiscal notes in addition to text of proposed rules changes.
- All agencies must review its existing rules every 10 years to determine if they are necessary with substantive public interest, necessary without substantive public interest, or unnecessary. This information must be posted online for public comment. The Rules Review Commission will then review the feedback and make determinations regarding the necessity of existing rules and work with the agency to make changes if necessary.
- The statute is updated to reflect that if a Medicaid MH/DD/SAS service has been eliminated by the State, the provider must retain records for three years following the last date of service. After that period, unless prohibited by federal law, records may be destroyed or transferred if appropriate.
- The Program Evaluation Division of the General Assembly shall evaluate the structure, organization and operation of occupational licensing boards. The PED shall also consider the feasibility of establishing a single State agency to oversee the administration of all or some of the State’s occupational licensing boards. The NCMS opposes the consolidation of health care’s professional licensing boards.
- By January 1, 2014 the Commission for Public Health shall amend its rules regarding the prohibition on smoking in restaurants and bars to ensure that the rules are consistent in interpretation and enforcement. Specifically the Commission is asked to clarify the definition of “enclosed areas.”

ENACT MEDICAL CANNABIS ACT

House Bill 84

Sponsor: Alexander (D – Mecklenburg), Harrison (D – Guilford)
Status: Reported Unfavorably in House Rules Committee

Summary: The Medical Cannabis Act proposed to establish a medical cannabis program under both the Department of Health and Human Services (for patients to receive registration cards) and under the Department of Agriculture (for suppliers to be licensed growers). This bill would not allow minors to use medical cannabis except under limited circumstances and would not require Medicaid to cover the cost of medical cannabis. Sale of medical cannabis would be taxed by the State at a rate of 5%.

TECHNICAL CORRECTIONS 2013

House Bill 92

Sponsor: Blust (R – Guilford)
Status: Passed, S.L. 2013-410

Summary: Passed during the final 48 hours of the 2013 legislative session, House Bill 92 includes truly technical corrections as well as a number of more substantial changes to existing statute. There are two non-technical corrections affecting health care included in HB 92.

The first relates to the North Carolina Health Insurance Risk Pool, known as Inclusive Health. House Bill 92 sunsets the Pool on January 1, 2014 due to the passage of the Affordable Care Act. All claims and filing of grievances and appeals must be submitted within 90 days of this date. The bill also requires the Pool to submit a more detailed plan for dissolution no later than September 1, 2013. That plan will then have to be approved by the Commissioner of Insurance.

Secondly, the Technical Corrections Bill creates a new scope of practice for hearing aid fitters. Under previous law hearing aid fitters had not specified scope of practice and were only authorized to perform the “fitting or selling of hearing aids.” House Bill 92 added fifteen additional tasks to the scope of practice of hearing aid fitters, containing one of specific concern which allows “administering cerumen management in the course of examining ears.”

HOME BIRTH FREEDOM ACT

NCMS Position: Oppose

House Bill 154/Senate Bill 106

Sponsor: Goolsby (R – New Hanover), Clodfelter (D – Mecklenburg),
Bingham (R – Davidson)
Status: Pending in the Senate Rules Committee

Summary: As introduced in past sessions, this bill seeks to establish a second midwifery licensure board for the state of North Carolina for the purpose of licensing Certified Professional Midwives (CPMs). CPMs are non-nurse, direct-entry midwives who attend homebirths. The lack of educational requirements in SB 106 puts North Carolina families at great risk. Although this bill did not move forward during the 2013 legislative session it remains eligible for consideration in 2014.

DECRIMINALIZE DIRECT-ENTRY MIDWIFERY

NCMS Position: Oppose

Senate Bill 107/House Bill 155

Sponsor: Goolsby (R – New Hanover), Clodfelter (D – Mecklenburg),
Bingham (R – Davidson)

Status: Pending in the Senate Health Committee

Summary: As originally filed, this legislation proposed to decriminalize the behavior of someone attending the delivery of a child. This bill was filed by Senator Thom Goolsby and then referred to the Judiciary Committee chaired by the Senator. After three sporadically scheduled Committee hearings, an updated version of the bill was approved by the Committee at a meeting where no public discussion was permitted. This updated version would decriminalize the activities of those midwives who have achieved certification by the North American Registry of Midwives (NARM), a CPM advocacy organization. No supervision, disciplinary or patient safety measures were included in the proposal. This bill was later referred to the Senate Committee on Health Care where it failed to be heard prior to the May 16th crossover deadline. It is ineligible for debate in 2014.

PHYSICIAN SUPERVISION REQUIRED FOR NURSE ANESTHETISTS

NCMS Position: Support

House Bill 181/SB 256

Sponsor: Dollar (R – Wake), Hollo (R – Alexander), T. Moore (R – Cleveland),
Wray (D – Northampton)

Status: Passed the House, Pending in Senate Rules Committee

Summary: Introduced and passed by the House early in Session, House Bill 181 simply codifies current rules and case law that requires physician supervision of CRNAs. Revision to current statute will guarantee that this requirement cannot be changed by interpretation or another branch of government; as with all other healthcare providers the General Assembly has the final say. Under North Carolina law all nurses practice under physician supervision. This bill received several committee hearings both in the House Health Committee and the Regulatory Reform Committee. Following passage in the House it was referred to the Senate Committee on Rules where it failed to be discussed in 2013. This bill remains eligible for discussion in 2014.

UPDATE/MODERNIZE MIDWIFERY PRACTICE ACT

NCMS Position: Oppose

House Bill 204/Senate Bill 499

Sponsor: Stevens (R – Surry), Burr (R – Stanly), Glazier (D – Cumberland),
Hamilton (D – New Hanover)

Status: Pending in House Rules Committee

Summary: House Bill 204 proposes to remove the requirement of physician supervision for Certified Nurse Midwives (CNMs) in North Carolina. Physician supervision would be eliminated

regardless of practice setting, including for homebirths. This proposal would also broaden an unsupervised scope of practice to include the management of complicated and abnormal pregnancies as well as to provide primary care services. This bill was approved by the House Health Committee; however as the crossover deadline grew closer advocates for the proposal converted the bill to a study proposal. This version of the bill was approved by a House Judiciary Subcommittee. However, House Bill 204 was not heard on the House floor in time to meet the crossover deadline and is now ineligible for debate in 2014. However, study language on this issue was included in the approved budget and therefore a study committee recommendation could reappear as legislation in 2014.

STUDY MUSIC THERAPY PRACTICE ACT

NCMS Position: Amend

House Bill 292/Senate Bill 244

Sponsor: Brody (R – Union), Fisher (D – Buncombe), Insko (D – Orange), Warren (R – Rowan)

Status: Passed House, Pending in Senate Education Committee

Summary: As introduced last session, House Bill 292 would license Music Therapists in North Carolina and create a small board to govern their practice. This bill was approved by the House Committee on Commerce and the Committee on Regulatory Reform and was never referred to or discussed in the House Health Committee. Before passing the House Finance Committee the bill was converted to a proposal to only study the issue. Music Therapists currently work within a number of medical settings and can do so legally. However, licensure status could improve reimbursement capabilities and limit others from holding themselves out to be Music Therapists. The bill passed the House and was referred to the Senate Committee on Education/Higher Education, where it failed to be debated prior to the end of this year’s session. It remains eligible for debate in 2014.

DEFINE CERTIFIED REGISTERED NURSE ANESTHETIST

NCMS Position: Oppose

Senate Bill 179/House Bill 380

Sponsor: Davis (R – Macon)

Status: Pending in Senate Rules Committee

Summary: Filed in response to House Bill 181, this bill would eliminate the current requirement for physician supervision of CRNAs. It was not debated during the 2013 session and is ineligible for consideration in 2014.



The NCMS Board of Directors attend the first White Coat Wednesday of 2013

AMEND ELECTROLYSIS PRACTICE ACT/FEES

House Bill 479

Sponsor: R. Brown (R – Davidson)
Status: Passed the House, Pending in the Senate Finance Committee

Summary: As originally filed, this bill would have made changes to the Electrolysis Practice Act waiving the 30 hour certification requirement for anyone seeking to serve as a laser practitioner instructor as long as that individual was practicing prior to October 1, 2007. The NCMS and the NC Dermatology Association opposed this provision of the bill. The legislation would later be amended to include only a reduction in certain fees charged by the Board and updates to other financial and audit requirements for the Board. As amended and without changes to educational standards, this bill passed the House and is now pending in the Senate Committee on Finance.

NC CARE IN RADIOLOGIC IMAGING

House Bill 742/Senate Bill 390

Sponsor: Murry (R – Wake),
Insko (D – Orange)
Status: Pending in House Health Committee

Summary: House Bill 742 proposes a new licensure board and regulations for Radiologic Technologists as well as other non-physician providers or assistants in radiology services. All applicants for a license must have completed a study course in radiography, radiation therapy, magnetic resonance, cardiovascular invasive specialty, or nuclear medicine as appropriate for the type of license sought. Additional criteria are set for X-ray machine operators including a permit system based on the tasks and body regions to be scanned by the operator. This bill was not debated during the 2013 legislative session; however it remains eligible for debate in 2014.

UPDATE PHYSICAL THERAPY PRACTICE ACT

House Bill 828

Sponsor: Fulghum (R – Wake), Hollo (R – Alexander), Faircloth (R – Guilford),
Murry (R – Wake)
Status: Passed, S.L. 2013-312

Summary: Effective October 1, 2013 the Physical Therapy bill does not make any of the proposed changes to scope of practice or employment practices as introduced in previous versions of this bill. House Bill 828 makes changes to the Board's authority to remove its own members, perform background checks on applicants, to conduct confidential investigations similar to the manner of the North Carolina Medical Board, and to allow PTs to participate in programs for aiding in the recovery and rehab for chemical or alcohol addiction or mental health problems.

EXPAND PHARMACISTS' IMMUNIZING AUTHORITY

NCMS Position: Amend

House Bill 832/Senate Bill 500

Sponsor: Avila (R – Wake), Lewis (R – Harnett), Foushee (D – Orange),
Glazier (D – Cumberland)

Status: Passed, S.L. 2013-246

Summary: A compromise bill between the pharmacists, retail merchants and the Academy of Family Physicians, this bill expanded the vaccinations that Immunizing Pharmacists can administer to adults without a prescription. All CDC recommended vaccines can now be administered to adults; however 5 of those vaccines – the “live” vaccines, require a supervising physician and protocol prior to administration. Stakeholder groups, including the NCMS, met immediately following the close of session to draft a patient questionnaire and safety standards for Immunizing Pharmacists to follow when not required to operate under protocol. The law becomes effective October 1, 2013.

CRNAS IN COUNTIES WITH CRITICAL ACCESS HOSPITALS

NCMS Position: Oppose

House Bill 878

Sponsor: Cunningham (D – Mecklenburg), Setzer (R – Catawba)

Status: Pending in House Health Committee

Summary: While not debated during the 2013 session, this legislation would have allowed CRNAs in counties with a Critical Access Hospitals an exemption from the requirement for physician supervision to practice. This bill did not crossover and is not eligible for discussion in 2014.

NATUROPATHIC DOCTORS LICENSING ACT

NCMS Position: Oppose

House Bill 995/Senate Bill 349

Sponsor: Collins (R – Nash), Fisher (D – Buncombe)

Status: Pending in House Rules Committee

Summary: As introduced over the past several sessions, this legislation would create a third category of physician in North Carolina, MD, DO and the new title of ND. However, Naturopathic Doctors would be licensed under their own board. Scope of practice would include ordering, performing and interpreting diagnostic imaging, managing chronic disease as primary care providers – including the diagnosis and treatment of cancer. No limitations have been placed on the practice of pediatrics, psychiatric care, etc. This bill was not debated during this session; however it remains eligible for debate in 2014.

CAPITAL PUNISHMENT AMENDMENTS

Senate Bill 306

Sponsor: Goolsby (R – New Hanover)

Status: Passed, S.L. 2013-154

Summary: Administration of the death penalty in North Carolina has been stalled since August, 2006 for several reasons. Among them, legal challenges over whether the protocol for lethal injection in North Carolina violated the Eighth Amendment’s ban on the use of cruel and unusual punishments and whether the procedure used to adopt it was proper; action by and subsequent litigation against the NC Medical Board based on its position that participation of its licensees in lethal injection, although required by state law, would be an actionable violation of the AMA Code of Medical Ethics; and enactment of the Racial Justice Act by the General Assembly permitting statistics to be used to demonstrate that race was a significant factor in the imposition of the death penalty, and then requiring any such death sentence be commuted to life imprisonment without the possibility of parole.

Challenges to North Carolina’s lethal injection protocol were unsuccessful. In 2013, the General Assembly enacted Senate Bill 306, which clarifies that if a physician or other health professional participated in an execution under North Carolina law, doing so would be neither the practice of medicine nor grounds for disciplinary action. This is consistent with the final resolution of litigation between the NC Medical Board and the NC Department of Corrections on the issue. The bill also repeals key provisions of the Racial Justice Act. Whether lethal injections will resume in North Carolina is an unsettled question.

NURSING BOARD/REGULATE NPS/FEES

NCMS Position: Oppose

Senate Bill 555

Sponsor: Hise (R – Mitchell)

Status: Pending in Senate Rules Committee

Summary: This legislation was not discussed in 2013; however it remains active for 2014 due to the fee changes proposed. Senate Bill 555 proposes to remove the NC Medical Board members from the Joint Sub-Committee regulating Nurse Practitioners – while still allowing NPs to perform medical acts, tasks, and functions. The NCMS opposes this bill. In order to continue to safely perform medical acts nurses must be supervised by physicians and jointly regulated.

TAX MODERNIZATION AND SIMPLIFICATION

House Bill 998

Sponsor: Lewis (R – Harnett), Setzer (R – Catawba), Moffitt (R – Buncombe), Szoka (R – Cumberland)

Status: Passed, S.L. 2013-316

Summary: Tax reform was a priority issue for the Republican leadership during the 2013 session. A number of proposals were introduced during the first months of session and negotiated up until the final weeks. In order for revenues to be accurately calculated in the FY 2013-2014 budget, tax reform would have to be passed prior to final budget negotiations.

The most basic goal of tax reform was to move North Carolina from an income based tax system for both individuals and businesses to a consumption based tax system. The first proposal offered by Senate Finance Committee Chairman Senator Bob Rucho (R – Mecklenburg) would have included a tax on over 100 services, including health care services. However, the compromise plan ultimately passed did not do this.

The final plan reduces North Carolina's personal and corporate income tax rates, expands the sales tax base slightly, and reduces state revenues over the next several years. McCrory, House Speaker Thom Tillis, and Senate leader Phil Berger – all Republicans – touted the legislation in HB 998 as historic tax reform that will make North Carolina more economically competitive.

Some of the changes include the following:

- Eliminates the current three graduated rates of 6%, 7%, and 7.75% and replaces them with one flat rate of 5.8% in 2014 and 5.75% in 2015 and thereafter.
- Eliminates personal exemptions, but increases the standard deduction — currently ranging from \$3,000 to \$6,000 — to the new range from \$7,500 to \$15,000.
- Allows the greater of the standard deduction or itemized deductions equal to mortgage interest and property taxes capped at \$20,000, plus all charitable contribution deductions allowed by federal tax law.
- Raises the child tax credit from \$100 per child to \$125 for tax filers earning below \$40,000. The credit would be eliminated for people earning over \$100,000, and would stay at \$100 per child for those earning between \$40,000 and \$100,000.
- Eliminates in 2014 a controversial \$50,000 deduction on certain small-business-related income approved in 2011.
- Reduce current corporate tax rate of 6.9% to 6% in 2014 and 5% in 2015. It would fall further to 4% in 2016 and 3% in 2017 if state revenue growth meets targets both years.
- Effective January 1st, State sales tax rate remains 4.75%; local rate remains 2%, plus local option 0.25%.
- Repeals exemptions for chiropractors' nutritional supplements.
- Repeals sales tax holiday weekend in August and Energy Star appliance sales tax holiday weekend in November.
- Caps sales tax refunds for individual nonprofit hospitals, universities and other charities at \$45 million annually, holding them harmless at current levels.

- Extend tax credits for research and development, professional motorsports teams and aviation fuel for the teams and passenger air carriers until 2016. Other tax credits would expire as scheduled over time. The film production tax credit, for example, would expire at the end of 2014.
- Repeal state estate tax on the very wealthy.
- The state motor fuels tax would be reduced a bit and capped at 37.5 cents per gallon through June 30, 2015.

*summary provided by Smith Anderson Law Firm

Miscellaneous

STUDY AND ENCOURAGE USE OF TELEMEDICINE

NCMS Position: Support

House Bill 704

Sponsor: Brody (R – Union), Steinburg (R – Chowan), Fulghum (R – Wake)

Status: Passed the House, Pending in Senate Rules Committee

Summary: This bill would direct the Joint Legislative Oversight Committee on Health and Human Services to study the use of telemedicine in promoting increased access to health care and to reduce healthcare disparities. Interested stakeholders would be included in the study which would focus on:

- State and federal regulation impacting the use of telemedicine.
- Technology needs to support statewide initiatives.
- Credentialing and licensure issues for healthcare providers offering telemedicine.
- Government and third-party payer coverage and reimbursement for telemedicine services.
- Other states' initiatives.
- The potential of telemedicine to reduce readmission rates.
- Funding sources.

House Bill 704 passed the House but was not debated in the Senate prior to the end of the 2013 legislative session. It remains eligible for debate in 2014.

MODERN STATE HUMAN RESOURCES MANAGEMENT/RTR

House Bill 834

Sponsors: Collins (R – Nash), Burr (R – Stanly)

Status: Passed, S.L. 2013-382

Summary: In addition to making extensive changes to the policies regarding state personnel, House Bill 834 also places many new requirements on hospitals and ambulatory surgical facilities operating in North Carolina. New standards include:

- The Department of Health and Human Services will publish on its website the current prices for the 100 most frequently reported admissions by DRG for inpatients as well as the amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party payer paying for any portion of the charges.
- Hospitals and ambulatory surgical centers must report quarterly on the total costs for the 20 most common surgical and imaging procedures by volume performed in hospital outpatient settings or ambulatory surgical settings.
- The Medical Care Commission will adopt rules on or before March 1, 2014 to implement reporting.
- Hospitals and ambulatory surgical centers required to file Schedule H, Form 990 will be required to provide public access to its financial assistance policies and costs reported on Schedule H for online publication by DHHS.
- To make it unlawful for healthcare providers to bill for procedures or components of procedures that were not performed. If a procedure requires the informed consent of a patient, the charge for any component of the procedure performed prior to consent being given shall not exceed the actual cost to the provider if the patient elects not to consent to the procedure (informed consent language added by S.L. 2013-393 following the passage of HB 834).
- All hospitals and ambulatory surgical centers are required to present an itemized list of charges to all discharged patients in ordinary layperson language, upon request of the patient.
- Any overpayments made by a patient not in dispute must be returned to a patient within 45 days of notice of overpayment.
- Hospitals and ambulatory surgical facilities may not bill insured patients for charges that would have been covered by their insurance carrier had the hospital or facility submitted the claim or other information in a timely manner.
- Many new fair billing practices were put into place to protect patients from unauthorized collections or from liens on a principal residence.
- Beginning January 1, 2014, the law requires hospitals receiving Medicaid reimbursements to participate in the North Carolina Health Information Exchange Network.

OPTOMETRY EDUCATION GRANT PROGRAM

Senate Bill 587

Sponsor: Curtis (R – Lincoln)
Status: Pending in Senate Education Committee

Summary: Senate Bill 587 was introduced by Senator David Curtis, an optometrist from Lincolnton concerned about the lack of Optometry schools in North Carolina. While not discussed this session, the bill proposed to create an NC Optometry Education Grant Program. This program would provide state funded grants to students that must travel out of state to attend Optometry school in the amount of \$11,000 per student per academic year. All qualified students would be eligible to receive a grant if funds are available. There are no additional criteria offered in the legislation to limit disbursement of grants such as academic performance or contractual obligations to practice in North Carolina following graduation. The proposed appropriation for the program is \$825,000 for the 2013-2014 fiscal year. This bill remains eligible for discussion in 2014.

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