GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 206

Health Care Committee Substitute Adopted 3/15/23
Judiciary Committee Substitute Adopted 3/21/23
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House Committee Substitute Favorable 4/27/23
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Short Title: Control Sub./Opioid/Vaccine/At Home Omnibus. (Public)

Sponsors:

Referred to:

March 7, 2023

A BILL TO BE ENTITLED

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.

The General Assembly of North Carolina enacts:

PART I. STOP COUNTERFEIT PILLS ACT

SECTION 1.(a) G.S. 90-108 reads as rewritten:

"**§ 90-108. Prohibited acts; penalties.**

(a) It shall be unlawful for any person:

…

(12) To do either of the following:

a. To possess, manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to create a counterfeit controlled substance, knowing, intending, or having reasonable cause to believe that it will be used to create a counterfeit controlled substance.

b. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling

thereof so as to render such drug a counterfeit controlled ~~substance.~~substance, knowing, intending, or having reasonable cause to believe that it will be used to create a counterfeit controlled substance.

(12a) To possess, manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance. This subdivision shall not apply to a pharmacy, a pharmacist, a pharmacy technician, or a pharmacy intern licensed or permitted under Article 4A of Chapter 90 of the General Statutes possessing any item included in this subdivision utilized in the compounding, dispensing, delivering, or administering of a controlled substance pursuant to a prescription.

…

(b) Any person who violates this section shall be guilty of a Class 1 misdemeanor. Provided, that if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I felony unless one of the following applies:

…

(1a) A person who violates subdivision (12a) of subsection (a) of this section shall be punished as a Class E felon.

…."

SECTION 1.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

PART II. EXPAND DEFINITION OF OPIOID ANTAGONIST

SECTION 2.(a) G.S. 90-12.7(a) reads as rewritten:

"(a) As used in this section, "opioid antagonist" means ~~naloxone hydrochloride~~ an opioid antagonist that is approved by the federal Food and Drug Administration for the treatment of a drug overdose."

SECTION 2.(b) G.S. 90-113.27 reads as rewritten:

"**§ 90-113.27. Needle and hypodermic syringe exchange programs authorized; limited immunity.**

…

(b) Programs established pursuant to this section shall offer all of the following:

(1) Disposal of used needles and hypodermic syringes.

(2) Needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused.

(3) Reasonable and adequate security of program sites, equipment, and personnel. Written plans for security shall be provided to the police and sheriff's offices with jurisdiction in the program location and shall be updated annually.

(4) Educational materials on all of the following:

a. Overdose prevention.

b. The prevention of HIV, AIDS, and viral hepatitis transmission.

c. Drug abuse prevention.

d. Treatment for mental illness, including treatment referrals.

e. Treatment for substance abuse, including referrals for medication assisted treatment.

(5) Access to ~~naloxone~~ opioid antagonist kits that contain ~~naloxone hydrochloride~~ an opioid antagonist that is approved by the federal Food and Drug Administration for the treatment of a drug overdose, or referrals to programs that provide access to ~~naloxone hydrochloride~~ an opioid antagonist that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(6) For each individual requesting services, personal consultations from a program employee or volunteer concerning mental health or addiction treatment as appropriate.

…

(e) Not later than one year after commencing operations of a program established pursuant to this section, and every 12 months thereafter, each organization operating such a program shall report the following information to the North Carolina Department of Health and Human Services, Division of Public Health:

(1) The number of individuals served by the program.

(2) The number of needles, hypodermic syringes, and needle injection supplies dispensed by the program and returned to the program.

(3) The number of ~~naloxone~~ opioid antagonist kits distributed by the program.

(4) The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to ~~naloxone hydrochloride~~ an opioid antagonist that is approved by the federal Food and Drug Administration for the treatment of a drug overdose."

SECTION 2.(c) This section is effective when it becomes law.

PART III. PREP ACT/PHARMACISTS

SECTION 3.(a) G.S. 90-85.15B reads as rewritten:

"**§ 90-85.15B. Immunizing pharmacists.**

(a) Except as provided in subsections (b), (b1), and (c) of this section, an immunizing pharmacist may only administer vaccinations or immunizations ~~only if the vaccinations or immunizations are recommended or required by the Centers for Disease Control and Prevention and administered~~ to persons at least 18 years of age pursuant to a specific prescription order.

(a1) An immunizing pharmacist may administer to persons at least 18 years of age the vaccines or immunizations recommended by the Advisory Committee on Immunization Practices if the vaccinations or immunizations are administered under written protocols as defined in 21 NCAC 46 .2507(b)(12) and 21 NCAC 32U .0101(b)(12) and in accordance with the supervising physician's responsibilities as defined in 21 NCAC 46 .2507(e) and 21 NCAC 32 .0101(e), and the physician is licensed in and has a practice physically located in North Carolina. When supervised by an immunizing pharmacist, pharmacy interns and pharmacy technicians meeting the requirements of subsection (f) of this section may administer the vaccinations or immunizations recommended by the Advisory Committee on Immunization Practices to persons at least 18 years of age in accordance with this subsection.

~~(b) An immunizing pharmacist may administer the vaccinations or immunizations listed in subdivisions (1) through (7) of this subsection to persons at least 18 years of age if the vaccinations or immunizations are administered under written protocols as defined in 21 NCAC 46 .2507(b)(12) and 21 NCAC 32U .0101(b)(12) and in accordance with the supervising physician's responsibilities as defined in 21 NCAC 46 .2507(e) and 21 NCAC 32U .0101(e), and the physician is licensed in and has a practice physically located in North Carolina:~~

~~(1) Pneumococcal polysaccharide or pneumococcal conjugate vaccines.~~

~~(2) Herpes zoster vaccine.~~

~~(3) Hepatitis B vaccine.~~

~~(4) Meningococcal polysaccharide or meningococcal conjugate vaccines and Serogroup B meningococcal vaccines.~~

~~(5) Tetanus-diphtheria, tetanus and diphtheria toxoids and pertussis, tetanus and diphtheria toxoids and acellular pertussis, or tetanus toxoid vaccines. However, a pharmacist shall not administer any of these vaccines if the patient discloses that the patient has an open wound, puncture, or tissue tear.~~

~~(6) Human Papillomavirus vaccine.~~

~~(7) Hepatitis A vaccine.~~

(b1) ~~An~~ When a person chooses, or a parent or legal guardian provides written consent for a person under 18 years of age in accordance with subsection (g) of this section, an immunizing pharmacist may administer (i) an influenza vaccine, (ii) a COVID-19 vaccine ~~approved by the United States Food and Drug Administration, or~~ recommended by the Advisory Committee on Immunization Practices (iii) a COVID-19 vaccine authorized under an emergency use authorization by the United States Food and Drug Administration and recommended by the Advisory Committee on Immunization Practices, or (iv) a combination of COVID-19 and influenza vaccines recommended by the Advisory Committee on Immunization Practices to persons at least ~~10~~ 7 years of age pursuant to 21 NCAC 46 .2507 and 21 NCAC 32U .0101. ~~An immunizing pharmacist may administer (i) an influenza vaccine, (ii) a COVID-19 vaccine approved by the United States Food and Drug Administration, or (iii) a COVID-19 vaccine authorized under an emergency use authorization by the United States Food and Drug Administration to persons at least six years of age pursuant to a specific prescription order initiated by a prescriber following a physical examination of the patient by the prescriber. When supervised by an immunizing pharmacist, pharmacy interns and pharmacy technicians who have completed immunization-related continuing pharmacy education approved by the Accreditation Council for Pharmacy Education may administer (i) an influenza vaccine, (ii) a COVID-19 vaccine approved by the United States Food and Drug Administration, or (iii) a COVID-19 vaccine authorized under an emergency use authorization by the United States Food and Drug Administration to persons at least 10 years of age pursuant to 21 NCAC 46 .2507 and 21 NCAC 32U .0101.~~When supervised by an immunizing pharmacist, pharmacy interns and pharmacy technicians meeting the requirements of subsection (f) of this section, may administer (i) an influenza vaccine, (ii) a COVID-19 vaccine recommended by the Advisory Committee on Immunization Practices, (iii) a COVID-19 vaccine authorized under an emergency use authorization by the United States Food and Drug Administration, or (iv) a combination of COVID-19 and influenza vaccines recommended by the Advisory Committee on Immunization Practices to persons at least 7 years of age in accordance with this subsection.

…

(f) Prior to administering a vaccine or immunization pursuant to subsection (a1) or (b1) of this section, a pharmacy technician or pharmacy intern shall meet the following requirements:

(1) Complete a practical training program that is approved by the Accreditation Council for Pharmacy Education (ACPE). This training program must include hands-on injection technique and the recognition and treatment of emergency reactions to vaccines.

(2) The pharmacy technician or pharmacy intern shall have a current certificate in basic cardiopulmonary resuscitation.

(3) The pharmacy technician shall annually complete a minimum of two hours of ACPE approved, immunization-related continuing pharmacy education.

(g) Prior to the administration of a vaccine or immunization administered to a person under 18 years of age pursuant to this section, an immunizing pharmacist shall obtain written parental consent from the parent or legal guardian of the patient. An immunizing pharmacist, a pharmacy technician, or pharmacy intern shall, if the person is under 18 years of age, inform the

patient or legal guardian accompanying the person of the importance of a well-child visit with a pediatrician, family physician, or other licensed primary-care provider."

SECTION 3.(b) The North Carolina Medical Board and the North Carolina Board of Pharmacy joint subcommittee shall adopt rules to govern the administration of vaccines by pharmacy technicians as authorized in this act. Until these rules are adopted by the North Carolina Medical Board and the North Carolina Board of Pharmacy and are entered into the North Carolina Administrative Code, pharmacy technicians may administer vaccines and immunizations pursuant to subsections (a1) and (b1) of G.S. 90-85.15B in accordance with the recommendations of the Advisory Committee on Immunization Practices and the requirements of the federal COVID-19 Public Readiness and Emergency Preparedness Act even upon the expiration of the federal COVID-19 Public Readiness and Emergency Preparedness Act.

SECTION 3.(c) For any new vaccination or immunization recommended by the Advisory Committee on Immunization Practices after the effective date of this act, the North Carolina Medical Board and the North Carolina Board of Pharmacy joint subcommittee shall review and update written protocols as defined in 21 NCAC 46 .2507(b)(12) and 21 NCAC 32U .0101(b)(12) as needed. Until these rules are adopted by the North Carolina Medical Board and the North Carolina Board of Pharmacy and are entered into the North Carolina Administrative Code, immunizing pharmacists, pharmacy technicians, and pharmacy interns may administer a new vaccination or immunization pursuant to subsections (a1) and (b1) of G.S. 90-85.15B and in accordance with the recommendations of the Advisory Committee on Immunization Practices.

SECTION 3.(d) This section is effective when it becomes law.

PART IV. EXTEND THE ACUTE HOSPITAL CARE AT HOME PROGRAM

SECTION 4.(a) To the extent that a hospital receives or has received a waiver from the Centers for Medicare and Medicaid Services to participate in its Acute Hospital Care at Home Program, compliance with or requirements of any provisions of Chapter 131E of the General Statutes, and any rules adopted pursuant to these statutes, shall be deemed to be waived to the extent that such statutes or rules prohibit, conflict with, or impose additional obligations on a hospital's ability to operate in accordance with the Acute Hospital Care at Home Program. Care provided to patients in their home in accordance with the Acute Hospital Care at Home Program shall not count as licensed bed capacity under Chapter 131E of the General Statutes. A hospital's activities pursuant to the Acute Hospital Care at Home Program shall not require a home care license or certificate of need approval as a home health agency office under Chapter 131E of the General Statutes. The term "Acute Hospital Care at Home Program" shall include any other similar programs administered under the authority of the Centers for Medicare and Medicaid Services to provide for acute hospital care at home.

SECTION 4.(b) This section is effective when it becomes law and expires on December 31, 2024.

PART V. EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.