3 bills of interest discussed in the 3/17 Senate Health Committee This Week:

1. [**PCS for S90**](https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S90v2.pdf) **– *Social Services Reform/CWBTC Recs*** (Sen. Krawiec, Burgin, Perry)

*The PCS passed as favorable and was re-referred to Senate Appropriations*

Long title: An act to direct the Department of Health and Human Services to make reforms to improve social services, the foster care system, and child welfare services; to make appropriations to transition to regional supervision; to improve intercounty collaboration between departments of social services; and to support the implementation of the Family First Prevention Services Act, as recommended by the NC Child Well-Being Transformation Council.

* The bill would require DHHS to develop policies and procedures on the foster care system, the Guardianship Assistance Program, child welfare services, programs qualified for reimbursement under the Family First Prevention Services Act, and confidentiality laws, and to report the findings to the NCGA.
* The bill would also require DHHS to explore Memorandums of Agreement for staffing, eliminate the Permanency Innovation Initiative Oversight Committee, and require annual notification for school social workers of attendance requirement, as recommended by the North Carolina Child Well-Being Transformation Council

1. [**PCS for S146**](https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S146v2.pdf) **– *Teledentistry/RDH Admin. Local Anesthetic*** (Sen. Perry)

*The PCS passed as favorable and was re-referred to the Senate Commerce and Insurance Comm.*

Long title: An act to establish standards for the practice of teledentistry, to authorize properly trained dental hygienists to administer local dental anesthetics under direct supervision of a licensed dentist, and to permit certain dental hygienists to practice dental hygiene at schools without a licensed dentist being physically present.

There is a companion bill in the House: **H144** (referred to House Insurance on 3/9/21)

1. **PCS for S173 – *Occupational Therapy Interstate Compact.*** (Sen. Krawiec, Burgin, Perry)

*The PCS passed as favorable and was re-referred to the Senate Commerce and Insurance Comm*.

Long title: An act to establish and enter into an interstate compact for the practice of occupational therapy

NOTE: The PCS is not yet posted. Edition 1 of the bill is [here](https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S173v1.pdf).

**FILED BILLS OF INTEREST**

Filed 3/18 [S321](https://webservices.ncleg.gov/ViewBillDocument/2021/1572/0/DRS35131-MG-28A) ***Amend NC Controlled Substances Act***

Filed 3/16 [S309](NCPC%20Board%20meeting%20Joel%20mentioned%20the%20Repeal%20CON%20Laws%20bill:%20%20DRS35029-MG-56%20(ncleg.gov)) ***Repeal Certificate of Need Laws***

We have seen ‘repeal CON’ provisions come and go over the years.  A repeal of these laws would make it easier for agencies to expand the number of beds in a facility; expand a facility; or construct a new facility. Network adequacy [e.g., both choice of provider and “access to care” within time and distance standards] for each statewide and regional PHP and even the LME/MCOs will be paramount to conform with federal (CMS) Medicaid managed care requirements.  Regarding any documented shortage of facilities or beds, the best resource to reference is the 2021 Division of Health Service Regulation’s [State Medical Facilities Plan](https://info.ncdhhs.gov/dhsr/ncsmfp/2021/2021-F-SMFP-assembled-num-bookmarks.pdf).

Filed 3/16 [H316](https://webservices.ncleg.gov/ViewBillDocument/2021/1467/0/DRH40199-MRa-42A) ***Support Maternal Health/Extend Medicaid Cov.***

Long title: A BILL TO BE ENTITLED AN ACT TO PROVIDE COVERAGE UNDER THE NORTH CAROLINA MEDICAID PROGRAM FOR PREGNANT WOMEN FOR TWELVE MONTHS POSTPARTUM INSTEAD OF ONLY SIXTY DAYS POSTPARTUM, AS ALLOWED UNDER THE FEDERAL AMERICAN RESCUE PLAN ACT OF 2021.

* The bill would amend Medicaid statutes to authorize this coverage effective April 1, 2022.
* The bill stipulates that CMS approval (e.g., a State Plan Amendment) would need to be in place.
* The bill would appropriate recurring State match funds.

Filed 3/11 [H295](https://www.ncleg.gov/Sessions/2021/Bills/House/PDF/H295v0.pdf) ***DSS Review of Procedures/OAH***

This bill would amend the rulemaking procedures in the NC Administrative Procedure Act (Chapter 150B) and would also affect the Division of Social Services, DHHS specifically.

* Amends the NC Administrative Procedure Act’s rulemaking process regarding public objections to rules.  More specifically, there is new language regarding the process for the legislative review of rules (which already existed). Even after public notice and comment and the adoption of a proposed administrative rule (or rule amendment), there’s one last opportunity to oppose a rule: disapproval bills filed in the NCGA.
* Amends additional procedural provisions in the Administrative Procedure Act.
* The rule would require the Division of Social Services, DHHS to do a comprehensive inventory of and report on all of its ‘sub-regulatory’ guidance, policies, etc. that it imposes on regulated entities that are outside of the Divisions’ codified administrative rules.  The Office of Administrative Hearings (where the Rules Review Commission and the Codifier of Rules are housed) would determine whether any of the sub-regulatory documents are in violation of the following statute that is part of the Administrative Procedure Act:

**“§ 150B-18.  Scope and effect.** This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article.  (1991, c. 418, s. 1; 2011-398, s. 1; 2012-187, s. 2.).”

If OAH determines that a document *is* in violation of the statute, it would be authorized to require DSS to convert the requirement(s) into administrative rules. That would be cumbersome and time-consuming for DSS.  No doubt there are many “bulletins” and other guidance that the Division of Social Services puts out like DHB does that may not necessarily be legally binding but contain regulatory language nonetheless.

[H339](https://www.ncleg.gov/BillLookup/2021/h339) ***PDN Workforce Stability / Medicaid*** (Reps. White, Lambeth, Cunningham)

Would increase the PDN 15-min. unit reimbursement rate to $11.25 for both adult and child Medicaid beneficiaries, beginning July 1, 2021 (beginning of SFY2022). The current fee schedule as of 3/30/2021 is pasted below for your quick reference.

