
Coates' Canons Blog: 2016 Public Health Legislation Highlights

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The SOG will host its 2016 legislative update webinar next Monday, August 1 at 10:00 a.m. This annual tradition is your opportunity to learn about significant legislation affecting North Carolina local governments. The webinar will cover current hot topics such as law enforcement body cameras and House Bill 2, as well as providing a timely update in areas ranging from criminal law to the environment. You can register for the webinar [here](#).

Unfortunately, I will be out of town and unable to participate in the webinar. Fortunately, my colleague Aimee Wall has offered to summarize this year's public health legislation highlights, so if you tune in you will get the critical updates. This post provides some background and more details about some of the 2016 legislation affecting public health and local health departments.

State Health Director's Standing Order for Naloxone

S.L. 2016-17 (S 734) authorizes the State Health Director to prescribe naloxone by standing order. This is the latest action in an ongoing effort to reduce deaths caused by overdoses of opioid prescription medications, such as oxycodone, or illicit opiates, such as heroin. Naloxone is a prescription medication that saves lives by rapidly reversing the respiratory-depressing effects of opioid poisoning. It can be administered by a lay person – it does not require medical skills or expertise. Naloxone is not itself a controlled substance. It does not cause intoxication and it is not addictive.

In 2013, the General Assembly enacted legislation (S.L. 2013-23) permitting physicians to prescribe naloxone to individuals at risk of experiencing overdose themselves, as well as to persons who may be in a position to assist an individual who has overdosed. In 2015, the law was amended to allow pharmacists to dispense naloxone pursuant to a physician's standing order (S.L. 2015-94, sec. 3). This permitted individuals to obtain naloxone from pharmacies that had such standing orders without having to first visit a physician for a prescription. However, there was variability in the use of standing orders across the state.

The new legislation authorizes the state health director to issue a standing order to pharmacies statewide to provide naloxone upon request to individuals who meet the criteria in the standing order. The law became effective June 20, 2016, and state health director Dr. Randall Williams issued a standing order that same day. Any licensed pharmacist in North Carolina is permitted to dispense naloxone pursuant to the standing order, but pharmacies are not required to participate in the program.

Needle and Syringe Exchange Programs

S.L. 2016-88 (H 972) is best known for its provisions on access to recordings from law enforcement, including those made by body-worn cameras. However, the legislation also addresses needle and syringe exchange programs. Such programs have long been recognized by public health professionals as an effective means of reducing the transmission of bloodborne pathogens, such as HIV and hepatitis viruses, by discouraging the sharing or reuse of injection supplies. However, in some states—including North Carolina—these exchange programs could not be run lawfully because of state laws that criminalize possession of drug paraphernalia.

Section 4 of S.L. 2016-88 authorizes governmental and nongovernmental organizations in North Carolina (specifically including local health departments) to operate needle and syringe exchange programs. It enacts a new statute, G.S. 90-113.27, which establishes criteria for the programs and identifies their specific objectives: reducing the spread of bloodborne diseases, reducing the risk of needle stick injuries to law enforcement and emergency personnel, and

encouraging drug users to enroll in treatment.

Employees, volunteers, and participants in these exchange programs may not be charged or prosecuted for possessing needles, syringes, or other injection supplies that are obtained from or returned to an exchange program established under the new law; nor may they be charged for possessing the residual amounts of controlled substances that may be in the used needles, syringes, or injection supplies. The law also provides immunity from liability for a law enforcement officer who, acting in good faith, arrests or charges a person who is subsequently determined to be immune from prosecution because he or she is an employee, volunteer, or participant in an authorized exchange program.

No public funds may be used to purchase needles, hypodermic syringes, or other injection supplies for an exchange program; however, public funds may be used for the operational expenses associated with such programs. Governmental programs may also accept donations of needles, syringes, or other injection supplies under existing laws authorizing governmental entities to accept gifts of personal property (see, e.g., G.S. 153A-158).

Before beginning operations, an exchange program must report specific information to the North Carolina Division of Public Health, including the name of the entity operating the program, the areas and populations to be served, and the methods by which the program will meet the requirements for exchange programs set out in the new law. Those requirements include:

- Offering needles, syringes, and other injection supplies at no cost and in sufficient quantities to ensure those items are not shared or reused.
- Offering safe disposal of used needles and syringes.
- Offering educational materials on overdose prevention, HIV and hepatitis prevention, drug abuse prevention, and treatment for mental illness and substance abuse (including referrals for treatment).
- Offering personal consultation with a program employee or volunteer regarding mental health or addiction treatment.
- Offering access to naloxone or referrals to programs that provide naloxone for overdose treatment.
- Providing a written plan for security to the police and sheriff's offices with jurisdiction over the program's location, and updating the plan annually.

Programs must also submit annual reports to the N.C. Division of Public Health with specified information, including the number of individuals served; the number of needles, syringes, and other supplies dispensed and returned; the number of naloxone kits distributed; and the number and type of treatment referrals provided to individuals served by the program.

Section 4 of S.L. 2016-88 became effective July 11, 2016.

Zika Response: Vector Surveillance Program

The 2016 Appropriations Act includes provisions and funding to address the Zika virus, as well as other vector-borne illnesses. For many decades, North Carolina had a public health pest management program that provided vector surveillance and other services, including technical assistance and some funding for local mosquito control programs. The state program was eliminated in 2011, and by 2014 state funds for local mosquito control efforts had dried up as well.

Earlier this year, the state Division of Public Health proposed rebuilding the state's capacity to respond to Zika and other vector-borne illnesses in this report. The General Assembly responded to the proposal by creating the Vector Surveillance Program within the Division of Public Health. S.L. 2016-94 (H 1030), sec. 12E.4. Among other things, the program must conduct vector surveillance, recommend appropriate vector control measures, and provide comprehensive vector-borne disease consultation, communication, and education. The state budget includes a recurring appropriation of \$477,500, including \$177,500 for aid-to-county grants. The remainder of the appropriation will support three positions for the statewide program.

Other Public Health Budget Items

Zika response was not the only public health matter addressed in the 2016 Appropriations Act (Supbart XII-E) and the accompanying conference committee report (pages G31-G34). Other items of interest to public health include:

One-time funds to offset reduced Medicaid reimbursements. The 2016 budget allocates \$14.8 million in non-recurring funds to local health departments, to support the departments and partially remedy the shortfalls departments have experienced as a result of reduced Medicaid payments. The Appropriations Act specifies that, in allocating these funds, the Division of Public Health must give priority to minimizing any negative impact of the shortfalls on the delivery of direct services.

Changes in appropriations for smoking cessation programs. The Quitline program received a non-recurring reduction of \$250,000, while the “You Quit Two Quit” program for pregnant and post-partum women received a non-recurring increase of \$250,000.

State public health lab/newborn screening. Funding for the state public health laboratory was increased by \$1 million in recurring funds, to partially offset decreased Medicaid receipts and the increased costs associated with newborn screening. Also, newborn screening fees were increased from \$24 to \$44 per infant.

Children’s developmental services agencies (CDSAs). The budget included \$1.25 million in non-recurring funds for CDSAs. These funds are expected to partially offset an anticipated decrease in Medicaid receipts.

These are just some of the highlights – I would encourage readers who want to know more about public health funding to take a look at the conference committee report.

What Didn’t Happen in 2016?

As is true every year, there were bills of interest to public health that saw some movement during the session but ultimately did not pass. I won’t attempt to describe every idea that made its way into a bill this year, but two items that public health professionals were watching warrant a quick mention.

For the first time in several years, there was no omnibus regulatory reform act in 2016. Past regulatory reform bills have included multiple provisions affecting local public health programs. This year, a bill called the Regulatory Reduction Act (H 169) included a couple of provisions affecting statewide public health rules. The bill made it quite far in the legislative process, but at the end, H 169 was stripped of its original content and replaced with legislation amending the portion of S.L. 2016-3 (commonly known as House Bill 2) that addressed state tort claims for wrongful discharge in employment. The provisions affecting public health were not adopted in this bill or elsewhere.

Another bill, H 1074, would have addressed public health risks in water supplies. The bill would have required schools and child care facilities to test their drinking water supplies for lead, with assistance from local health departments. A separate section of the bill was added after an individual died from an illness associated with amoebas in a recreational water facility. The section would have directed the Commission for Public Health to adopt rules regulating artificial whitewater river facilities that use recirculated water, and to specifically require the facilities to test for physical, chemical, or biological substances in the water that pose a health threat. The bill passed the House but was not taken up by the Senate before adjournment.

Links

- www.sog.unc.edu/courses/webinars/2016-local-government-legislative-review-webinar#!/
- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2016-17.pdf
- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2013-2014/SL2013-23.pdf
- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2015-94.pdf
- www.naloxonesaves.org/files/2016/05/Statewide-Standing-Order-Dated-6-20-2016-signed.pdf
- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2016-88.pdf
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-158
- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2016-94.pdf
- epi.publichealth.nc.gov/cd/vector/VectorborneDiseaseProgramWhitePaper.pdf
- www.ncleg.net/Sessions/2015/Budget/2016/Conference_Committee_Report_2016-06-27.pdf
- www.ncleg.net/Sessions/2015/Bills/House/PDF/H169v6.pdf



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- www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2015-2016/SL2016-3.pdf
 - www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=h1074&submitButton=Go