

The rush to yesterday's May 14 crossover deadline was as chaotic and frenetic as anticipated. Agendas for committees and for the House and the Senate were lengthy, and the rush to enact legislation to survive the crossover deadline was as hectic as ever. The dust is still settling, but here is an early report on matters of interest:

HB 2 – Prohibit Smoking in Certain Public Places passed the Senate, and on Wednesday, the House adopted the Senate changes to the bill by a vote of 62-56. The bill will be sent to the Governor for signing, which she is expected to do.

HB 535 – Health Insurance Coverage/Lymphodema is a mandate which would require health insurance policies to cover the care and treatment of lymphodema. This bill passed third reading on Thursday, and will now move to the House.

HB 813 – Uniform Apportionment of Tort Responsibility. The idea in this legislation is to create a system of comparative fault. Under this bill negligence by a plaintiff that is equal to or greater than the negligence of a defendant would prevent recovery by the plaintiff, and just as importantly, joint and several liability would be abolished. On Wednesday evening, this bill passed second reading by a vote of 67-50, and third reading by a vote of 72-43, and it will be sent on to the Senate. Note that the collateral source rule is not addressed in this bill. The Senate version of this legislation, **SB 679**, did not advance, and we will keep you advised as to the prospect of this legislation emerging from the Senate.

HB 1159 – Insurance Licensing Changes is a Department of Insurance bill. This legislation addresses the electronic filing of licensing applications. This legislation passed third reading in the House on Thursday and will move forward to the Senate.

HB 1297 – Provider Credentialing/Insurers was sent to the floor of the House after receiving favorable reports from both House Health and House Insurance. It relates to the credentialing of health care providers by health benefit plans, and provides that if an insurer has not approved or denied the provider credentialing application form within 60 days of receipt of the completed application, upon receipt of a written request from the applicant, the insurer shall issue a temporary credential to the applicant if the applicant has a valid North Carolina professional or occupational license. The temporary credential would be effective upon issuance and would remain in effect until the provider's credentialing application is approved or denied by the insurer. This bill will now be sent to the Senate.

HB 1294 – Risk Pool Clarifications would authorize the Risk Pool to provide premium subsidies of up to 300% of federal poverty guidelines if funds are available for this purpose. Rep. Insko amended the bill on the floor on Wednesday evening to add previously agreed to language which extends the abbreviated preexisting condition waiting period for new enrollees for the rest of this calendar year. The amendment was adopted by a vote of 114-1. It would also require insurers to notify applicants for health insurance coverage about the existence of the Pool. The bill as a whole was approved by a vote of 114-0. It will now go to the Senate for further debate.

With respect to the North Carolina Health Insurance High Risk Pool, note that **HB 1392 – Out-of-State Services** safely passed the House and has been sent to the Senate. It gives the Pool authority to negotiate reimbursement rates with providers of out-of-state emergency services.

HB 1485 – Insurance/Health Care Provider Relationship would require that health benefit plans, when seeking recovery of overpayments, must give detailed information to providers to support the claim for recovery. This bill passed second and third readings on Thursday and moves to the Senate.

SB 468 – Authorize Insurance for Former Employees. Sen. Floyd McKissick (D-Durham) introduced this bill, which would authorize counties to provide health insurance benefits to former employees who are not receiving retirement benefits. This proposal passed third reading in the Senate on Thursday and will move to the House.

SB 877 – Health Plan Provider Contracts/Transparency received a favorable report in Senate Commerce this week. It also passed second and third readings in the Senate, and will be sent to the House. This legislation addresses contracts between health benefit plans and health care providers, and requires that all such contracts must contain a “notice contact” provision listing the name and address of the person to whom all correspondence pertaining to the contractual relationship between the parties shall be provided. Proposed contractual amendments with their effective date will have to be circulated. Fees schedules will have to be identified and this legislation would become effective on January 1, 2010.

P&C UPDATE

Attached below is an analysis of other insurance issues that arose this week.

HB 742 – Prohibit Beach Plan Surplus Distribution remains bottled up in House J-II. It is the intent of House leadership for Beach Plan surplus issues to be addressed in **HB 1305 – Beach Plan Changes** when that bill is ready for consideration. To avoid the crossover deadline a fee will be added to the bill (likely a tax credit for loss mitigation measures), and we should see some movement on Beach Plan revisions fairly soon.

HB 1022 – Workers' Compensation/Duration of Total Disability received a favorable report from House Insurance on Monday afternoon, May 11. This legislation would place a cap on temporary total disability benefits. The trial bar opposed this legislation vigorously. However, it had the votes to emerge from House Insurance. It was re-referred to House J-II, but was not calendared for debate during this week. It appears that this legislation did not survive the crossover deadline.

HB 1165 – Update Standard Fire Insurance Policy passed the House this week by a vote of 114-0. This legislation is a DOI initiative, and represents their best efforts to update the terminology of the fire policy without changing its substantive meaning. It will now go to the Senate for further consideration.

HB 1313 – Regulate Public Adjusters, a DOI bill, would codify existing regulations on the licensing of insurance adjusters. This bill was introduced by Rep. Bruce Goforth (D-Asheville) and Rep. Michael Wray (D-Gaston). HB 1313 passed second and third readings and will move to the Senate for consideration.

HB 1409 – Building Code Exclusion/Certain Wiring would exempt certain simple wiring activities and appliance replacement in residences from building permitting requirements when the appliance is of the same electrical rating and requires no change to existing electrical circuits and the work is performed by a licensed electrician. HB 1409 passed the House and will move on to the Senate.

HB 1410 – Building Code Exclusion/Hot Water Heaters would exempt hot water heater replacement in residences from building code permitting requirements when the heater is of the same size and capacity and is in the same location with respect to the existing water piping. HB 1410 also passed the House and moves to the Senate.

SB 6 – Insurance Rate Stay came on for consideration in Senate Commerce this week on Tuesday, May 12. It became apparent that this legislation did not have the votes to emerge from committee. The bill sponsor, Sen. Julia Boseman (D-Wilmington), changed the subject matter of the bill to one addressing private clubs and ABC rules. Thus, SB 6 as we knew it is dead for the session.

SB 660 – Auto Insurance/Diminution in Value continues to be a work in progress, and is a bill to which modifications will need to be made should it advance towards passage. The bill was revised this week in Senate Commerce to provide an alternative method of determining property damages as a part of motor vehicle liability insurance. Where the difference in the claimant's and the insurer's estimate of fair market value is greater than \$2,500, then each would select appraisers. The appraisal process is likely to be expensive, and there are technical issues in the bill that will need to be addressed should it be enacted. This bill passed second and third readings in the Senate this week, and will be sent to the House for further handling. We will keep you advised as to the status of this bill.

SB 749 – UM/UIM Coverage Changes passed second and third readings in the Senate this week on Tuesday, May 11, and will be sent to the House. All other versions of UM/UIM legislation appear to have been allowed to lie dormant. SB 749 represents the insurance industry's best effort to revise the UM/UIM coverages responsibly and correctly.

SB 928 - The Castle Doctrine, introduced by Sen. Doug Berger, would allow the use of defensive force to protect against unlawful and forceable entry into a person's dwelling by another. It would make it a crime to remove one from one's home against their will, and there would be no duty to retreat when either home or person were threatened. There would also be a grant of immunity from criminal or civil prosecution for use of force, even deadly force, to resist home invasions and similar actions. SB 928 passed second reading in the Senate on Wednesday, and third reading on Thursday.

There were an unusually large number of bills considered in committee and on the floors of the House and the Senate. The pace of things may slow a good bit next week as legislators catch their breath. I will keep you advised as this legislative session continues, and I appreciate your help during the march to crossover.

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