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During the North Dakota Legislative Session, CHAD monitors bills that may be of interest to CHCs and provides weekly reports each Friday. If you are aware of any issues CHAD should know about or if you have any questions, contact:

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The Fourth Week

By Rod St. Aubyn

The fourth week of the legislature saw several times where Dana and I had 3, 4 and even 5 hearings and meetings scheduled at the same time. Legislators are doing their best to get all hearings scheduled to meet their mandatory deadlines. We try our best, but it is often literally impossible to be in attendance of all bill hearings of interest. It forces us to prioritize the hearings, with the advantage of possibly attending those hearings we missed in the second half of the session.

As reported earlier, the Senate handily defeated SB 2138, which would have established a duplicative state certification process and background checks for Navigators and Certified Application Counselors. We had actively opposed it and were happy legislators also saw the negatives of that bill.

Monday evening was the official deadline for submitting bills. At this stage, there are 778 bills that will have to be acted on in the legislature. The Senate Majority Leader stated on Thursday that the Delayed Bills Committee will be considering the introduction of a delayed bill on marijuana on Friday. I assume this is a bill of interest by legislative leadership because he seemed confident that the Delayed Bill Committee will approve the bill for a hearing. Even with the delayed bill, the bill count is lower than what has been seen in the recent past. In fact, I looked at the legislative history for bill submission all the way back when I was first elected to the ND House in 1991. The 778 bill number is the smallest number of bills submitted since 1991 when the bill submission number was 1,218. There were more legislative districts in 1991 (49 compared to 47 today if the records are correct), but it is still a significant reduction. Counting this session, the average bill submission number for the past 5 legislative sessions had been about 867 bills. But it would be hard to convince Dana and I that the number of hearings has decreased. Bills related to health care issues have continued to increase.

In addition, the House Appropriations Subcommittee that is reviewing the Department of Human Services' budget took public testimony throughout Tuesday and Wednesday. This included Medicaid, Medicaid Expansion, and the Behavioral Health division. Because of the amount of testimony, Dana and I had to bounce between that hearing and other hearings.

As we approach next week's hearings, we anticipate another busy week of hearings. In addition, now is the time we will need to sit quietly and patiently in the hearing rooms after their hearings and in the

afternoon work sessions as the committees begin the process of taking action on the bills that have been heard, but not acted on yet. These are often the more difficult and controversial bills that they wait to decide what to do to amend them. We can expect a few surprises yet, and it is critical for Dana and I to be present as they do their committee work.

NEXT WEEK: Thursday, Feb. 2 – CHAD Legislative Briefing and Reception

Recap: Week of Jan. 23-27

Below is a summary of some of the bills CHAD is monitoring that had hearings or votes this past week.

HB 1012 & HB 1072 – Department of Human Services appropriation

1012 (legislative baseline) <http://www.legis.nd.gov/assembly/65-2017/documents/17-0497-01000.pdf>

1072 (Dalrymple's budget) <http://www.legis.nd.gov/assembly/65-2017/documents/17-8146-01000.pdf>

The House Appropriations-Human Resources Division heard public testimony Jan. 24-25. Testimony by associations and citizens/consumers in support of behavioral health funding lasted several hours.

Among the most mentioned were the substance abuse vouchers approved last session and peer-to-peer support services. There was also testimony in support of opioid treatment programs. Many of CHAD's partners in the effort to continue Medicaid Expansion testified during public testimony, among them the ND Hospital Association, ND Medical Association and Greater North Dakota Chamber. Several spoke in favor of managed care vs fee for service, and others asked for restoration of allotment cuts. On Jan. 26, the House Appropriations Committee moved a unanimous do not pass on HB 1072, as Dalrymple's budget bills will be killed and the legislative budget bills will move forward.

BEHAVIORAL HEALTH

SB 2274 – Community behavioral health plan and study

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0887-02000.pdf>

This bill was heard in the Senate Human Services Committee and would establish a collaborative behavioral health process for individuals being discharged from a prison. Because of the funding required by the bill, there was a suggestion to do a pilot project. There seemed to be support for the project, but budget realities could be a problem. The committee has not taken action yet, but I would expect the "pilot project" idea may be desirable and that the bill could be re-referred to the Senate Appropriations Committee.

SB 2040 – Scope of practice for addiction counselors

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0289-02000.pdf>

This bill was an interim committee bill and was being offered by the Board of Addiction Counselors and expands the scope of practice for addiction counselors to be able to treat individuals for gambling addictions in addition to smoking and nicotine. Counselors stated the Diagnostic and Statistical Manual of Mental Disorders already identifies these as addictive behaviors which they are already trained to treat. The bill failed the Senate 1-43 on Jan. 20.

SB 2088 – Scope of practice and licensure authority for addiction

counselors <http://www.legis.nd.gov/assembly/65-2017/documents/17-0376-01000.pdf>

This bill was very similar to SB 2040 and passed the Senate 44-0 on Jan. 23.

HB 1120 – Prior authorization program

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8071-01000.pdf>

HB 1120 proposes to allow prior authorization of generic medications when the brands are less expensive (net of rebates), to allow prior authorization of stimulants used for treatment of ADHD for adults 21 and over, and to require a consultation to validate the appropriate use of five or more psychotropic medications in children. Amendments added another medication to the list of stimulants and changed the consultation process for children's medication. The bill as amended received a 12-2 do pass recommendation from committee.

SB 2033 – Supervision of behavioral health professionals

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0284-02000.pdf>

SB 2033 provides for clinical supervision of behavioral health professionals by behavioral health professionals outside of their respective professions. The purpose is to expand workforce by expanding supervision options. While this was an interim bill, three of the four licensing boards referenced opposed the legislation. The committee asked the boards (professional counselors, marriage and family therapists, and social workers) to come back with potential amendments to move the bill forward. The bill as amended received a 7-0 do pass recommendation.

SB 2042 – Mental health professionals

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0228-03000.pdf>

SB 2042, heard by the Senate Human Services Committee, establishes a tiered system for the roles of mental health professionals. ND Nurse Practitioners Association and ND Medical Association supported the bill. The bill as amended received a 7-0 do pass recommendation.

WORKFORCE

SB 2198 – Regulation of medical imaging and radiation therapy

<http://www.legis.nd.gov/assembly/65-2017/documents/17-8044-02000.pdf>

HB 1371 – Regulation and licensure of medical imaging and radiation therapy

practitioners <http://www.legis.nd.gov/assembly/65-2017/documents/17-0828-02000.pdf>

SB 2198 and HB 1371 are totally contradictory bills, so I will describe them together. SB 2198 was heard in the Senate Human Services Committee, while HB 1371 was heard in the House Human Services Committee. SB 2198 establishes new regulations and licensure for medical imaging and radiation therapy practitioners. It was offered by the ND Medical Imaging and Radiation Therapy Board of Examiners. It would require a separate license/registration for each imaging/radiation therapy modality. This was strongly opposed by the critical access hospitals because they stated it is difficult getting the appropriate staff. The bill included a "grandfathering" provision for only critical access hospitals for a period of time (page 8, SB 2198). Supporters stressed the new standards will be coming nationwide and it is an aspect of patient safety. HB 1371 was introduced by the ND Hospital Association on behalf of their critical access hospitals. It would strip some of the duties of the imaging board and put new requirements on the board in retaliation for SB 2198. The House bill hearing became very contentious. I sensed the House committee was very displeased with the ND Hospital Association staff for submitting HB 1371. Neither committee took action on either bill. **This is one issue we would like to hear the opinions of our health centers. In SB 2198, it provided a "grandfathering period" (page 8) for only critical access hospitals. I was curious if community centers should be included in the "grandfathered" provision.**

SB 2184 – Establishment of a phlebotomist registry

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0365-01000.pdf>

This bill heard in the Senate Human Services committee resulted from the hepatitis outbreak in a nursing home in Minot. It would require phlebotomists to register with the Department of Health and require basic care, hospitals and home health care to report potential infectious organisms. Although the bill provides for an exemption from registration, it was not clear who would be exempt. It was suggested someone already registered with a board and practicing with their scope of practice may be exempt, but no final determination was made. The ND Hospital Association opposed the bill as they believe it is duplicative of requirements already in place. The Department of Health suggested the Clinical Laboratory Board may be the better entity to register phlebotomists and that public reporting of potential outbreaks would be difficult. No action was taken by the committee.

SB 2216 – Assault on a health care facility provider and contact by bodily fluids or excrement <http://www.legis.nd.gov/assembly/65-2017/documents/17-0613-02000.pdf>

I was not able to catch all of this hearing in the Senate Judiciary Committee because of other hearing schedules and the fact that this hearing was delayed from the expected hearing time. However, I did gather information from others. It was introduced by the ND Medical Association to deal with some problems they often encounter in major emergency rooms. They thought they could use it as one tool to warn unruly patients. Apparently this bill was opposed by a lot of entities, including defense attorneys and even some health care associations. I was told the chair indicated that they may strip out the first two sections of the bill and forward on the 3rd section to the House, but no action has been taken by the committee to date. I would not be surprised if the full Senate would kill the bill.

SB 2240 – Exceptions from licensure for marriage and family therapists

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0929-01000.pdf>

This bill was heard by the Senate Human Services Committee and offered by the Marriage and Family Therapists Board to address an issue that is a "road block" for the board. If the board has "verified evidence" of behavior one of their therapists could create a significant risk to other patients, the board could temporarily suspend the therapist's license until a final determination is made. The bill received a unanimous do pass recommendation by the committee and was passed by the full Senate on Thursday.

HB 1261 – Workers compensation coverage of emergency volunteers

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0286-01000.pdf>

HB 1261, heard before the House Industry, Business and Labor Committee, makes a mental injury arising from a mental stimulus compensable; alters the average weekly wage coverage for volunteer firefighters and other emergency volunteers, including a volunteer health practitioner; and creates a presumption of compensability for volunteer firefighters and other emergency volunteers for certain conditions. The bill was defeated on the House floor Jan. 20.

SB 2164 – Participation of advanced practice registered nurses in guardian and conservator proceedings

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0012-02000.pdf>

This bill simply expands the list of providers permitted to perform specified guardian and conservator proceedings to the advanced practice registered nurse. It failed the Senate 3-43 on Jan. 26.

HB 1289 – Grounds for disciplinary action by the Medical Board

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0795-01000.pdf>

This was basically a housekeeping bill heard in the House Human Services Committee. It was submitted by the Medical Board and restructures the law and makes no substantive changes.

OTHER

HB 1226 – Creation of a Medicaid Fraud Control Unit in Attorney General's office

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0617-01000.pdf>

This bill was heard in the House Human Services Committee. ND Human Services (DHS) had previously been granted a waiver from having a required Medicaid Fraud Unit by CMS, which also must investigate abuse in long term care facilities. However, late last year CMS informed DHS they would no longer allow that waiver. As a result, this bill would establish a Medicaid Fraud Control Unit in the ND Attorney General's Office. It would be funded 90% by federal funds for the first 3 years and then reduced to 75% federal funds thereafter. Committee members were concerned about the requirement not only because of the cost, but also because there are already requirements for reporting and investigations for abuse in long term care facilities. There were questions if this could be appealed since there is a new administration. North Dakota must submit a plan to CMS within 90 days of the early January letter for implementing the Fraud Unit. In other states that have the Fraud Units, they have recovered far more funds than the cost of the fraud units. The committee has not taken any action to date.

HB 1312 - Prohibition of individuals under 19 years old from purchasing and using tobacco products

<http://www.legis.nd.gov/assembly/65-2017/documents/17-0407-01000.pdf>

The purpose of this bill heard in the House Human Services Committee was to prevent high school students from purchasing and using tobacco products. The current law establishes that age at 18 for a minor. There were quite a few entities supporting the bill. The ND Retailers opposed the bill. The committee had a lot of questions regarding the prohibition. Some argued that a 19-year-old is mature enough to enlist in the service, but this bill would say that they are not mature enough to make a decision about smoking. Supporters of the bill are just trying to keep tobacco products from high school students. They stated that statistics show that raising the age will have a significant impact in the number of high school students using tobacco. No action was taken by the committee, but based on committee members' statements, I do not think there will be a majority of the committee to support the bill.


SB 2153 – Emergency care for minor








<http://www.legis.nd.gov/assembly/65-2017/documents/17-0661-02000.pdf>








The original intent of the law was to allow a physician or other health care providers to be able to provide emergency medical care or forensic services for a minor who was between 13 and 17 years old without the consent of the minor's parents or guardians when the minor presented at the medical facility for these emergency services. However, after a lot of discussion within the committee, it was felt that the language offered in the bill could result in even more confusion for the medical facility. The bill failed the Senate 44-0 Jan. 20.

Hearing Schedule: Jan. 30-Feb. 3

This is next week's hearing schedule for bills CHAD is monitoring this session. Key bills are highlighted in bold. If you have comments on bills being heard by committee or if you plan to testify, please let [Rod](#) know as soon as possible.

| | | | | |
|---|--------------------------|--|--|-----------|
| 01/30/2017 09:00 AM  | HB 1012 | A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions. | House Appropriations - Human Resources | Sakakawea |
|---|--------------------------|--|--|-----------|

| | | | Division | |
|---|--------------------------------|--|---|----------------|
| 01/30/2017 02:30 PM  | <u>HB 1012</u> | A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions. | House Appropriations - Human Resources Division | Sakakawea |
| 01/30/2017 02:45 PM  | <u>HB 1434</u> | Relating to health insurance coverage for autism-related services; to provide a statement of legislative intent; and to provide for a report to the legislative management. | House Human Services | Fort Union |
| 01/31/2017 08:30 AM  | <u>HB 1012</u> | A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions. | House Appropriations - Human Resources Division | Sakakawea |
| 01/31/2017 09:30 AM  | <u>SB 2301</u> | Relating to specialty pharmacy services; and to provide a penalty. | Senate Industry, Business and Labor | Roosevelt Park |
| 01/31/2017 09:40 AM  | <u>HB 1041</u> | Relating to presumptive probation; to amend and reenact sections 12-44.1-32, 12-54.1-01, 12-59-08, 12.1-17-13, and 12.1-23-05, subsection 2 of section 12.1-32-02, section 19-03.1-22.3, subsection 1 of section 19-03.1-22.5, subsections 5 and 7 of section 19-03.1-23, subdivision a of subsection 1 of section 19-03.1-23.1, section 19-03.4-03, subdivision f of subsection 5 of section 39-08-01, section 43-45-06, subsection 17 of section 50-06-05.1, and section 50-09-29 of the North Dakota Century Code, relating to sentence reduction credit, medical paroles, domestic violence offender treatment, grading of theft offenses, credit for time spent in custody, terms and conditions of probation, controlled substances and controlled substance paraphernalia, addiction counseling services, and the supplemental nutrition assistance program; to provide a penalty; to provide for the creation of a pretrial services program pilot project within the department of corrections and rehabilitation; and to provide for a report to the legislative assembly. | House Judiciary | Prairie |
| 01/31/2017 10:00 AM  | <u>SB 2256</u> | Relating to the regulation of naturopaths; and to amend and reenact sections 43-58-01 and 43-58-08 of the North Dakota Century Code, relating to the regulation of naturopaths. | Senate Human Services | Red River |
| 01/31/2017 10:00 AM  | <u>SB 2038</u> | Relating to the establishment of a task force on children's behavioral health; to amend and reenact section 15.1-07-34, subsection 1 of section 25-03.1-11, and sections 25-03.1-26 and 50-11.1-02.3 of the North Dakota Century Code, relating to behavioral health training for educators and early childhood service providers and to emergency hold limitations for mental health examinations; to provide for a report to the governor and the legislative management; and to repeal sections 15.1-19-19 and 15.1-19-24 of the North Dakota Century Code, relating to professional development training regarding the | Senate Appropriations | Harvest |

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|---|--------------------------|--|--|-------------------|
| | | prevention of bullying and youth suicide. | | |
| 01/31/2017 10:00 AM  | <u>SB</u> <u>2258</u> | Relating to pharmacy claim fees and pharmacy rights; to provide a penalty; and to provide for application. | Senate Industry, Business and Labor | Roosevelt Park |
| 01/31/2017 10:50 AM  | <u>HB</u> <u>1042</u> | Relating to sentence reduction credit, medical paroles, domestic violence offender treatment, grading of theft offenses, credit for time spent in custody, terms and conditions of probation, controlled substances and controlled substance paraphernalia, addiction counseling services, and the supplemental nutrition assistance program; to provide for the creation of a pretrial services program pilot project within the department of corrections and rehabilitation; to provide for a report to the legislative assembly; and to provide a penalty. | House Judiciary | Prairie |
| 01/31/2017 11:15 AM  | <u>SB</u> <u>2141</u> | Relating to regulation by the state board of psychologist examiners; and to repeal sections 43-32-33 and 43-32-34 of the North Dakota Century Code, relating to applied behavior analysis. | Senate Human Services | Red River |
| 01/31/2017 02:30 PM  | <u>HB</u> <u>1012</u> | A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; and to provide for exemptions. | House Appropriations - Human Resources Division | Sakakawea |
| 02/01/2017 09:00 AM  | <u>SB</u> <u>2162</u> | Relating to professional student exchange programs; to amend and reenact sections 43-28.1-01 and 43-28.1-03 of the North Dakota Century Code, relating to the dental student loan repayment program; and to provide for application. | Senate Human Services | Red River |
| 02/01/2017 09:45 AM  | <u>SB</u> <u>2293</u> | Relating to the regulation of social work; to amend and reenact sections 43-41 01, 43-41-02, 43-41-03, 43-41-04, 43-41-07, 43-41-08, 43-41-09, 43-41-10, 43-41-12, and 43-14-14 of the North Dakota Century Code, relating to the regulation of social work; to repeal section 43-41-05 of the North Dakota Century Code, relating to private practice of social work; and to provide a penalty. | Senate Human Services | Red River |
| 02/01/2017 11:15 AM  | <u>SB</u> <u>2202</u> | Relating to clinical laboratory practice exemptions and board membership. | Senate Human Services | Red River |

How to Contact Your Legislators

During the session, legislators can be reached at the Capitol by leaving a message with the legislative telephone message center at 888-NDLEGIS (635-3447). A legislator can also be reached by email, phone or mail as listed in the legislator's online bio: [Senate](#) or [House](#). Detailed information on legislative activities is available on the [Legislative Assembly website](#).

2017 Legislative Deadlines

Feb. 2 CHAD Legislative Briefing and Reception

Feb. 24 Crossover for bills
Feb. 27-28 Recess
April 28 Session limited to 80 days

Community HealthCare Association of the Dakotas (CHAD)