SENATE BILL 206:
Control Subst./Opioid/Vaccine Omnibus.

2023-2024 General Assembly

Committee:	House Health. If favorable, re-refer to Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 25, 2023
Introduced by:	Sen. McInnis	**Prepared by:**	Theresa Matula Legislative Analyst
Analysis of:	PCS to Fourth Edition S206-CSSH-23		

OVERVIEW: Senate Bill 206 seeks to stop counterfeit pills; require patients to be educated about opioid antagonists; expand the definition of opioid antagonist; protect the North Carolina Opioid Settlement payments; and 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 (PREP Act).

BILL ANALYSIS:

PART I. STOP COUNTERFEIT PILLS ACT

Section 1(a) amends G.S. 90-108(12) to add items that are prohibited while knowing, intending, or having reasonable cause to believe the specified items would be used to create a counterfeit controlled substance. The following are applicable definitions:

- A "controlled substance" as defined by G.S. 90-87(5) means: "a drug, substance, or immediate precursor included in Schedules I through VI …."
- A "counterfeit controlled substance" as defined by G.S. 90-87(6) means either a controlled substance that bears a trademark or other identifying mark without permission of the manufacturer of the product, or any substance that is by any means intentionally represented as a controlled substance.

The section also adds language to make it a Class E felony for any person to possess, manufacture, distribute, export, or import specified items while knowing, intending, or having reasonable cause to believe the specified items would be used to manufacture a controlled substance. The new language clarifies that this prohibition would not apply to a pharmacy, a pharmacist, a pharmacy technician, or a pharmacy intern.

Section 1(b) provides that this section would be effective December 1, 2023, and apply to offenses committed on or after that date.

PART II. EDUCATE PATIENTS ABOUT OPIOID ANTAGONISTS

Section 2(a) creates a requirement to provide information about the following to patients when prescribing a Schedule II controlled substance:

- Potential dangers of opioids.
- Overdose prevention.
- Availability and use of opioid antagonists to reverse opioid overdoses.

If treating a minor, a practitioner would be required to supply the information to the minor's parent, guardian, or person standing in loco parentis.

A pharmacy would be required to provide the above listed information when dispensing a Schedule II controlled substance, and to post signage with the information in a conspicuous place.

A practitioner's liability would not be limited for negligent treatment of a patient and failure to follow the requirements would not create a private right of action.

A practitioner providing hospice services and a veterinarian acting in the practice of veterinary medicine would be exempt from the requirements of this section.

Section 2(b) provides that this section would be effective October 1, 2023.

PART III. EXPAND DEFINITION OF OPIOID ANTAGONIST

Section 3(a) would amend the definition of opioid antagonist found in G.S. 90-12.7 (Treatment of overdose with opioid antagonist; immunity) to include all opioid antagonists approved by the FDA, instead of only naloxone hydrochloride.

Section 3(b) would make conforming changes to G.S. 90-113.27 (Authorization of needle and hypodermic syringe exchange programs) by replacing "naloxone hydrochloride" with "opioid antagonist" and replacing “naloxone kits” with “opioid antagonist kits”. The conforming changes would allow Needle and Hypodermic Syringe Exchange Programs to use all FDA approved opioid antagonists.

Section 3(c) provides that this section becomes effective when it becomes law.

PART IV. PROTECT NC OPIOID SETTLEMENT PAYMENTS

Section 4(a) enacts Article 7 of Chapter 122C of the General Statutes, which does the following:

- **Creates definitions** in G.S. 122C-470.2 for "Initial Opioid Consent Judgments", "Initial Released Claim", "Initial Released Entity", "Subsequent Released Claim", "Subsequent Released Entity" and "Subsequent Opioid Settlement Agreements".
- **Provides legislative findings** in G.S. 122C-470.4 related to the opioid epidemic, the subsequent litigation, the State's $750,000,000 share of the Initial Opioid Consent Judgment, and the State's $600,000,000 share of the Subsequent Opioid Settlement Agreements. The findings note the State, and its Units of Local Government can secure the full share only if opioid litigation in the State asserting Initial Released Claims against Initial Released Entities and Subsequent Released Claims against Subsequent Released Entities comes to an end with no new claims.
- **Provides legislative intent** in G.S. 122C-470.6 explaining that the intent of the Article is to help secure the full share to which the State, its Units of Local Government, and its people are entitled to by preventing the assertion of Initial Released Claims and Subsequent Released Claims against Initial Released Entities and Subsequent Released Entities by the State and its Units of Local Government.
- **Provides a prohibition on assertion of Release Claims against Released Entities** in G.S. 122C-470.8 which prohibits a Unit of Local Government and the State from asserting Initial Released Claims against Initial Released Entities and Subsequent Released Claims against Subsequent Released Entities. The State would be allowed to initiate civil actions as contemplated in the Subsequent Opioid Settlement Agreements.

- **Provides preservation of remedies** in G.S. 122C-470.10 which preserves all remedies available to the State or any Unit of Local Government under the Initial Opioid Consent Judgments and Subsequent Opioid Settlement Agreements.

Section 4(b) notes the prohibition on asserting claims applies to all Initial Released Claims, whether asserted before or after the effective date of this act.

Section 4(c) notes the prohibition on asserting claims applies to all Subsequent Released Claims with exceptions.

Section 4(d) provides that this section would become effective when it becomes law.

PART V. PREP ACT/PHARMACISTS

Section 5(a) amends the law as it relates to immunizing pharmacists to provide that an immunizing pharmacist may administer to persons 18 years of age or older the vaccines or immunizations recommended by the Advisory Committee on Immunization Practices in accordance with written protocols.

When a person chooses, or a parent or legal guardian provides written consent for a person under 18 years of age in accordance with the requirements provided in G.S. 90-85.15B(g), an immunizing pharmacist may administer (i) an influenza vaccine, (ii) a COVID-19 vaccine recommended by the Advisory Committee on Immunization Practices or (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 vaccine recommended by the Advisory Committee on Immunization Practices to a persons at least 7 years of age pursuant to administrative rules. It also allows pharmacy interns and pharmacy technicians to administer vaccinations or immunizations when supervised by an immunizing pharmacist and meeting certain requirements (G.S. 90-85.15B(f)).

G.S. 90-85.15B(g) provides that prior to the administration of a vaccine or immunization administered to a person under 18 years of age, an immunizing pharmacist must obtain written parental consent from the parent or legal guardian of the patient. If the person is under 18 years of age, an immunizing pharmacist, a pharmacy technician or pharmacy intern is required to 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 5(b) requires the NC Medical Board and the NC Board of Pharmacy joint subcommittee to adopt rules to govern the administration of vaccines by pharmacy technicians.

Section 5(c) provides that any new vaccination or immunization recommended by the Advisory Committee on Immunization Practices after the effective date of this section will be reviewed by the joint subcommittee of the NC Medical Board and NC Board of Pharmacy and rules will be adopted accordingly.

Section 5(d) provides that this section would become effective when it becomes law.

PART VI. EFFECTIVE DATE:

Section 6 specifies that except as otherwise provided, this bill would become effective when it becomes law.

**Jessica Boney and Brad Krehely, Staff Attorneys with the Legislative Analysis Division, contributed to this summary.*