



SENATE BILL 206: Controlled Substances/Opioid/Vaccine/At Home Omnibus.

2023-2024 General Assembly

Committee:		Date:	November 20, 2023
Introduced by:		Prepared by:	Theresa Matula
Analysis of:	S.L. 2023-15		Legislative Analyst

OVERVIEW: *S.L. 2023-15 seeks to stop counterfeit pills by making pill counterfeiting a Class E felony; expands the definition of opioid antagonist; continues 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); and extends the Acute Hospital Care at Home Program as implemented by the Centers for Medicare and Medicaid.*

The counterfeit pills change became effective December 1, 2023, and applies to offenses committed on or after that date. The acute hospital care at home program change became effective May 19, 2023, and expires on December 31, 2024. The remaining changes became effective May 19, 2023.

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. EXPAND DEFINITION OF OPIOID ANTAGONIST

Section 2(a) amends 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 2(b) makes conforming changes to G.S. 90-113.27 (Authorization of needle and hypodermic syringe exchange programs) by replacing "naloxone hydrochloride" with "opioid antagonist" and

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replacing “naloxone kits” with “opioid antagonist kits”. The conforming changes allow Needle and Hypodermic Syringe Exchange Programs to use all FDA approved opioid antagonists.

Section 2(c) provides that this section becomes effective when it becomes law.

PART III. PREP ACT/PHARMACISTS

Section 3(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 seven 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 3(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 3(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 3(d) provides that this section would become effective when it becomes law.

PART IV. EXTEND THE ACUTE HOSPITAL CARE AT HOME PROGRAM

Section 4(a) provides that to the extent that a hospital receives or has received a waiver from the Centers for Medicare and Medicaid Services (CMS) to participate in its Acute Hospital Care at Home Program, compliance with or requirements of any provisions of Chapter 131E of the General Statutes, and any rules adopted pursuant to these statutes, are waived to the extent that those statutes or rules prohibit, conflict with, or impose additional obligations, on a hospital's ability to operate in accordance with the Acute Hospital Care at Home program.

The term "Acute Hospital Care at Home Program" includes any other similar programs administered under the authority of the Centers for Medicare and Medicaid Services to provide for acute hospital care at home.

Section 4(b) provides that this section becomes effective when it becomes law and expire on December 31, 2024.

PART V. EFFECTIVE DATE: The counterfeit pills change became effective December 1, 2023, and applies to offenses committed on or after that date. The acute hospital care at home program change

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became effective May 19, 2023, and expires on December 31, 2024. The remaining changes became effective May 19, 2023.

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