

The pace of things at the General Assembly is beginning to quicken just a bit. The Senate leadership has named appointees to Senate Committees, and the House should make its announcement with respect to committee appointments next week.

The Senate Commerce Committee is a large one, and will again be chaired by Sen. R.C. Soles. Senators Tony Rand and David Hoyle will serve as vice chairmen. Fellow Democrats on the Senate Commerce Committee include Malcolm Graham, Kay Hagan, Bill Purcell, Doug Berger, Julia Boseman, Walter Dalton, Katie Dorsett, Tony Foriest, Linda Garrou, Steve Goss, John Kerr, Vernon Malone, Martin Nesbitt and Larry Shaw.

Republicans on Senate Commerce include Tom Apodoca, Phil Berger, Harris Blake, James Forrester, Eddie Goodall, Neal Hunt, Jim Jacumin, Robert Pittenger and Richard Stevens.

Democrats outnumber Republicans on Senate Commerce by 17 to 9, and please note that there are a significant number of Senators returning to Senate Commerce who have served on this committee in prior sessions. I will keep you advised as this committee schedules its initial meeting.

Three bills of potential interest were introduced this week and include the following:

**S.B. 72 – Health Care Liability Claims.** This bill was introduced by Sen. Robert Pittenger (R – Charlotte) and would limit the amount of damages that would be awarded in civil actions against health care providers for health care liability claims. Sen. Pittenger has in prior sessions also sought to address medical malpractice issues, and under this legislation the common law doctrine of *res ipsa loquitur* would not apply to health care liability claims. Plaintiffs would have to provide written notice of their claims 60 days prior to the filing of suits. In suits alleging that the physician or health care provider failed to disclose or adequately disclose the risks and hazards of a given procedure, the only theory on which recovery could be obtained is that of negligence in failing to disclose the risks or hazards. The NC Medical Disclosure Panel would be created, and it would endeavor to determine which treatments and procedures require disclosure of risks and hazards. The standard of proof in cases involving emergency medical care would involve the claimant showing by a preponderance of the evidence that the physician, with willful and wanton negligence, deviated from the requisite standard of care. There would be a limitation on non-economic damages, with such damages not to exceed \$250,000 for each claimant. Damages for wrongful death would be limited to \$500,000, as would “organization liability” of hospitals providing free care. Expert witnesses could only qualify if they were practicing medicine at the time their testimony was given and had knowledge of the accepted standards of medical care for the diagnosis, care or treatment of the illness, injury or condition involved in the claim. Collateral source payments from a federal, state or local government agency would be allowed into evidence, but collateral source payments would not include life or health insurance benefits. Attorneys fees paid on a contingency fee basis would be limited on a sliding scale as follows: 40% of the first \$50,000 recovered, 33 1/3% of the next \$50,000

recovered, 25% of the next \$500,000 recovered and 15% of any amount for which the recovery exceeds \$600,000.

Medical malpractice reform has been introduced in prior sessions, but the physician and provider communities and the trial bar have not been able to reach agreement on what should be done. I will keep you advised as this legislation is heard in committee.

**S.B. 73 – Increase Fire and Rescue Pensions.** I report on this legislation simply because in previous sessions efforts have been made to increase fire and rescue pensions by increasing the premium tax that insurers pay. This proposal would not involve such a tax increase.

**S.B. 84 – Four-year Legislative Terms.** Sen. David Weinstein (D – Lumberton) has introduced a bill which would amend the State Constitution to provide that legislators could serve terms of four years rather than the current two years.

The Fiscal Research staff gave a briefing to legislators yesterday on mental health issues. The emphasis on the briefing was on appropriations issues. There was no discussion of **mental health parity**, though I think we should be vigilant in watching for developments in this area.

That should cover things for this week. Look for the announcement of House Committees next week, as well as the introduction of **high risk pool** legislation in the House. Committees should begin meeting regularly in the near future. I will keep you advised as to all developments and would welcome your thoughts, comments or questions at any time.

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