

NORTH CAROLINA LEGISLATIVE SUMMARY – 2023 LONG SESSION **Duke State Relations: Representing Duke University, Duke Health,** **and Duke LifePoint Healthcare in North Carolina**

INTRODUCTION

The North Carolina General Assembly convened for the 2023 long session in January and completed most regular business by late October. The legislature did not adjourn the long session *sine die* and is scheduled to convene for short mini-sessions every month to address any outstanding issues. However, they are unlikely to take up any substantive issues until the short session begins in April 2024.

At the beginning of the long session, Republicans held a supermajority in the Senate (30-20) and a majority in the House (71-49). In April 2023, Democratic Representative Tricia Cotham switched her party affiliation providing Republicans with a supermajority in both chambers (72-48). With their new veto-proof supermajority, Republicans voted to override all 19 vetoes issued by Governor this session. The 2023 long session proved to be one of the busiest and most significant sessions for healthcare policy. This report includes a summary of the major legislative issues of importance to Duke that were debated or enacted in 2023.

LEGISLATIVE PRIORITIES

Each year Duke State Relations (DSR) identifies several issues that are priorities for Duke University, Duke University Health System, and Duke LifePoint Healthcare. Many of these issues generally reoccur every legislative session and have the potential to significantly alter Duke's ability to fulfill our core missions of providing higher education and delivering quality health care. As such, the topics and bills in this section are generally the focus of advocacy efforts at the General Assembly in Raleigh but is not a comprehensive list of the issues DSR was engaged with.

Medicaid Expansion/HASP/CON

Duke's top legislative priority this session was the enactment of [HB 76: Access to Healthcare Options](#), which expands Medicaid coverage, implements the Healthcare Access and Stabilization Program (HASP), and makes modifications to the state's Certificate of Need (CON) laws. After years of negotiating Medicaid expansion, House and Senate leaders announced an agreement on the legislation in early March and Governor Cooper signed the bill into law on March 27. Medicaid expansion has been Governor Cooper's top priority since taking office in 2017. Duke played a pivotal and direct role in the passage of the bill, working closely with the Governor's office, NCDHHS, and legislative leaders to reach a compromise deal the legislation.

The new law will expand Medicaid coverage for more than 600,000 uninsured North Carolinians who are mostly adults with income below 138% of poverty guidelines. Work requirements weren't included in the plan but there is a mandatory workforce development program the NC Department of Commerce must create for those who receive Medicaid benefits. The state's share of paying for Medicaid expansion, which is 10% of the overall cost, will be mostly paid for by an increase in the existing hospital assessment tax. The legislature made the Medicaid expansion provisions contingent upon passage of a new state budget bill, which became law in October. Upon enactment of the state budget bill, Governor

Cooper and NCDHHS Secretary Kody Kinsley announced that Medicaid expansion will launch on December 1, 2023.

Unlike the Medicaid expansion provisions, HASP provisions went into effect immediately upon enactment of the bill but required approval by the Centers for Medicare and Medicaid Services (CMS). HASP provides financial assistance to hospitals with enhanced Medicaid reimbursement rates closer to the cost of providing care and is projected to bring hospitals in North Carolina over \$2 billion annually. The State's application to CMS, which was approved in September, included a request for retroactive HASP payments to July 1, 2022. Without HASP hospitals could not afford to pay for the state share of expansion and would continue to lose money on treating both the current and expansion Medicaid populations.

Although hospitals have historically been opposed to CON reform, it was a necessary compromise in exchange for Medicaid expansion and HASP. The CON compromises include elimination of CON for behavioral health and chemical dependency beds and an increase for replacement equipment and diagnostic centers threshold to \$3 million with prices indexed to inflation (effective 2 years after HASP takes effect). More importantly from Duke's perspective, the bill eliminates CONs for MRIs in counties with a population of 125,000 or more (effective 2 years after HASP takes effect) and for single and multi-specialty ambulatory surgery centers in counties with a population of 125,000 or more (effective 3 years after HASP takes effect). Conditioning the CON changes on receipt of HASP payments, and allowing for time between receipt of the payments and the effectiveness of the CON changes, was a critical requirement of the proposal from hospitals who wanted to make sure that we were not giving permission for CON changes without HASP and to allow for hospitals to prepare for the financial implications of CON reform.

State Budget

The House and Senate passed a compromise budget agreement in late September and Governor Cooper allowed the bill to become law without his signature on October 3. The House and Senate both passed their respective versions of the budget by May but it took months for Republican leaders to iron out differences between the two chambers' budgets, including a last-minute disagreement over whether to legalize casinos in select counties which was ultimately left out of the final version of the bill. The state budget bill ([bill text](#) and [committee report](#)) allocates \$29.8B in FY 2023-24 and \$30.9B in 2024-25. The spending plan includes nearly \$1.6 billion from the Federal Medical Assistance Percentage (FMAP) "bonus" the state will receive for expanding Medicaid coverage. Of the FMAP bonus, over 90% was designated to support behavioral health initiatives.

Medicaid

The state budget included authorizing language for NCDHHS to move forward with implementing Medicaid expansion. The budget also instructs the Division of Health Benefits to develop performance standards, including claims payment metrics requiring claims to be paid within a set number of days, for all prepaid health plans who administer Medicaid managed care. Holding PHPs accountable for timely claims approval and payments, network adequacy, and patient discharge issues is a top priority for hospitals as the state covers additional beneficiaries under Medicaid expansion. Other Medicaid provisions in the budget include \$172M to maintain the COVID-19 Medicaid reimbursement rates for skilled nursing facilities, a directive for NCDHHS to issue an RFP for a Medicaid managed care statewide

children and families specialty plan, and authorization for the NCDHHS Secretary to consolidate the number of LME/MCOs with the goal of streamlining mental health services across the state.

Workforce and Behavioral Health

The budget made significant investments in healthcare workforce initiatives and in behavioral health. The bill establishes a new forgivable loan program for medical students who go on to practice primary care medicine or psychiatry in eligible counties, funds expansion of the North Carolina Loan Repayment Program, and supports the development of college courses that lead to a degree or credential in healthcare-related fields. The legislature also appropriated \$18M to establish a workforce training center that would provide no-cost training to public sector behavioral health providers and to administer grants to community colleges to enhance behavioral health workforce training programs. That money is in addition to nearly \$80M for new mobile crisis teams and crisis and respite facilities, \$130M to increase the Medicaid reimbursement rates for providers of mental health, substance use disorder, and intellectual/developmental disabilities services, and \$20M to expand the Behavioral Health Statewide Central Availability Navigator (BH SCAN), a centralized behavioral health bed registry.

Duke Appropriations

DSR helped secure \$3.8M in funding for the North Carolina Psychiatry Access Line (NC-PAL), which is a partnership between NCDHHS, UNC, and the Department of Psychiatry and Behavioral Sciences at Duke University that connects providers with psychiatrists to advise on the behavioral health needs of patients. DSR also assisted with securing \$5M to Granville Vance Public Health to partner with Duke LifePoint Maria Parham Hospital for capital improvements or equipment for improving mental health and substance abuse outcomes.

UNC Health/ECU Health

\$320M was allocated to UNC Health for the construction of a new UNC Children's Hospital in the Triangle area and \$50M to UNC Health and ECU Health to construct a Regional Children's Behavioral Health facility in Greenville. The legislature also created a new clinically integrated network between UNC Health and ECU Health called "NC Care" and appropriated \$370M towards the CIN. A majority of the funds allocated are for capital investments in community-owned hospitals and for the construction of 3 rural centers in to-be-determined locations.

Higher Education

The legislature allocated \$500 million for NCInnovation (NCI), a new nonprofit seeking to improve applied research output and commercialization for select public universities in the state. The appropriation is in the form of an endowment model and is a compromise between the Senate's \$1.4B proposal and the House's \$50M proposal. The budget provisions direct NCI to establish a network of four regional innovation hubs, which are planned to be located at East Carolina University, UNC Charlotte, NC A&T University, and Western Carolina University. Private universities were excluded from additional funds, grants, and resources that NCI can award.

Defeated Provisions

The Senate's version of the budget included a number of concerning healthcare provisions that were omitted from the final compromise version of the bill. A top priority for DSR was removing a provision that would have granted UNC Health and ECU Health with state action immunity, which would have

allowed the health systems to acquire hospitals and other health care providers without regard to the effect on market competition. A State Health Plan savings initiative was also defeated, which would have required urban hospitals to reduce State Health Plan costs as a condition for hospital licensure. Provisions that would have eliminated geographical restrictions on Atrium's ability to freely expand into new markets in North Carolina were also left out of the final version of the budget bill as were surprise billing provisions and efforts to make additional changes to CON laws.

Abortion Restrictions

Following the U.S. Supreme Court's decision in 2022 to overturn the ruling on Roe v. Wade, Republican legislative leaders announced that a top priority in the long session would be passing a bill to restrict access to abortion. Republicans introduced and successfully overrode the Governor's veto of [SB 20: Care for Women, Children and Families Act](#). The new law, which went into effect on July 1, will prohibit abortions in North Carolina after 12 weeks. The law includes exceptions to allow for abortions up to 20 weeks if the pregnancy resulted from rape or incest, up to 24 weeks if there is a life-limiting anomaly in the unborn child, and allows an abortion at any time if there is a medical emergency for the pregnant woman. The law establishes new informed consent and in-person consultation requirements before an abortion procedure, requires abortions after 12 weeks to be performed in a hospital setting, and implements additional licensing requirements and standards for abortion clinics.

The law requires medical providers to employ the same duty of care for children born alive after attempted abortions that they would for any other child of the same gestational age and creates criminal penalties for failure to do so, and prohibits abortions that are sought because of the racial makeup, the sex, or the presence of Down syndrome in the unborn child. The law will also allow Certified Nurse Midwives to practice independently from a physician if they have more than 24 months and 4,000 hours of experience, increases the Medicaid rate for obstetrics maternal bundle payments, and includes significant funding for programs and initiatives to improve maternal health and reduce and infant mortality.

Governor Cooper signed a [bill](#) in late June to provide clarity on some provisions in the abortion restriction law. Most notably, the changes remove ambiguous language that required physicians providing medication abortions to verify that the gestational age for a developing fetus is no more than 70 days, or 10 weeks, instead of 12 weeks as the bill intended. The legislative changes were in response to a lawsuit filed by Planned Parenthood and OBGYN providers in NC who were seeking to have a federal judge block provisions in the law that they argued were unclear and to place an emergency injunction on the law to prevent it from taking effect. Several other lawsuits have been filed in response to the legislation.

With guidance from DSR, members of the "DREAM Team" advocacy group in the Department of Ob/Gyn at Duke were actively engaged on this issue at the legislature during the long session. Providers met with legislators on a number of occasions to educate them and offer a provider perspective on how abortion restriction legislation would impact the delivery of reproductive healthcare.

Legislation Impacting the Transgender Community

The legislature introduced a number of bills this legislative session impacting the transgender community and voted to override three gubernatorial vetoes of related bills. One new law will prohibit

medical professionals from performing [surgical gender transition procedures](#) on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors, with some exceptions in place. Medical professionals who violate these provisions would have their licenses revoked, and minors who underwent a surgical gender transition procedure or who were prescribed or provided with puberty-blocking drugs or cross-sex hormones would have a private right of action against the medical provider who performed the procedure or prescribed or provided the drugs. State funds would also be prohibited from being used for surgical gender transition procedures on minors and prescribing, providing, or dispensing puberty-blocking drugs or cross-sex hormones to minors.

Another new law will [prohibit transgender females](#) from participating on a sport team that is consistent with their gender identity. A student would be required to play on a team based on their sex, which would be recognized solely on the student's reproductive biology and genetics at birth. The new law applies to middle school, high school, and college and university teams, including the UNC System, community colleges, and private institutions.

The "[Parents' Bill of Rights](#)" also became law, which will prohibit instruction on sexuality, sexual activity and gender identity in grades K-4 and create new parental notification requirements if a child requests to be called by different pronouns. The law also requires health care practitioners to obtain written consent from the parent of a minor child before providing treatment. Health care facilities would be prohibited from allowing treatment of minors without written or documented consent from parents and violations by a healthcare practitioner would be subject to disciplinary action by the governing licensure board, including a fine of up to \$5,000.

The bills enacted in North Carolina track a national trend, with over 580 "anti-trans" bills filed in 49 other states this year. Similar to the abortion legislation, DSR engaged clinical providers at Duke to share their expertise on the potential impact of this legislation through various media briefings through University Communications, the development of op-eds for media outlets, and providing testimony in their personal capacity (not on behalf of Duke) at the legislature.

Attacks on Nonprofit Hospitals

State Treasurer Dale Folwell has been critical of nonprofit hospitals in North Carolina for the last several years and issued a number of reports investigating hospital finances, charity care, billing practices, and executive compensation. During the long session, Treasurer Folwell backed the introduction of legislation ("[Medical Debt De-Weaponization Act](#)") to reduce medical debt for patients by enforcing requirements for large healthcare facilities around billing practices, financial assistance policies, and price transparency. A provision was added to the legislation that would prohibit most non-hospital healthcare facilities from charging facility fees and prohibit hospitals from charging facility fees for identified procedures. The legislation passed the Senate in 2023 but was never considered in the House. The NC Healthcare Association actively opposed this legislation given federal and state regulations already provide consumer protections for patients.

Practice Authority for APRNs and PAs

Legislation to provide independent practice authority for APRNs and PAs has been introduced at the NC General Assembly for the last several legislative sessions. A bill passed the House in 2023 with bipartisan support that would allow [PAs in a team-based setting](#) with more than 4,000 hours of general experience

and 1,000 hours of supervised experience in their chosen specialty to practice without physician supervision. The bill would also allow PAs to prescribe drugs, initiate non-pharmacological therapies, and certify medical documents, among other duties. The legislation failed to receive final approval from both chambers before the legislature adjourned the long session but is eligible for consideration during the 2024 short session.

The [SAVE Act](#) was reintroduced this year to allow nurse practitioners (NP), certified nurse midwives (CNM), clinical nurse specialists (CNS), and certified registered nurse anesthetists (CRNA) to practice independently from a supervising physician. The bill is introduced every session in both chambers but fails to advance due to in large part to opposition from the NC Medical Society. As noted above, included in the new abortion restriction law is a provision that allows CNMs to practice independently from a physician if they have more than 24 months and 4,000 hours of experience.

In 2022, Duke released a position statement in favor of full practice authority for NPs but remains neutral on the SAVE Act as a whole. Duke was the first health system in North Carolina to publicly support provisions in the SAVE Act, although Atrium recently issued a statement endorsing full practice authority for all APRNs.

Government Interference and Market Influence in Healthcare

The legislature considered various proposals impacting competition in the healthcare market in North Carolina. A bill signed into law by Governor Cooper this session would give [Blue Cross Blue Shield of NC](#) the ability to create a nonprofit holding company that would become a parent to the insurance company and to any current and future subsidiaries. The legislation would allow BCBSNC to move some of its \$4.6 billion surplus into the new holding company, which could then use that money to buy health care companies and other kinds of subsidiaries, as well as make investments that are subject to far less regulatory oversight than the insurer. The bill received broad bipartisan support in the House and Senate despite concerns over lack of transparency from the NC Commissioner of Insurance, NC State Treasurer, NC Attorney General and NC Medical Society.

Another bill introduced this session would provide the NC Attorney General with increased oversight over [hospital consolidations](#) in the state. The bill came in response to HCA's purchase of Mission Hospital in 2019 which sparked controversy over how hospital acquisitions were regulated in North Carolina. The proposed legislation would give the Attorney General discretion to approve or deny all hospital consolidation transactions, and requires merging parties to conduct public hearings and demonstrate that the transaction is beneficial for community members. The legislation includes excessive and unregulated fees to review transactions and provide post-transaction monitoring. The bill failed to receive a committee hearing in either chamber.

Other pieces of legislation were introduced this session in an attempt by the legislature to interfere in the practice of medicine. The [Medical Ethics Defense \(MED\) Act](#) would allow healthcare practitioners, facilities, and insurers to refuse care for patients based on religious, moral, or ethical grounds. A provision in the bill would require a healthcare practitioner to provide written consent before performing an abortion. This bill passed the House Health Committee but failed to further advance. Legislation was also introduced that would prohibit discrimination against individuals donating or receiving an [anatomical gift or organ transplant](#) solely on the basis of their COVID-19 vaccination status.

This bill passed the House but wasn't taken up in the Senate. Another bill would prohibit state agencies and local governments from [requiring COVID-19 vaccination](#). This legislation passed the House and related provisions were also included in the state budget bill.

REDISTRICTING AND 2024 ELECTION

State legislators were required to undergo another round of redistricting this year after the maps drawn in 2020 were struck down by the NC Supreme Court for unconstitutional gerrymandering. The court ruled that the maps from 2020 could only be used for one election cycle and legislators were ordered to redraw districts this year for use in future elections. Since Democratic Governor Roy Cooper lacks veto authority over redistricting matters, Republican leaders were ultimately in charge of redrawing and approving new legislative districts.

The new legislative maps are predicted to produce majorities in both the NC House and Senate with supermajorities likely. The congressional districts will likely result in a 11-3 or 10-4 split favoring Republicans. Currently the delegation is split 7-7 between Democrats and Republicans. Democrats were highly critical of the process that Republican leaders used to redraw the maps. Lawsuits from voting rights groups are imminent despite the Republican-controlled NC Supreme Court's ruling earlier this year that the court has no jurisdiction over partisan gerrymandering claims. A link to the new maps can be found on the [General Assembly's website](#).

The 2024 Governor's race in North Carolina is heating up with a number of notable individuals who have announced their candidacy. Democratic candidates include current Attorney General Josh Stein and former NC Supreme Court Justice Michael Morgan. Republican candidates include Lieutenant Governor Mark Robinson, State Treasurer Dale Folwell, former Congressman Mark Walker, former State Senator Andy Wells, retired healthcare executive Jesse Thomas, and trial lawyer Bill Graham. Stein and Robinson have become the frontrunners from the respective parties.

Candidate filing runs December 4 through December 15 with the Primary Election scheduled for March 5, 2024. Many members of the current Durham and Wake County legislative delegations are likely to run for re-election in 2024. With the possibility of Republican supermajorities in the NC House and Senate and a Republican governor in office, the trajectory of policy in the state could shift significantly in 2025. The election could also bring a new slate of legislative leaders, with Speaker of the House Tim Moore recently announcing his run for Congress.

STAND ALONE LEGISLATION

DSR identifies legislation that Duke supports, opposes, or amends and is regularly approached by faculty or staff from within Duke about advancing specific legislation. The result is that our office engages on dozens of bills each session. In addition, there are also several bills each session that we independently monitor even though we have not received a specific request from within Duke to do so. We also monitor, but do not directly engage in advocacy efforts either for or against, any legislation on which Duke has constituencies or interests on both sides of the issue.

In addition to the priorities discussed above, legislation enacted during the 2023 long session that DSR either directly lobbied or monitored is listed below (organized by bill number and chamber of origin). A comprehensive list of bills we monitored this session can be found [here](#). All Session Laws enacted during the 2023 long session can be found [here](#).

Legislation Originating in the NC Senate

The hyperlink provided for the session law is to the text of the enacted legislation, while the hyperlink for the bill title is to the official bill summary.

- [Session Law 2023-3](#)
 - [Senate Bill 115: Repurpose R.J. Blackley Ctr as Psych Hospital](#)
 - Duke's Position: Neutral
- [Session Law 2023-8](#)
 - [Senate Bill 41: Guarantee 2nd Amend Freedom and Protections](#)
 - Duke's Position: Neutral
- [Session Law 2023-13](#)
 - [Senate Bill 157: Limited Provisional License Modification](#)
 - Duke's Position: Neutral
- [Session Law 2023-14](#)
 - [Senate Bill 20: Care for Women, Children, and Families Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-15](#)
 - [Senate Bill 206: Control Sub./Opioid/Vaccine/At Home Omnibus](#)
 - Duke's Position: Neutral
- [Session Law 2023-40](#)
 - [Senate Bill 291: QRIS/Star Rating System Reform](#)
 - Duke's Position: Neutral
- [Session Law 2023-47](#)
 - [Senate Bill 58: Protect Critical Infrastructure](#)
 - Duke's Position: Neutral
- [Session Law 2023-57](#)
 - [Senate Bill 552: Modifications to Notary Public Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-79](#)
 - [Senate Bill 389: Parent Consent to Donate Blood/Tech Correct](#)
 - Duke's Position: Neutral
- [Session Law 2023-106](#)
 - [Senate Bill 49: Parents' Bill of Rights](#)
 - Duke's Position: Neutral
- [Session Law 2023-123](#)
 - [Senate Bill 189: Fentanyl Drug Offenses and Related Changes](#)
 - Duke's Position: Neutral
- [Session Law 2023-133](#)
 - [Senate Bill 452: DOI & Ins Law Amd/Revise HS Athletics](#)
 - Duke's Position: Neutral

- [Session Law 2023-136](#)
 - [Senate Bill 512: Greater Accountability for Boards/Commissions](#)
 - Duke's Position: Neutral
- [Session Law 2023-139](#)
 - [Senate Bill 749: No Partisan Advantage in Elections](#)
 - Duke's Position: Neutral
- [Session Law 2023-140](#)
 - [Senate Bill 747: Elections Law Changes](#)
 - Duke's Position: Neutral
- [Session Law 2023-145](#)
 - [Senate Bill 757: Realign Congressional Districts 2023](#)
 - Duke's Position: Neutral
- [Session Law 2023-146](#)
 - [Senate Bill 758: Realign NC Senate Districts 2023](#)
 - Duke's Position: Neutral
- [Session Law 2023-150](#)
 - [Senate Bill 274: Senior Care Options](#)
 - Duke's Position: Neutral

Legislation Originating in the NC House

The hyperlink provided for the session law is to the text of the enacted legislation, while the hyperlink for the bill title is to the official bill summary.

- [Session Law 2023-7](#)
 - [House Bill 76: Access to Healthcare Options](#)
 - Duke's Position: Support
- [Session Law 2023-33](#)
 - [House Bill 346: Reorganization & Economic Development Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-42](#)
 - [House Bill 347: Sports Wagering/Horse Racing Wagering](#)
 - Duke's Position: Neutral
- [Session Law 2023-58](#)
 - [House Bill 130: Energy Choice/Solar Decommissioning Rqmts](#)
 - Duke's Position: Neutral
- [Session Law 2023-65](#)
 - [House Bill 190: Dept. of Health and Human Services Revisions.-AB](#)
 - Duke's Position: Neutral
- [Session Law 2023-76](#)
 - [House Bill 34: Protect Those Who Serve and Protect Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-80](#)
 - [House Bill 344: Mental Health Lic. Fair Practice Stds](#)
 - Duke's Position: Neutral
- [Session Law 2023-95](#)

- [House Bill 484: Mental Health Confidential Info. Disclosure](#)
 - Duke's Position: Neutral
- [Session Law 2023-96](#)
 - [House Bill 674: Child Advocacy Centers/Share Information](#)
 - Duke's Position: Neutral
- [Session Law 2023-108](#)
 - [House Bill 488: Code Council Reorg. and Var. Code Amend](#)
 - Duke's Position: Neutral
- [Session Law 2023-109](#)
 - [House Bill 574: Fairness in Women's Sports Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-111](#)
 - [House Bill 808: Gender Transition/Minors](#)
 - Duke's Position: Neutral
- [Session Law 2023-129](#)
 - [House Bill 125: NC Health & Human Services Workforce Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-134](#)
 - [House Bill 259: 2023 Appropriations Act](#)
 - Duke's Position: Neutral
- [Session Law 2023-137](#)
 - [House Bill 600: Regulatory Reform Act of 2023](#)
 - Duke's Position: Neutral
- [Session Law 2023-149](#)
 - [House Bill 898: House Redistricting Plan 2023](#)
 - Duke's Position: Neutral



DOUG HERON, ASSOCIATE VICE PRESIDENT

919-416-8923 / doug.heron@duke.edu

KATIE LIPE, ASSISTANT DIRECTOR

919-668-1571 / katie.stanley@duke.edu