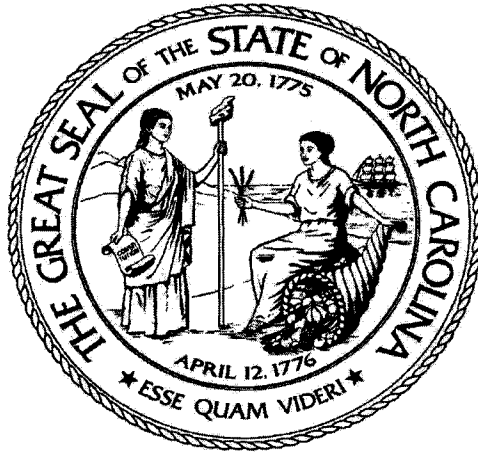


NORTH CAROLINA GENERAL ASSEMBLY



JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES

REPORT TO THE 2012 SESSION of the 2011 GENERAL ASSEMBLY OF NORTH CAROLINA

MAY, 2012

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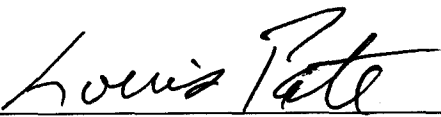
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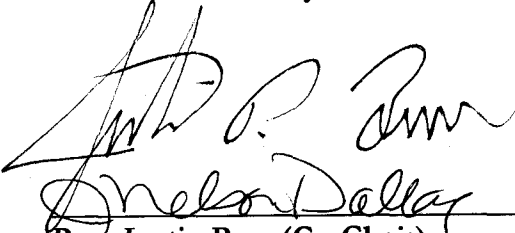
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TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

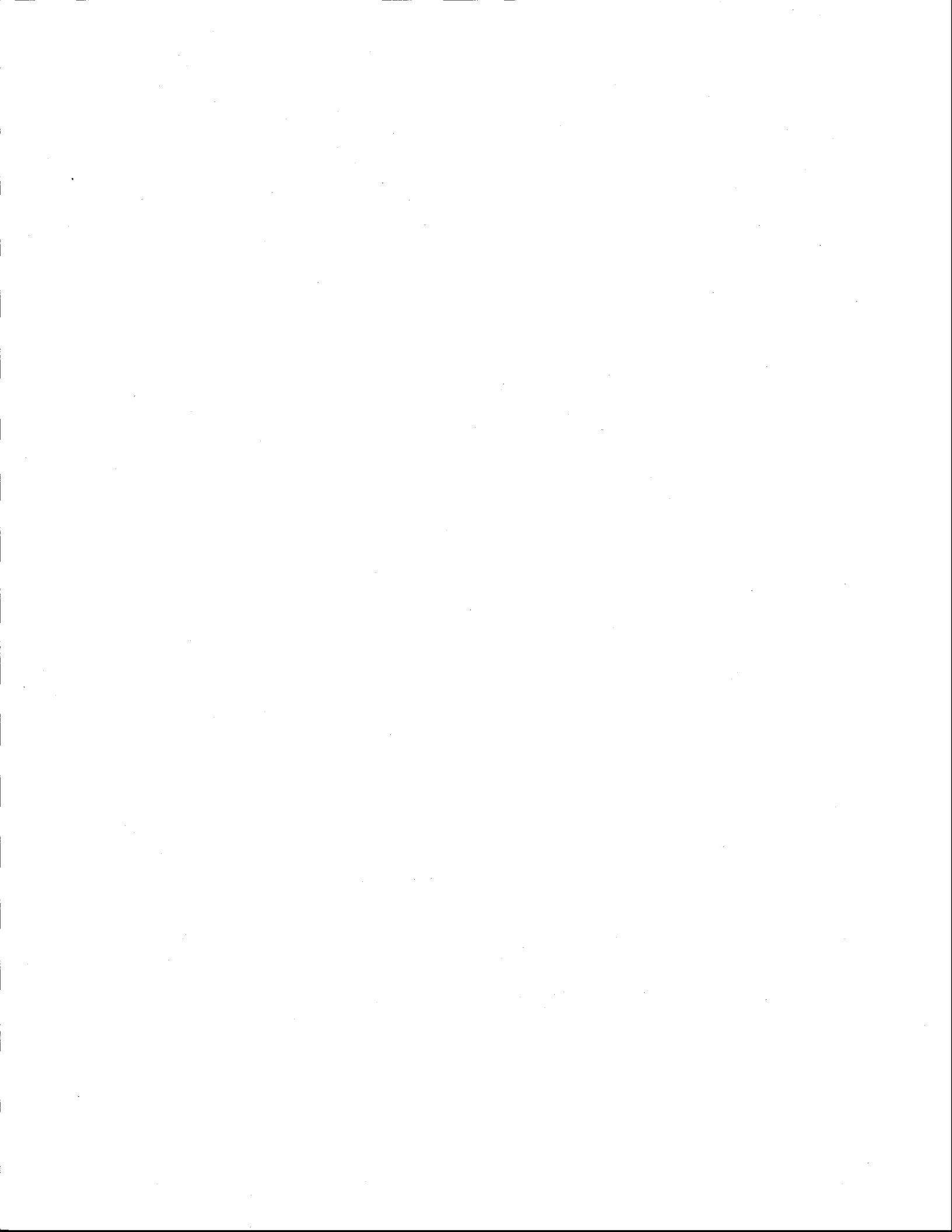
The **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES**, respectfully submits the following recommended legislation as its report to the 2012 Regular Session of the 2011 General Assembly.



Sen. Louis Pate (Co-Chair)



Rep. Justin Burr (Co-Chair),
Rep. Nelson Dollar (Co-Chair)



LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H/S

D

BILL DRAFT 2011-SQz-24* [v.2] (03/22)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/22/2012 10:00:45 AM

Short Title: General Assembly Approve Sale of Dix Property. (Public)

Sponsors: Representatives Dollar and Burr (Primary Sponsors)./Senator Pate.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO PROHIBIT ANY CONVEYANCE OF STATE-OWNED REAL
2 PROPERTY ENCOMPASSING THE DOROTHEA DIX HOSPITAL CAMPUS
3 WITHOUT THE APPROVAL OF THE GENERAL ASSEMBLY AS
4 RECOMMENDED BY THE JOINT OVERSIGHT COMMITTEE ON HEALTH
5 AND HUMAN SERVICES.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 146-27 reads as rewritten:

9 "**§ 146-27. The role of the Department of Administration in sales, leases, and**
10 **rentals; rentals; conveyance of Dix Campus.**

11 (a) General. – Every sale, lease, rental, or gift of land owned by the State or by
12 any State agency shall be made by the Department of Administration and approved by
13 the Governor and Council of State. A lease or rental of land owned by the State may not
14 exceed a period of 99 years. The Department of Administration may initiate
15 proceedings for sales, leases, rentals, and gifts of land owned by the State or by any
16 State agency.

17 (b) Large Disposition. – If a proposed disposition is a sale or gift of land with an
18 appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall
19 not be made until after consultation with the Joint Legislative Commission on
20 Governmental Operations.

21 (c) Expired effective September 1, 2007.

22 (d) Notwithstanding any other provision of law, the State-owned real property
23 encompassing the Dorothea Dix Hospital campus shall not be sold, leased, rented, or
24 gifted without the prior approval of the General Assembly."

25 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H/S

D

BILL DRAFT 2011-SQz-32A* [v.2] (03/11)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

5/15/2012 2:20:29 PM

Short Title: LME Governance.

(Public)

Sponsors: Representatives Burr and Dollar (Primary Sponsors)./Senator Pate.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-115(a) reads as rewritten:

"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to ~~G.S. 122C-115.1~~ G.S. 122C-115.1 and in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver. Beginning July 1, 2012, the catchment area of an area authority or a county program shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority or a county program shall contain a minimum population of at least 500,000. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

SECTION 2. G.S. 122C-116 reads as rewritten:

"§ 122C-116. Status of area authority; status of consolidated human services agency.

(a) An area authority is a local political subdivision of the State ~~except that a single county area authority is considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.~~ State.

(b) A consolidated human services agency is a department of the county."

SECTION 3.(a) G.S. 122C-118.1 reads as rewritten:

"§ 122C-118.1. Structure of area board.

1 (a) ~~An area board shall have no fewer than 11 and no more than 25 members.~~
2 ~~However, the area board for a multicounty area authority consisting of eight or more~~
3 ~~counties may have up to 30 members. In a single county area authority, the members~~
4 ~~shall be appointed by the board of county commissioners. Except as otherwise provided,~~
5 ~~in areas consisting of more than one county, each board of county commissioners within~~
6 ~~the area shall appoint one commissioner as a member of the area board. These members~~
7 ~~shall appoint the other members. The boards of county commissioners within the~~
8 ~~multicounty area shall have the option to appoint the members of the area board in a~~
9 ~~manner other than as required under this section by adopting a resolution to that effect.~~
10 ~~The boards of county commissioners in a multicounty area authority shall indicate in the~~
11 ~~business plan each board's method of appointment of the area board members in~~
12 ~~accordance with G.S. 122C-115.2(b). These appointments shall take into account~~
13 ~~sufficient citizen participation, representation of the disability groups, and equitable~~
14 ~~representation of participating counties. Individuals appointed to the board shall include~~
15 ~~two individuals with financial expertise, an individual with expertise in management or~~
16 ~~business, and an individual representing the interests of children. A member of the~~
17 ~~board may be removed with or without cause by the initial appointing authority.~~
18 ~~Vacancies on the board shall be filled by the initial appointing authority before the end~~
19 ~~of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first,~~
20 ~~and the appointments shall be for the remainder of the unexpired term. An area board~~
21 ~~shall have no fewer than 11 and no more than 21 voting members. The board of county~~
22 ~~commissioners, or the boards of county commissioners within the area, shall appoint~~
23 ~~members consistent with the requirements provided in subsection (b) of this section. If~~
24 ~~the board or boards fail to comply with the requirements of subsection (b) of this~~
25 ~~section, the Secretary shall appoint the unrepresented category. A member of the board~~
26 ~~may be removed with or without cause by the initial appointing authority. The area~~
27 ~~board may declare vacant the office of an appointed member who does not attend three~~
28 ~~consecutive scheduled meetings without justifiable excuse. The chairman of the area~~
29 ~~board shall notify the appropriate appointing authority of any vacancy. Vacancies on the~~
30 ~~board shall be filled by the initial appointing authority before the end of the term of the~~
31 ~~vacated seat or within 90 days of the vacancy, whichever occurs first, and the~~
32 ~~appointments shall be for the remainder of the unexpired term.~~

33 (b) ~~Except as otherwise~~Within the maximum membership provided in this
34 ~~subsection, not more than fifty percent (50%) of~~subsection (a) of this section, the
35 ~~members~~membership of the area board shall reside within the catchment area and
36 ~~represent the following:~~be composed as follows:

- 37 (1) ~~A physician licensed under Chapter 90 of the General Statutes to~~
38 ~~practice medicine in North Carolina who, when possible, is certified as~~
39 ~~having completed a residency in psychiatry.~~At least one member who
40 is a current county commissioner.
- 41 (2) ~~A clinical professional from the fields of mental health, developmental~~
42 ~~disabilities, or substance abuse.~~The chair of the local Consumer and
43 Family Advisory Committee (CFAC) or the chair's designee.
- 44 (3) ~~At least one family member or individual from a citizens' organization~~
45 ~~composed primarily of consumers or their family members,~~of the local

1 CFAC, as recommended by the local CFAC, representing the interests
2 of individuals:the following:

- 3 a. ~~With~~Individuals with mental illness;illness, or
4 b. ~~In~~Individuals in recovery from addiction; oraddiction, or
5 c. ~~With~~Individuals with intellectual or other developmental
6 disabilities.

7 (4) At least one openly declared consumer member of the local CFAC, as
8 recommended by the local CFAC, representing the interests of the
9 following:

- 10 a. ~~With~~Individuals with mental illness;illness, or
11 b. ~~With~~Individuals with intellectual or other developmental
12 disabilities; ordisabilities, or
13 c. ~~In~~Individuals in recovery from addiction.

14 (5) An individual with health care expertise and experience in the fields of
15 mental health, intellectual or other developmental disabilities, or
16 substance abuse services.

17 (6) An individual with health care administration expertise consistent with
18 the scale and nature of the managed care organization.

19 (7) An individual with financial expertise consistent with the scale and
20 nature of the managed care organization.

21 (8) An individual with insurance expertise consistent with the scale and
22 nature of the managed care organization.

23 (9) An individual with social services expertise and experience in the
24 fields of mental health, intellectual or other developmental disabilities,
25 or substance abuse services.

26 (10) An attorney with health care expertise.

27 (11) A member who represents the general public and who is not employed
28 by or affiliated with the Department of Health and Human Services, as
29 appointed by the Secretary.

30 (12) The President of the LME/MCO Provider Council or the President's
31 designee to serve as a nonvoting member and shall only participate in
32 Board activities that are open to the public.

33 ~~An~~Except as provided in subdivision (12) of this subsection, an individual that
34 contracts with a local management entity (LME) for the delivery of mental health,
35 developmental disabilities, and substance abuse services may not serve on the board of
36 the LME for the period during which the contract for services is in effect. Of the
37 members described in subdivisions (2) through (4) of this subsection, the board of
38 county commissioners shall ensure there is at least one member representing the interest
39 of each of the following: (i) individuals with mental illness, (ii) individuals with
40 intellectual or other developmental disabilities, and (iii) individuals in recovery from
41 addiction.

42 (c) The board of county commissioners may elect to appoint a member of the
43 area authority board to fill concurrently no more than two categories of membership if
44 the member has the qualifications or attributes of the two categories of membership.

45 (d) Any member of an area board who is a county commissioner serves on the
46 board in an ex officio capacity at the pleasure of the initial appointing authority, for a

1 term not to exceed the earlier of three years or the member's service as a county
2 commissioner. Any member of an area board who is a county manager serves on the
3 board at the pleasure of the initial appointing authority, for a term not to exceed the
4 earlier of three years or the duration of the member's employment as a county manager.
5 The terms of ~~the other~~ members on the area board shall be for three years, except that
6 upon the initial formation of an area board in compliance with subsection (a) of this
7 section, one-third shall be appointed for one year, one-third for two years, and all
8 remaining members for three years. ~~Members, other than county commissioners and~~
9 ~~county managers,~~ Members shall not be appointed for more than ~~two~~three consecutive
10 terms. ~~Board members serving as of July 1, 2006, may remain on the board for one~~
11 ~~additional term. This subsection applies to all area authority board members regardless~~
12 ~~of the procedure used to appoint members under subsection (a) of this section.~~

13 (e) Upon request, the board shall provide information pertaining to the
14 membership of the board that is a public record under Chapter 132 of the General
15 Statutes."

16 **SECTION 3.(b)** All area boards shall meet the requirements of
17 G.S. 122C-118.1, as amended by Section 3 of this act, no later than July 1, 2013.

18 **SECTION 4.(a)** G.S. 122C-119.1 reads as rewritten:

19 "**§ 122C-119.1. Area Authority board members' training.**

20 All members of the governing body for an area authority shall receive initial
21 orientation on board members' responsibilities and annual training provided by the
22 Department ~~and shall include~~ fiscal management, budget development, and fiscal
23 accountability. A member's refusal to be trained shall be grounds for removal from the
24 board."

25 **SECTION 4.(b)** The North Carolina Department of Health and Human
26 Services, in cooperation with the School of Government and the local management
27 entities, shall develop a standardized core curriculum for the training described in
28 Section 4(a) of this act.

29 **SECTION 5.** G.S. 122C-170(b) reads as rewritten:

30 "Part 4A. Consumer and Family Advisory Committees.

31 "**§ 122C-170. Local Consumer and Family Advisory Committees.**

32 ...

33 (b) Each of the disability groups shall be equally represented on the CFAC, and
34 the CFAC shall reflect as closely as possible the racial and ethnic composition of the
35 catchment area. The terms of members shall be three years, and no member may serve
36 more than ~~two~~three consecutive terms. The CFAC shall be composed exclusively of:

37 (1) Adult consumers of mental health, developmental disabilities, and
38 substance abuse services.

39 (2) Family members of consumers of mental health, developmental
40 disabilities, and substance abuse services.

41"

42 **SECTION 6.** Area authorities may add one or more additional counties to
43 their existing catchment area by agreement of a majority of the existing member
44 counties.

45 **SECTION 7.(a)** Beginning July 1, 2012, and for a period of two years
46 thereafter, the Department of Health and Human Services shall not approve any county's

1 request to withdraw from a multicounty area authority operating under the 1915 (b)/(c)
2 Medicaid Waiver. Not later than January 1, 2014, the Secretary shall adopt rules to
3 establish a process for county disengagement that shall at a minimum ensure the
4 following:

- 5 (1) Provisions of service are not disrupted by the disengagement.
- 6 (2) The disengaging county is either in compliance or plans to merge with
7 an area authority that is in compliance with population requirements
8 provided in G.S. 122C-155(a).
- 9 (3) The timing of the disengagement is accounted for and does not conflict
10 with setting capitation rates.
- 11 (4) Adequate notice is provided to the affected counties, the Department
12 of Health and Human Services, and the General Assembly.
- 13 (5) Provisions for distribution of any real property no longer within the
14 catchment area of the area authority.

15 **SECTION 7.(b)** G.S. 122C-112.1 is amended by adding a new subdivision
16 to read:

17 "(38) Adopt rules establishing a procedure for single-county disengagement
18 from an area authority operating under a 1915 (b)/(c) Medicaid
19 Waiver."

20 **SECTION 8.** G.S. 122C-147(c) reads as rewritten:
21 "**§ 122C-147. Financing and title of area authority property.**

22 ...
23 (c) All real property purchased for use by the area authority shall be provided by
24 local or federal funds unless otherwise allowed under subsection (b) of this section or by
25 specific capital funds appropriated by the General Assembly. The title to this real
26 property and the authority to acquire it is held by the county where the property is
27 located. ~~The authority to hold title to real property and the authority to acquire it,~~
28 ~~including the area authority's authority to finance its acquisition by an installment~~
29 ~~contract under G.S. 160A-20, may be held by the area authority or by the contracting~~
30 ~~governmental entity with the approval of the board or boards of commissioners of all~~
31 ~~the counties that comprise the area authority. The approval of a board of county~~
32 ~~commissioners shall be by resolution of the board and may have any necessary or~~
33 ~~proper conditions, including provisions for distribution of the proceeds in the event of~~
34 ~~disposition of the property by the area authority.~~ area authority. Real property may not
35 be acquired by means of an installment contract under G.S. 160A-20 unless the Local
36 Government Commission has approved the acquisition. No deficiency judgment may be
37 rendered against any unit of local government in any action for breach of a contractual
38 obligation authorized by this subsection, and the taxing power of a unit of local
39 government is not and may not be pledged directly or indirectly to secure any moneys
40 due under a contract authorized by this subsection.

41"
42 **SECTION 9.(a)** G.S. 122C-117 reads as rewritten:

43 "**§ 122C-117. Powers and duties of the area authority.**
44 (a) The area authority shall do all of the following:

45 ...

1 (7) Appoint an area director in accordance with G.S. 122C-121(d). The
2 appointment is subject to the approval of the board of county
3 commissioners except that one or more boards of county
4 commissioners may waive its authority to approve the appointment.
5 The appointment shall be based on a selection by a search committee
6 of the area authority board. The search committee shall include
7 consumer board members, a county manager, and one or more county
8 commissioners. The Secretary shall have the option to appoint one
9 member to the search committee.

10 ...
11 (17) Have the authority to borrow money with the approval of the Local
12 Government Commission.

13 ...
14 (c) Within 30 days of the end of each quarter of the fiscal year, the area director
15 and finance officer of the area authority shall provide the quarterly report of the area
16 authority to the county finance officer. The county finance officer shall provide the
17 quarterly report to the board of county commissioners at the next regularly scheduled
18 meeting of the board. The clerk of the board of commissioners shall notify the area
19 director and the county finance officer if the quarterly report required by this subsection
20 has not been submitted within the required period of time. This information shall be
21 ~~presented in a format prescribed by the county. At least twice a year, this information~~
22 ~~shall be presented in person and shall be read into the minutes of the meeting at which it~~
23 ~~is presented. In addition, the area director or finance officer of the area authority shall~~
24 ~~provide to the board of county commissioners ad hoc reports as requested by the board~~
25 ~~of county commissioners, delivered to the county and at the request of the board of~~
26 county commissioners, may be presented in person by the area director or the director's
27 designee.

28"

29 SECTION 9.(b) G.S. 122C-115.2 is amended by adding a new subsection to
30 read:

31 "(e) The Secretary may waive any requirements of this section that are
32 inconsistent with or incompatible with contracts entered into between the Department
33 and the area authority for the management responsibilities for the delivery of services
34 for individuals with mental illness, intellectual or other developmental disabilities, and
35 substance abuse disorders under a 1915(b)/(c) Medicaid Waiver."

36 SECTION 10. Part 2 of Article 4 of Chapter 122C of the General Statutes is
37 amended by adding a new section to read:

38 "§ 122C-126.1. Confidentiality of competitive health care information.

39 (a) For the purposes of this section, competitive health care information means
40 information relating to competitive health care activities by or on behalf of the area
41 authority. Competitive health care information shall be confidential and not a public
42 record under Chapter 132 of the General Statutes; provided that any contract entered
43 into by or on behalf of an area authority shall be a public record unless otherwise
44 exempted by law or the contract contains competitive health care information, the
45 determination of which shall be as provided in subsection (b) of this section.

1 **(b)** If an area authority is requested to disclose any contract that the area
2 authority believes in good faith contains or constitutes competitive health care
3 information, the area authority may either redact the portions of the contract believed to
4 constitute competitive health care information prior to disclosure or, if the entire
5 contract constitutes competitive health care information, refuse disclosure of the
6 contract. The person requesting disclosure of the contract may institute an action
7 pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion
8 thereof. In any action brought under this subsection, the issue for decision by the court
9 shall be whether the contract, or portions of the contract withheld, constitutes
10 competitive health care information, and in making its determination, the court shall be
11 guided by the procedures and standards applicable to protective orders requested under
12 Rule 26(c)(7) of the Rules of Civil Procedure. Before rendering a decision, the court
13 shall review the contract in camera and hear arguments from the parties. If the court
14 finds that the contract constitutes or contains competitive health care information, the
15 court may either deny disclosure or may make such other appropriate orders as are
16 permitted under Rule 26(c) of the Rules of Civil Procedure.

17 **(c)** Nothing in this section shall be deemed to prevent the Attorney General, the
18 State Auditor, or an elected public body, in closed session, which has responsibility for
19 the area authority, from having access to this confidential information. The disclosure to
20 any public entity does not affect the confidentiality of the information. Members of the
21 public entity shall have a duty not to further disclose the confidential information."

22 **SECTION 11.(a)** G.S. 126-5(a) reads as rewritten:

23 "**§ 126-5. Employees subject to Chapter; exemptions.**

24 **(a)** The provisions of this Chapter shall apply to:

- 25 (1) All State employees not herein exempt, and
26 (2) All employees of the following local entities:
27 a. Area mental health, developmental disabilities, and substance
28 abuse ~~authorities~~ authorities except as otherwise provided in
29 Chapter 122C.
30 b. Local social services departments.
31 c. County health departments and district health departments.
32 d. Local emergency management agencies that receive federal
33 grant-in-aid funds.

34 An employee of a consolidated county human services agency created
35 pursuant to G.S. 153A-77(b) is not considered an employee of an
36 entity listed in this subdivision.

- 37 (3) County employees not included under subdivision (2) of this
38 subsection as the several boards of county commissioners may from
39 time to time determine.

40 **SECTION 11.(b)** G.S.122C-154 reads as rewritten:

41 "**§ 122C-154. Personnel.**

42 Employees under the direct supervision of the area director are employees of the
43 area authority. For the purpose of personnel administration, Chapter 126 of the General
44 Statutes applies unless otherwise provided in this Article. Employees appointed by the
45 county program director are employees of the county. In a multicounty program,
46 employment of county program staff shall be as agreed upon in the interlocal agreement

1 adopted pursuant to G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of
2 an area authority may be paid a salary that is in excess of the salary ranges established
3 by the State Personnel Commission. Any salary that is higher than the maximum of the
4 applicable salary range shall be supported by documentation of comparable salaries in
5 comparable operations within the region and shall also include the specific amount the
6 board proposes to pay the employee. The area board shall authorize any salary
7 adjustment that is above the normal allowable salary range without obtaining prior
8 approval from the Secretary."

9 **SECTION 11.(c)** G.S. 122C-121(a1) reads as rewritten:

10 "(a1) The area board shall establish the area director's salary under Article 3 of
11 Chapter 126 of the General Statutes. ~~An area board may request an adjustment to the~~
12 ~~salary ranges under G.S. 126-9(b). The request shall include specific information~~
13 ~~supporting the need for the adjustment, including comparative salary and patient~~
14 ~~caseload data for other LMEs, and shall also include the specific amount the area board~~
15 ~~proposes to pay the director. The area board shall not request a salary adjustment that is~~
16 ~~more than ten percent (10%) above the normal allowable salary range as determined by~~
17 ~~the State Personnel Commission."~~ Notwithstanding G.S. 126-9(b), an area director may
18 be paid a salary that is in excess of the salary ranges established by the State Personnel
19 Commission. Any salary that is higher than the maximum of the applicable salary range
20 shall be supported by documentation of comparable salaries in comparable operations
21 within the region and shall also include the specific amount the board proposes to pay
22 the director. The area board shall authorize any salary adjustment that is above the
23 normal allowable salary range without obtaining prior approval from the Secretary."

24 **SECTION 12.(a)** G.S. 153A-76 reads as rewritten:

25 "**§ 153A-76. Board of commissioners to organize county government.**

26 The board of commissioners may create, change, abolish, and consolidate offices,
27 positions, departments, boards, commissions, and agencies of the county government,
28 may impose ex officio the duties of more than one office on a single officer, may
29 change the composition and manner of selection of boards, commissions, and agencies,
30 and may generally organize and reorganize the county government in order to promote
31 orderly and efficient administration of county affairs, subject to the following
32 limitations:

- 33 (1) The board may not abolish an office, position, department, board,
34 commission, or agency established or required by law.
- 35 (2) The board may not combine offices or confer certain duties on the
36 same officer when this action is specifically forbidden by law.
- 37 (3) The board may not discontinue or assign elsewhere a function or duty
38 assigned by law to a particular office, position, department, board,
39 commission, or agency.
- 40 (4) The board may not change the composition or manner of selection of a
41 local board of education, ~~the board of health, the board of social~~
42 ~~services, the board of elections, or the board of alcoholic beverage~~
43 ~~control.~~
- 44 (5) The board may not consolidate an area mental health, developmental
45 disabilities, and substance abuse board into a consolidated human
46 services board. The board may not abolish an area mental health,

1 developmental disabilities, and substance abuse board except as
2 provided in Chapter 122C of the General Statutes."

3 **SECTION 12.(b)** G.S. 153A-77 reads as rewritten:

4 **"§ 153A-77. Authority of boards of commissioners in certain counties over**
5 **commissions, boards, agencies, etc.**

6 (a) In the exercise of its jurisdiction over commissions, boards and agencies, the
7 board of county commissioners may assume direct control of any activities theretofore
8 conducted by or through any commission, board or agency by the adoption of a
9 resolution assuming and conferring upon the board of county commissioners all powers,
10 responsibilities and duties of any such commission, board or agency. This
11 ~~subsection~~ shall apply to the board of health, the social services board, area
12 mental health, developmental disabilities, and substance abuse area board ~~and~~ any
13 other commission, board or agency appointed by the board of county commissioners or
14 acting under and pursuant to authority of the board of county commissioners of said
15 county except as provided in G.S. 153A-76. A board of county commissioners
16 exercising the power and authority under this subsection may, notwithstanding
17 G.S. 130A-25, enforce public health rules adopted by the board through the imposition
18 of civil penalties. If a public health rule adopted by a board of county commissioners
19 imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a
20 misdemeanor shall not be applicable to that public health rule unless the rule states that
21 a violation of the rule is a misdemeanor. The board of county commissioners may
22 exercise the power and authority herein conferred only after a public hearing held by
23 said board pursuant to 30 days' notice of said public hearing given in a newspaper
24 having general circulation in said county.

25 The board of county commissioners may also appoint advisory boards, committees,
26 councils and agencies composed of qualified and interested county residents to study,
27 interpret and develop community support and cooperation in activities conducted by or
28 under the authority of the board of county commissioners of said county.

29 (b) In the exercise of its jurisdiction over commissions, boards, and agencies, the
30 board of county commissioners of a county having a county manager pursuant to
31 G.S. 153A-81 may:

- 32 (1) Consolidate ~~the provision~~ certain provisions of human services in the
33 county under the direct control of a human services director appointed
34 and supervised by the county manager in accordance with subsection
35 (e) of this section;
- 36 (2) Create a consolidated human services board having the powers
37 conferred by subsection (c) of this section;
- 38 (3) Create a consolidated county human services agency having the
39 authority to carry out the functions of any combination of
40 commissions, boards or agencies appointed by the board of county
41 commissioners or acting under and pursuant to authority of the board
42 of county commissioners including the local health department, the
43 county department of social services, and the area mental health,
44 developmental disabilities, and substance abuse services authority; and
- 45 (4) Assign other county human services functions to be performed by the
46 consolidated human services agency under the direction of the human

1 services director, with policy-making authority granted to the
2 consolidated human services board as determined by the board of
3 county commissioners.

4 (c) A consolidated human services board appointed by the board of county
5 commissioners shall serve as the policy-making, rule-making, and administrative board
6 of the consolidated human services agency. The consolidated human services board
7 shall be composed of no more than 25 members. The composition of the board shall
8 reasonably reflect the population makeup of the county and shall include:

9 (1) Eight persons who are consumers of human services, public advocates,
10 or family members of clients of the consolidated human services
11 agency, including: one person with mental illness, one person with a
12 developmental disability, one person in recovery from substance
13 abuse, one family member of a person with mental illness, one family
14 member of a person with a developmental disability, one family
15 member of a person with a substance abuse problem, and two
16 consumers of other human services.

17 (1a) Notwithstanding subdivision (1) of this subsection, a consolidated
18 human service board not exercising powers and duties of an area
19 mental health, developmental disabilities, and substance abuse services
20 board shall include four persons who are consumers of human
21 services.

22 (2) Eight persons who are professionals, each with qualifications in one of
23 these categories: one psychologist, one pharmacist, one engineer, one
24 dentist, one optometrist, one veterinarian, one social worker, and one
25 registered nurse.

26 (3) Two physicians licensed to practice medicine in this State, one of
27 whom shall be a psychiatrist.

28 (4) One member of the board of county commissioners.

29 (5) Other persons, including members of the general public representing
30 various occupations.

31 The board of county commissioners may elect to appoint a member of the
32 consolidated human services board to fill concurrently more than one category of
33 membership if the member has the qualifications or attributes of more than one category
34 of membership.

35 All members of the consolidated human services board shall be residents of the
36 county. The members of the board shall serve four-year terms. No member may serve
37 more than two consecutive four-year terms. The county commissioner member shall
38 serve only as long as the member is a county commissioner.

39 The initial board shall be appointed by the board of county commissioners upon the
40 recommendation of a nominating committee comprised of members of the
41 preconsolidation board of health, social services board, and area mental health,
42 developmental disabilities, and substance abuse services board. In order to establish a
43 uniform staggered term structure for the board, a member may be appointed for less
44 than a four-year term. After the subsequent establishment of the board, its board shall be
45 appointed by the board of county commissioners from nominees presented by the
46 human services board. Vacancies shall be filled for any unexpired portion of a term.

1 A chairperson shall be elected annually by the members of the consolidated human
2 services board. A majority of the members shall constitute a quorum. A member may be
3 removed from office by the county board of commissioners for (i) commission of a
4 felony or other crime involving moral turpitude; (ii) violation of a State law governing
5 conflict of interest; (iii) violation of a written policy adopted by the county board of
6 commissioners; (iv) habitual failure to attend meetings; (v) conduct that tends to bring
7 the office into disrepute; or (vi) failure to maintain qualifications for appointment
8 required under this subsection. A board member may be removed only after the member
9 has been given written notice of the basis for removal and has had the opportunity to
10 respond.

11 A member may receive a per diem in an amount established by the county board of
12 commissioners. Reimbursement for subsistence and travel shall be in accordance with a
13 policy set by the county board of commissioners. The board shall meet at least
14 quarterly. The chairperson or three of the members may call a special meeting.

15 (d) The consolidated human services board shall have authority to:

- 16 (1) Set fees for departmental services based upon recommendations of the
17 human services director. Fees set under this subdivision are subject to
18 the same restrictions on amount and scope that would apply if the fees
19 were set by a county board of health, a county board of social services,
20 or a mental health, developmental disabilities, and substance abuse
21 area authority.
- 22 (2) Assure compliance with laws related to State and federal programs.
- 23 (3) Recommend creation of local human services programs.
- 24 (4) Adopt local health regulations and participate in enforcement appeals
25 of local regulations.
- 26 (5) Perform regulatory health functions required by State law.
- 27 (6) Act as coordinator or agent of the State to the extent required by State
28 or federal law.
- 29 (7) Plan and recommend a consolidated human services budget.
- 30 (8) Conduct audits and reviews of human services programs, including
31 quality assurance activities, as required by State and federal law or as
32 may otherwise be necessary periodically.
- 33 (9) Advise local officials through the county manager.
- 34 (10) Perform public relations and advocacy functions.
- 35 (11) Protect the public health to the extent required by law.
- 36 (12) Perform comprehensive mental health services ~~planning~~ planning if
37 the county is exercising the powers and duties of an area mental health,
38 developmental disabilities, and substance abuse services board under
39 the consolidated human services board.
- 40 (13) Develop dispute resolution procedures for human services contractors
41 and clients and public advocates, subject to applicable State and
42 federal dispute resolution procedures for human services programs,
43 when applicable.

44 Except as otherwise provided, the consolidated human services board shall have the
45 powers and duties conferred by law upon a board of health, a social services board, and
46 an area mental health, developmental disabilities, and substance abuse services board.

1 Local employees who serve as staff of a consolidated county human services agency
2 are subject to county personnel policies and ordinances only and are not subject to the
3 provisions of the State Personnel Act. Act, unless the county board of commissioners
4 elects to subject the local employees to the provisions of that Act. All consolidated
5 county human services agencies shall comply with all applicable federal laws, rules, and
6 regulations requiring the establishment of merit personnel systems.

7 (e) The human services director of a consolidated county human services agency
8 shall be appointed and dismissed by the county manager with the advice and consent of
9 the consolidated human services board. The human services director shall report directly
10 to the county manager. The human services director shall:

- 11 (1) Appoint staff of the consolidated human services agency with the
12 county manager's approval.
- 13 (2) Administer State human services programs.
- 14 (3) Administer human services programs of the local board of county
15 commissioners.
- 16 (4) Act as secretary and staff to the consolidated human services board
17 under the direction of the county manager.
- 18 (5) Plan the budget of the consolidated human services agency.
- 19 (6) Advise the board of county commissioners through the county
20 manager.
- 21 (7) Perform regulatory functions of investigation and enforcement of State
22 and local health regulations, as required by State law.
- 23 (8) Act as an agent of and liaison to the State, to the extent required by
24 law.

25 Except as otherwise provided by law, the human services director or the director's
26 designee shall have the same powers and duties as a social services director, a local
27 health director, ~~and~~ a director of an area mental health, developmental disabilities, and
28 substance abuse services authority.

29 (f) ~~This section applies to counties with a population in excess of 425,000."~~

30 **SECTION 13.(a)** G.S. 122C-122 is repealed.

31 **SECTION 13.(b)** G.S. 35A-1202(4) reads as rewritten:

32 **"§ 35A-1202. Definitions.**

33 When used in the Subchapter, unless a contrary intent is indicated or the context
34 requires otherwise:

35 ...

36 (4) "Disinterested public agent" ~~means:~~ means

37 a. ~~The~~ the director or assistant directors of a local human services
38 agency, ~~or county department of social services.~~

39 b. ~~An adult officer, agent, or employee of a State human services~~
40 ~~agency. The~~ Except as provided in G.S. 35A-1213(f), the fact
41 ~~that a disinterested public agent is employed by a State or local~~
42 ~~human services agency that provides financial assistance,~~
43 ~~services, or treatment to a ward does not disqualify that person~~
44 ~~from being appointed as guardian.~~

45"

46 **SECTION 13.(c)** G.S. 35A-1213 reads as rewritten:

1 **"§ 35A-1213. Qualifications of guardians.**

2 (a) The clerk may appoint as guardian an adult individual, a corporation, or a
3 disinterested public agent. The applicant may submit to the clerk the name or names of
4 potential guardians, and the clerk may consider the recommendations of the next of kin
5 or other persons.

6 (b) A nonresident of the State of North Carolina, to be appointed as general
7 guardian, guardian of the person, or guardian of the estate of a North Carolina resident,
8 must indicate in writing his willingness to submit to the jurisdiction of the North
9 Carolina courts in matters relating to the guardianship and must appoint a resident agent
10 to accept service of process for the guardian in all actions or proceedings with respect to
11 the guardianship. Such appointment must be approved by and filed with the clerk, and
12 any agent so appointed must notify the clerk of any change in the agent's address or
13 legal residence. The clerk shall require a nonresident guardian of the estate or a
14 nonresident general guardian to post a bond or other security for the faithful
15 performance of the guardian's duties. The clerk may require a nonresident guardian of
16 the person to post a bond or other security for the faithful performance of the guardian's
17 duties.

18 (c) A corporation may be appointed as guardian only if it is authorized by its
19 charter to serve as a guardian or in similar fiduciary capacities. A corporation shall meet
20 the requirements outlined in Chapters 55 and 55D of the General Statutes. A corporation
21 will provide a written copy of its charter to the clerk of superior court. A corporation
22 contracting with a public agency to serve as guardian is required to attend guardianship
23 training and provide verification of attendance to the contracting agency.

24 (d) A disinterested public agent who is appointed by the clerk to serve as
25 guardian is authorized and required to do so; provided, if at the time of the appointment
26 or any time subsequent thereto the disinterested public agent believes that his role or the
27 role of his agency in relation to the ward is such that his service as guardian would
28 constitute a conflict of interest, or if he knows of any other reason that his service as
29 guardian may not be in the ward's best interest, he shall bring such matter to the
30 attention of the clerk and seek the appointment of a different guardian. A disinterested
31 public agent who is appointed as guardian shall serve in that capacity by virtue of his
32 office or employment, which shall be identified in the clerk's order and in the letters of
33 appointment. When the disinterested public agent's office or employment terminates, his
34 successor in office or employment, or his immediate supervisor if there is no successor,
35 shall succeed him as guardian without further proceedings unless the clerk orders
36 otherwise.

37 (e) Notwithstanding any other provision of this section, an employee of a
38 treatment facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a
39 ward who is an inpatient in or resident of the facility in which the employee works;
40 provided, this subsection shall not apply to or affect the validity of any appointment of a
41 guardian that occurred before October 1, 1987.

42 (f) An individual that contracts with a local management entity (LME) for the
43 delivery of mental health, developmental disabilities, and substance abuse services may
44 not serve as a guardian for a ward for whom the individual is providing such services."

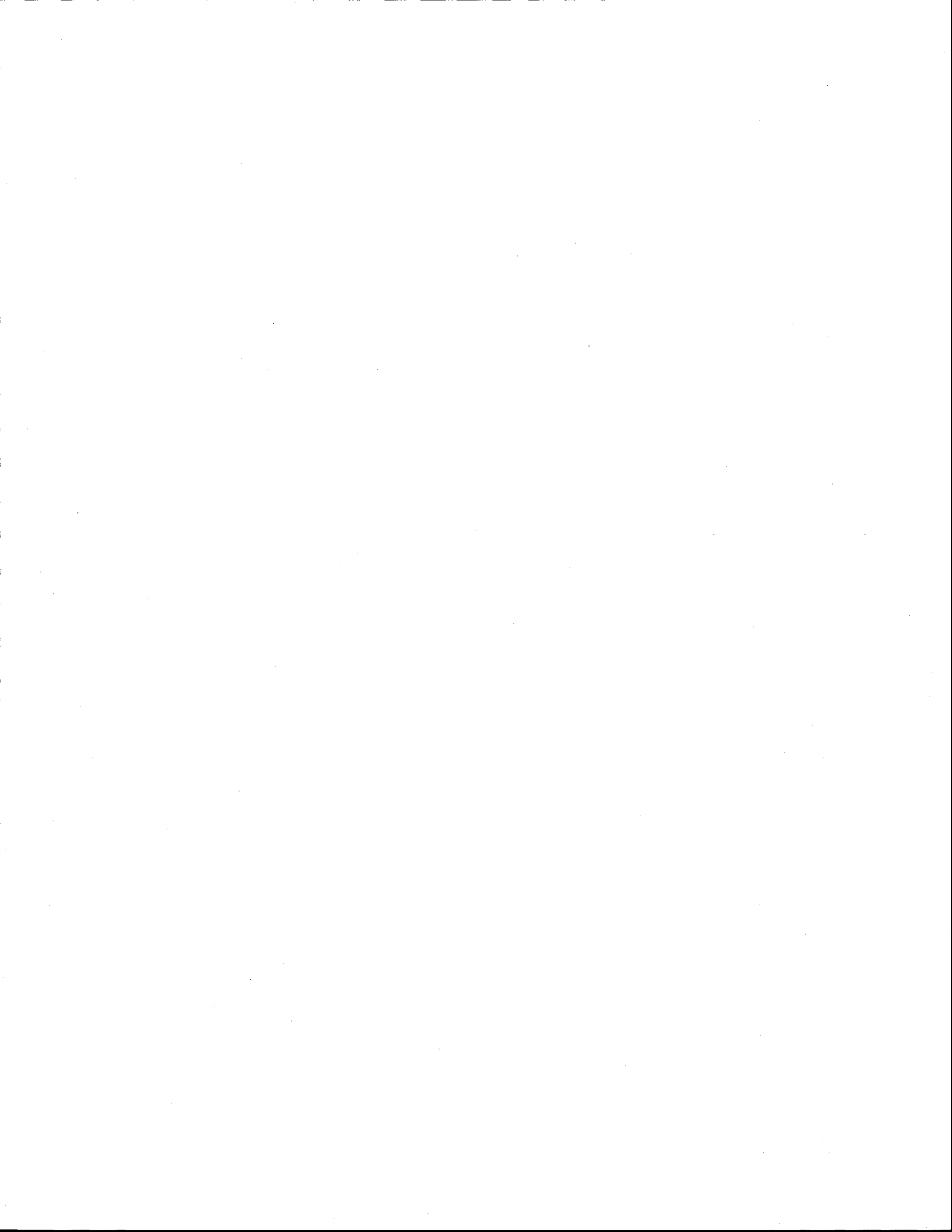
45 **SECTION 13.(d) G.S. 35A-1292(a) reads as rewritten:**

46 **"§ 35A-1292. Resignation.**

1 (a) Any guardian who wishes to resign ~~may apply in writing to the clerk, shall file~~
2 a motion with the clerk, setting forth the circumstances of the case. If a general guardian
3 or guardian of the estate, at the time of making the application, also exhibits his final
4 account for settlement, and if the clerk is satisfied that the guardian has fully accounted,
5 the clerk may accept the resignation of the guardian and discharge him and appoint a
6 successor ~~guardian, but the guardian.~~ The guardian so discharged and his sureties are
7 still liable in relation to all matters connected with the guardianship before the
8 discharge. discharge and shall continue to ensure that the ward's needs are met until the
9 clerk officially appoints a successor. The guardian shall attend the hearing to modify the
10 guardianship, if physically able."

11 **SECTION 13.(e)** In order to achieve continuity of care and services, any
12 successor guardian shall make diligent efforts to continue existing contracts entered into
13 under the authority of G.S. 122C-122 where consistent with the best interest of the ward
14 as required by Chapter 35A of the General Statutes.

15 **SECTION 14.** This act is effective when it becomes law.
16



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H/S

D

BILL DRAFT 2011-SQz-31* [v.3] (04/29)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

5/14/2012 9:50:25 AM

Short Title: Provisional Licensure Changes Medicaid .-AB

(Public)

Sponsors: Representative Unknown./Senator Unknown.

Referred to:

A BILL TO BE ENTITLED

AN ACT RELATING TO CHANGES TO LICENSED CLINICAL SOCIAL WORKERS, CLINICAL ADDICTION SPECIALIST AND PSYCHOLOGIST AS RECOMMENDED BY THE JOINT OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.5(d) is rewritten to read:

"§ 90-270.5. Application; examination; supervision; provisional and temporary licenses.

(d) For permanent licensure as a licensed psychologist, an otherwise qualified psychologist must secure two years of acceptable and appropriate supervised experience germane to his or her training and intended area of practice as a psychologist. The Board shall permit such supervised experience to be acquired on a less than full-time basis, and shall additionally specify in its rules the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. Supervision of health services must be received from qualified licensed psychologists holding health services provider certificates, or from other psychologists recognized by the Board in accordance with Board rules.

(1) One of these years of experience shall be postdoctoral, and for this year, the Board may require, as specified in its rules, that the supervised experience be comparable to the knowledge and skills acquired during formal doctoral or postdoctoral education, in accordance with established professional standards.

(2) One of these years may be predoctoral and the Board shall establish rules governing appropriate supervised predoctoral experience.

(3) A psychologist who meets all other requirements of G.S. 90-270.11(a) as a licensed psychologist, except the two years of supervised experience, may be issued a provisional license as a psychologist, or a license as a psychological associate, without having received a

1 master's degree or specialist degree in psychology, by the Board for
2 the practice of psychology. ~~If the psychologist terminates the~~
3 ~~supervised experience before the completion of two years, the Board~~
4 ~~may place the psychologist on inactive status, during which time~~
5 ~~supervision will not be required, and the practice of psychology or the~~
6 ~~offer to practice psychology is prohibited. In the event a licensed~~
7 ~~psychologist issued a provisional license under this subsection is~~
8 ~~placed on inactive status or is completing the supervised experience on~~
9 ~~a part-time basis, the Board may renew the provisional license as~~
10 ~~necessary until such time as the psychologist has completed the~~
11 ~~equivalent of two years' supervised experience.~~

12 **SECTION 2.** G.S. 90B-3 reads as rewritten:

13 **"§ 90B-3. Definitions.**

14 The following definitions apply in this Chapter:

15 ...

16 (7a) ~~Provisional Licensed Clinical Social Worker.~~ Licensed Clinical Social
17 Worker Associate. – A person issued a ~~provisional~~ an associate license
18 to provide clinical social work services pursuant to G.S. 90B-7(f).

19 (8) Social Worker. – A person certified, licensed, or ~~provisionally~~ associate
20 licensed by this Chapter or otherwise exempt under G.S. 90B-10."

21 **SECTION 3.** G.S. 90B-7(f) reads as rewritten:

22 " (f) The Board may issue a ~~provisional~~ associate license in clinical social work to
23 a person who has a masters or doctoral degree in a social work program from a college
24 or university having a social work program approved by the Council on Social Work
25 Education and desires to be licensed as a clinical social worker. The
26 ~~provisional~~ associate license may not be issued for a period exceeding two years and the
27 person issued the ~~provisional~~ associate license must practice under the supervision of a
28 licensed clinical social worker or a Board-approved alternate. Notwithstanding
29 G.S. 90B-6(g), a ~~provisional~~ associate licensee shall pass the qualifying clinical
30 examination prescribed by the Board within two years to be eligible for renewal of the
31 ~~provisional~~ associate license. The ~~provisional~~ associate licensee shall complete all
32 requirements for ~~full~~ licensure within three renewal cycles, or a total of six years, unless
33 otherwise directed by the Board."

34 **SECTION 4.** G.S. 90B-16(a) reads as rewritten:

35 **"§ 90B-16. Title protection.**

36 (a) Except as provided in G.S. 90B-10, an individual who (i) is not certified,
37 licensed, or ~~provisionally~~ associate licensed by this Chapter as a social worker, (ii) does
38 not hold a bachelor's or master's degree in social work from a college or university
39 having a social work program accredited or admitted to candidacy for accreditation by
40 the Council of Social Work Education, or (iii) has not received a doctorate in social
41 work shall not use the title "Social Worker" or any variation of the title."

42 **SECTION 5.** G.S. 90-113.31A reads as rewritten:

43 **"§ 90-113.31A. Definitions.**

44 The following definitions shall apply in this Article:

45 ...

1 (22a) ~~Provisional licensed clinical addictions specialist.~~Licensed Clinical
2 Addictions Specialist Associate. – A registrant who successfully
3 completes 300 hours of Board-approved supervised practical training
4 in pursuit of licensure as a clinical addictions specialist....

5 (26) Substance abuse professional. – A registrant, certified substance abuse
6 counselor, substance abuse counselor intern, certified substance abuse
7 prevention consultant, certified clinical supervisor, ~~provisional~~
8 ~~licensed clinical addictions specialist,~~licensed clinical addictions
9 specialist associate, licensed clinical addictions specialist, certified
10 substance abuse residential facility director, clinical supervisor intern,
11 or certified criminal justice addictions professional."

12 **SECTION 6.** G.S. 90-113.42(d) reads as rewritten:

13 " (d) Only individuals registered, certified, or licensed under this Article may use
14 the title "Certified Substance Abuse Counselor", "Certified Substance Abuse Prevention
15 Consultant", "Certified Clinical Supervisor", "~~Licensed Clinical Addictions~~
16 ~~Specialist~~","Licensed Clinical Addictions Specialist Associate", "Certified Substance
17 Abuse Residential Facility Director", "Certified Criminal Justice Addictions
18 Professional", "Substance Abuse Counselor Intern", "Provisional Licensed Clinical
19 Addictions Specialist", "Clinical Supervisor Intern", or "Registrant"."

20 **SECTION 7.** G.S. 90-113.43 reads as rewritten:

21 **"§ 90-113.43. Illegal practice; misdemeanor penalty.**

22 (a) Except as otherwise authorized in this Article, no person shall:

23 (1) Offer substance abuse professional services, practice, attempt to
24 practice, or supervise while holding himself or herself out to be a
25 certified substance abuse counselor, certified substance abuse
26 prevention consultant, certified clinical supervisor, licensed clinical
27 addictions specialist, ~~provisional licensed clinical addictions specialist,~~
28 licensed clinical addictions specialist associate, certified substance
29 abuse residential facility director, certified criminal justice addictions
30 professional, clinical supervisor intern, substance abuse counselor
31 intern, or registrant without first having obtained a notification of
32 registration, certification, or licensure from the Board.

33 (2) Use in connection with any name any letters, words, numerical codes,
34 or insignia indicating or implying that this person is a registrant,
35 certified substance abuse counselor, certified substance abuse
36 prevention consultant, certified clinical supervisor, licensed clinical
37 addictions specialist, certified substance abuse residential facility
38 director, substance abuse counselor intern, certified criminal justice
39 addictions professional, or ~~provisional licensed clinical addictions~~
40 ~~specialist,~~licensed clinical addictions specialist associate, unless this
41 person is registered, certified, or licensed pursuant to this Article.

42 (3) Practice or attempt to practice as a certified substance abuse counselor,
43 certified substance abuse prevention consultant, certified clinical
44 supervisor, licensed clinical addictions specialist, certified criminal
45 justice addictions professional, substance abuse counselor intern,
46 ~~provisional licensed clinical addictions specialist,~~licensed clinical

1 addictions specialist associate, clinical supervisor intern, certified
2 substance abuse residential facility director or registrant with a
3 revoked, lapsed, or suspended certification or license.

4 (4) Aid, abet, or assist any person to practice as a certified substance abuse
5 counselor, certified substance abuse prevention consultant, certified
6 criminal justice addictions professional, certified clinical supervisor,
7 licensed clinical addictions specialist, certified substance abuse
8 residential facility director, registrant, substance abuse counselor
9 intern, ~~provisional licensed clinical addictions specialist, licensed~~
10 clinical addictions specialist associate, or clinical supervisor intern in
11 violation of this Article.

12 (5) Knowingly serve in a position required by State law or rule or federal
13 law or regulation to be filled by a registrant, certified substance abuse
14 counselor, certified substance abuse prevention consultant, certified
15 criminal justice addictions professional, certified clinical supervisor,
16 licensed clinical addictions specialist, certified substance abuse
17 residential facility director, substance abuse counselor intern,
18 ~~provisional licensed clinical addictions specialist, licensed clinical~~
19 addictions specialist associate, or clinical supervisor intern unless that
20 person is registered, certified, or licensed under this Article.

21 (6) Repealed by S.L. 1997-492, s. 13.

22 (7) Repealed by Session Laws 2008-130, s. 6, effective July 28, 2008.

23 (b) A person who engages in any of the illegal practices enumerated by this
24 section is guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a
25 distinct and separate offense."

26 **SECTION 8.** Section 10.31(d)(1)(n) of Session Law 2011-145 reads as
27 rewritten:

28 "n. Mental health services. – Coverage is limited to children eligible
29 for EPSDT services provided by:

- 30 1. Licensed or certified psychologists, licensed clinical social
31 workers, licensed clinical social workers associates, certified
32 clinical nurse specialists in psychiatric mental health
33 advanced practice, nurse practitioners certified as clinical
34 nurse specialists in psychiatric mental health advanced
35 practice, licensed psychological associates, licensed
36 professional counselors, licensed professional counselor
37 associates, licensed marriage and family therapists, licensed
38 marriage and family therapist associates, licensed clinical
39 addictions specialists, licensed clinical addiction specialists
40 associate, and certified clinical supervisors, when
41 Medicaid-eligible children are referred by the Community
42 Care of North Carolina primary care physician, a
43 Medicaid-enrolled psychiatrist, or the area mental health
44 program or local management entity, and
- 45 2. Institutional providers of residential services as defined by the
46 Division of Mental Health, Developmental Disabilities, and
47 Substance Abuse Services and approved by the Centers for
48 Medicare and Medicaid Services (CMS) for children and

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Psychiatric Residential Treatment Facility services that meet
federal and State requirements as defined by the Department."
SECTION 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H/S

D

BILL DRAFT 2011-SQz-34* [v.3] (05/10)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/14/2012 10:24:59 AM

Short Title: Eliminate LME provider endorsement.-AB (Public)

Sponsors: Representative Unknown./Senator Unknown.

Referred to:

A BILL TO BE ENTITLED

AN ACT RELATING TO PROVIDER ENDORSEMENT FUNCTIONS OF LOCAL
MANAGEMENT ENTITIES AS RECOMMENDED BY THE JOINT
LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN
SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-114 reads as rewritten:

"§ 122C-114. Powers and duties of the Commission.

(a) The Commission shall have authority as provided by this Chapter, Chapters
90 and 148 of the General Statutes, and by G.S. 143B-147.

(b) The Commission shall adopt rules regarding all of the following:

- (1) The development of a process for screening, triage, and referral, including a uniform portal process, for implementation by the Secretary as required under G.S. 122C-112.1(14).
- (2) LME monitoring and endorsement of providers of mental health, developmental disabilities, and substance abuse services.
- (3) LME provision of technical assistance to providers of mental health, developmental disabilities, and substance abuse services.
- (4) The requirements of a qualified public or private provider as that term is used in G.S. 122C-141. In adopting rules under this subsection, the Commission shall take into account the need to ensure fair competition among providers."

SECTION 2. 122C-115.4(b)(2) reads as rewritten:

"(2) Provider endorsement, monitoring, technical assistance, capacity development, and quality control. ~~An LME may remove a provider's endorsement if a provider fails to do any of the following:~~

- a. ~~Meet defined quality criteria.~~
- b. ~~Adequately document the provision of services.~~
- c. ~~Provide required staff training.~~
- d. ~~Provide required data to the LME.~~

1 e. ~~Allow the LME access in accordance with rules established under~~
2 ~~G.S. 143B-139.1.~~

3 f. ~~Allow the LME access in the event of an emergency or in response to~~
4 ~~a complaint related to the health or safety of a client.~~

5 If at anytime the LME has reasonable cause to believe a violation of
6 licensure rules has occurred, the LME shall make a referral to the
7 Division of Health Service Regulation. If at anytime the LME has
8 reasonable cause to believe the abuse, neglect, or exploitation of a
9 client has occurred, the LME shall make a referral to the local
10 Department of Social Services, Child Protective Services Program, or
11 Adult Protective Services Program."

12 **SECTION 3.** G.S. 122C-151.4(a) reads as rewritten:

13 **"§ 122C-151.4. Appeal to State MH/DD/SA Appeals Panel.**

14 (a) Definitions. – The following definitions apply in this section:

15 (1) "Appeals Panel" means the State MH/DD/SA Appeals Panel
16 established under this section.

17 (1a) "Client" means an individual who is admitted to or receiving public
18 services from an area facility. "Client" includes the client's personal
19 representative or designee.

20 (1b) "Contract" means a contract with an area authority or county program
21 to provide services, other than personal services, to clients and other
22 recipients of services.

23 (2) "Contractor" means a person who has a contract or who had a contract
24 during the current fiscal year, ~~or whose application for endorsement~~
25 ~~has been denied by an area authority or county program year.~~

26 (3) "Former contractor" means a person who had a contract during the
27 previous fiscal year."

28 **SECTION 4.** This act is effective when it becomes law.
29

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H/S

D

BILL DRAFT 2011-SQz-33* [v.1] (05/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

5/8/2012 4:18:18 PM

Short Title: Partnership for Children Participant Records.

(Public)

Sponsors: Representative Unknown./Senator Unknown.

Referred to:

A BILL TO BE ENTITLED

AN ACT LIMIT ACCESS TO IDENTIFYING INFORMATION OF MINOR PARTICIPANTS IN PROGRAMS FUNDED BY THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN OR OTHER LOCAL PARTNERSHIPS AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.12 is rewritten to read:

"§ 132-1.12. Limited access to identifying information of minors participating in local government parks and recreation ~~programs~~ programs and programs funded by the North Carolina Partnership for Children, Inc. or a local partnership.

(a) A public record, as defined by G.S. 132-1, does not include, as to any minor participating in a park or recreation program sponsored by a local government or combination of local governments, a program funded by the North Carolina Partnership for Children, Inc. , under G.S. 143B-168.12, or a program funded by a local partnership under G.S. 143B-168.14, any of the following information as to that minor participant: (i) name, (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi) the name or address of that minor participant's parent or legal guardian, or (vii) any other identifying information on an application to participate in such program or other records related to that program.

(b) The county, municipality, and zip code of residence of each participating minor covered by subsection (a) of this section is a public record, with the information listed in subsection (a) of this section redacted.

(c) Nothing in this section makes the information listed in subsection (a) of this section confidential information.

SECTION 2. This act is effective when it becomes law.

