

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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**SENATE BILL 1610\***  
**Mental Health/Youth Services Committee Substitute Adopted 6/5/08**

Short Title: Recommendations of MH/DD/SA Oversight Comm. (Public)

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Sponsors:

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Referred to:

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May 15, 2008

A BILL TO BE ENTITLED

1  
2 AN ACT TO ENACT VARIOUS LAWS TO IMPROVE THE MENTAL HEALTH,  
3 DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES  
4 SYSTEM, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT  
5 COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES,  
6 AND SUBSTANCE ABUSE SERVICES.

7 The General Assembly of North Carolina enacts:

8       **SECTION 1.1. Expenditure of Service Dollars.** – For the purpose of  
9 mitigating cash-flow problems that many non-single-stream LMEs experience at the  
10 beginning of each fiscal year, the Department of Health and Human Services, Division  
11 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall  
12 adjust the timing and method by which allocations of service dollars are distributed to  
13 each non-single-stream LME. To this end, the allocations shall be adjusted such that at  
14 the beginning of the fiscal year, the Department shall distribute not less than one-twelfth  
15 of the LME's continuation allocation and subtract the amount of the adjusted  
16 distribution from the LME's total reimbursements for the fiscal year.

17       **SECTION 1.2.** There is appropriated from the General Fund to the  
18 Department of Health and Human Services, Division of Mental Health, Developmental  
19 Disabilities, and Substance Abuse Services, the sum of six million dollars (\$6,000,000)  
20 for the 2008-2009 fiscal year. These funds shall be used to support LMEs in  
21 establishing additional regionally purchased and locally hosted substance abuse  
22 programs. Funds appropriated shall be for the purpose of developing and enhancing the  
23 American Society of Addiction Medicine (ASAM) continuum of care at the community  
24 level. The Department of Health and Human Services shall work with LMEs in  
25 establishing these programs.

26       **SECTION 1.3.(a)** There is appropriated from the General Fund to the  
27 Department of Health and Human Services, Division of Mental Health, Developmental  
28 Disabilities, and Substance Abuse Services, the sum of six hundred seventy-five  
29 thousand dollars (\$675,000) for the 2008-2009 fiscal year. These funds shall be used to

1 contract with an outside vendor for technical assistance to LMEs that are not meeting  
2 the standards necessary for single-stream funding.

3 **SECTION 1.3.(b)** The Department shall encourage the conversion of the  
4 remaining non-single-stream LMEs to single-stream funding as soon as possible. The  
5 Department shall also develop standards for the removal of single-stream designation  
6 for those LMEs that do not continue to comply with the applicable requirements for  
7 single-stream funding.

8 **SECTION 1.4.** The Department of Health and Human Services shall  
9 simplify the current State Integrated Payment and Reporting System (IPRS) to  
10 encourage more providers to serve State-paid clients.

11 **SECTION 1.5.** The Department of Health and Human Services shall create a  
12 reporting system for both single-stream funding and non-unit-cost reimbursement  
13 funding that is readily comprehensible and integrates with payment systems.

14 **SECTION 1.6.** The Department of Health and Human Services shall  
15 determine why there have been under- and over-expenditure of State service dollars by  
16 LMEs and shall take the action necessary to address the problem. In making its  
17 determination, the Department shall consult with LMEs and providers. Not later than  
18 January 1, 2009, the Department shall report to the House of Representatives  
19 Appropriations Subcommittee on Health and Human Services, the Senate  
20 Appropriations Committee on Health and Human Services, the Fiscal Research  
21 Division, and the Joint Legislative Oversight Committee on Mental Health,  
22 Developmental Disabilities, and Substance Abuse Services on actions taken to address  
23 the problem of LME under- and over-expenditure of service dollars.

24 **SECTION 2.1.(a) State-Operated Services.** – In order to temporarily  
25 address high admissions to adult acute unit beds in the State psychiatric hospitals, the  
26 Secretary of the Department of Health and Human Services may open and operate on a  
27 temporary basis the Central Regional Hospital Wake Unit on the Dorothea Dix Campus  
28 and may maintain the Wake Unit on the Dix Campus until beds become available in the  
29 system.

30 **SECTION 2.1.(b)** G.S. 122C-181(a)(1) reads as rewritten:

31 "**§ 122C-181. Secretary's jurisdiction over State facilities.**

32 (a) Except as provided in subsection (b) of this section, the Secretary shall  
33 operate the following facilities:

34 (1) Psychiatric Hospitals:

35 a. Cherry Hospital.

36 a1. Central Regional Hospital.

37 b. Dorothea Dix Hospital.

38 c. John Umstead Hospital.

39 d. Broughton Hospital.

40 e. The Central Regional Hospital Wake Unit on the Dorothea Dix  
41 Campus."

42 This subsection expires upon the earlier of July 1, 2009, or the availability of  
43 beds at Central Regional Hospital.

1           **SECTION 2.1.(c)** There is appropriated from the General Fund to the  
2 Department of Health and Human Services the sum of five million two hundred  
3 seventy-four thousand dollars (\$5,274,000) for the 2008-2009 fiscal year. These  
4 onetime funds shall be used to support the temporary opening and operation of the  
5 Central Regional Hospital Wake Unit on the Dorothea Dix Campus.

6           **SECTION 2.2.(a)** G.S. 130A-383(a) reads as rewritten:

7 "**§ 130A-383. Medical examiner jurisdiction.**

8       (a) Upon the death of any person resulting from violence, poisoning, accident,  
9 suicide or homicide; occurring suddenly when the deceased had been in apparent good  
10 health or when unattended by a physician; occurring in a jail, prison, correctional  
11 ~~institution~~institution, State facilities operated in accordance with Part 5 of Article 4 of  
12 Chapter 122C of the General Statutes; or in police custody; occurring pursuant to  
13 Article 19 of Chapter 15 of the General Statutes; or occurring under any suspicious,  
14 unusual or unnatural circumstance, the medical examiner of the county in which the  
15 body of the deceased is found shall be notified by a physician in attendance, hospital  
16 employee, law-enforcement officer, funeral home employee, emergency medical  
17 technician, relative or by any other person having suspicion of such a death. No person  
18 shall disturb the body at the scene of such a death until authorized by the medical  
19 examiner unless in the unavailability of the medical examiner it is determined by the  
20 appropriate law enforcement agency that the presence of the body at the scene would  
21 risk the integrity of the body or provide a hazard to the safety of others. For the limited  
22 purposes of this Part, expression of opinion that death has occurred may be made by a  
23 nurse, an emergency medical technician or any other competent person in the absence of  
24 a physician."

25           **SECTION 2.2.(b)** G.S. 122C-31 is amended by adding the following new  
26 subsection to read:

27 "**§ 122C-31. Report required upon death of client.**

28 ...

29       (g) In addition to the reporting requirements specified in subsections (a) through  
30 (e) of this section, and pursuant to G.S. 130A-383, every State facility shall report the  
31 death of any client of the facility, regardless of the manner of death, to the medical  
32 examiner of the county in which the body of the deceased is found."

33           **SECTION 2.2.(c)** There is appropriated from the General Fund to the  
34 Department of Health and Human Services the sum of one hundred fifty-five thousand  
35 two hundred twenty-six dollars (\$155,226) for the 2008-2009 fiscal year. These funds  
36 shall be used for one additional public health nurse consultant position and other costs  
37 associated with the increased investigatory requirements of this section.

38           **SECTION 2.2.(d)** The Commission for Mental Health, Developmental  
39 Disabilities, and Substance Abuse Services shall study the current death reporting  
40 requirements under G.S. 122C-26(5)(c) and assess the need for any additional reporting  
41 requirements or modifications to existing rules or procedures. The Commission shall  
42 report its findings to the Joint Legislative Oversight Committee on Mental Health,  
43 Developmental Disabilities, and Substance Abuse Services not later than November 1,  
44 2008.

1           **SECTION 2.3.** There is appropriated from the General Fund to the  
2 Department of Health and Human Services, Division of Mental Health, Developmental  
3 Disabilities, and Substance Abuse Services, the sum of thirty million dollars  
4 (\$30,000,000) for the 2008-2009 fiscal year. These funds shall be used to expand the  
5 Hospital Utilization Pilot Program statewide in a manner that maintains local control of  
6 funds and bed allocations, with a goal of reducing the use of State psychiatric hospital  
7 beds for those individuals staying two weeks or less.

8           **SECTION 2.4.(a)** There is appropriated from the General Fund to the  
9 Department of Health and Human Services, Division of Mental Health, Developmental  
10 Disabilities, and Substance Abuse Services, the sum of one million one hundred  
11 thirty-four thousand one hundred sixty-eight dollars (\$1,134,168) for the 2008-2009  
12 fiscal year to implement three pilot programs of the Transitional Residential Treatment  
13 Program. One pilot program shall be located in each of the State's three State  
14 psychiatric hospital catchment areas.

15           **SECTION 2.4.(b)** The Department of Health and Human Services, Division  
16 of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall  
17 develop and implement a plan for discharge planning at the local level for all disability  
18 groups. The Department shall implement its plan as soon as possible.

19           **SECTION 2.5.(a)** There is appropriated from the General Fund to the  
20 Housing Trust Fund the sum of ten million dollars (\$10,000,000) for the 2008-2009  
21 fiscal year for the Housing 400 Initiative in order to reduce the need for State  
22 psychiatric hospitals in the long term.

23           **SECTION 2.5.(b)** There is appropriated from the General Fund to the  
24 Department of Health and Human Services, Division of Mental Health, Developmental  
25 Disabilities, and Substance Abuse Services, the sum of two million five hundred  
26 thousand dollars (\$2,500,000) for the 2008-2009 fiscal year to continue operating  
27 support for an estimated 500 units of the Housing 400 Initiative in order to reduce the  
28 need for State psychiatric hospitals in the long term. It is the intent of the General  
29 Assembly that these funds shall be appropriated on a recurring basis.

30           **SECTION 2.6.** Not later than October 1, 2008, the Department of Health  
31 and Human Services, Division of Medical Assistance, shall discontinue its policy of  
32 terminating Medicaid eligibility upon a recipient's admission to an Institution for Mental  
33 Disease (IMD) or upon a recipient's being placed in the custody of the judicial system.  
34 The Department shall substitute a policy of suspending eligibility for these individuals.  
35 The purpose of the new policy is to ensure that upon release from the hospital the  
36 eligible Medicaid recipient will have uninterrupted access to care and medications under  
37 the Medicaid program.

38           **SECTION 2.7.** The Department of Health and Human Services, Division of  
39 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall  
40 implement the tiered CAP-MR/DD waiver program in accordance with Section  
41 10.49(dd) of S.L. 2007-323. The Department shall implement the program with four  
42 tiers: (i) up to fifteen thousand dollars (\$15,000); (ii) between fifteen thousand one  
43 dollars (\$15,001) and forty-five thousand dollars (\$45,000); (iii) between forty-five  
44 thousand one dollars (\$45,001) and seventy-five thousand dollars (\$75,000); and (iv)

1 between seventy-five thousand one dollars (\$75,001) and one hundred thousand dollars  
2 (\$100,000). The Department shall review on a case-by-case basis tier funding in excess  
3 of one hundred thousand dollars (\$100,000) and may authorize the excess amount based  
4 on standards adopted by the Department.

5 **SECTION 2.8.** The North Carolina Institute of Medicine shall study and  
6 report on the transition for persons with developmental disabilities from one life setting  
7 to another, including barriers to transition and best practices in successful transitions.  
8 The IOM should conduct this study using funds appropriated for IOM studies in the  
9 2007 Session. The study should encompass at least the following topics: (i) the  
10 transition for adolescents leaving high school, including adolescents in foster care and  
11 those in other settings; (ii) the transition for persons with developmental disabilities who  
12 live with aging parents; and (iii) the transition from the developmental centers to other  
13 settings.

14 **SECTION 2.9.** The Department of Health and Human Services shall review  
15 State-County Special Assistance rates to establish an appropriate rate for special care  
16 units for persons with a mental health disability, including individuals with Traumatic  
17 Brain Injury (TBI), and shall review current rules pertaining to special care units for  
18 persons with a mental health disability to determine if additional standards are  
19 necessary. Effective July 1, 2008, care provided to individuals with Traumatic Brain  
20 Injury shall be paid at the special care unit rate paid for care of persons with a mental  
21 health disability. The Department shall report its findings and recommendations to the  
22 House of Representatives Appropriations Subcommittee on Health and Human  
23 Services, the Senate Appropriations Committee on Health and Human Services, the  
24 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities,  
25 and Substance Abuse Services, and the Fiscal Research Division not later than January  
26 1, 2009.

27 **SECTION 2.10.** The Department of Health and Human Services shall  
28 ensure that veterans and their families comprise one of the target populations for mental  
29 health, developmental disabilities, and substance abuse services in order that this  
30 population is eligible for existing funding.

31 **SECTION 3.1. Community Services.** – In order to ensure accountability for  
32 services provided and funds expended for community services, the Department of  
33 Health and Human Services, Division of Mental Health, Developmental Disabilities,  
34 and Substance Abuse Services, shall develop a tiered rate structure to replace the  
35 blended rate currently used for community support services. Under the new tiered rate  
36 structure, services that are necessary but do not require the skill, education, or  
37 knowledge of a qualified professional should not be paid at the same rate as services  
38 provided by qualified skilled professionals. The Department shall report on the  
39 development of the structure to the Joint Legislative Oversight Committee (LOC) on  
40 Mental Health, Developmental Disabilities, and Substance Abuse Services not later than  
41 October 1, 2008. The Department shall not implement the tiered rate structure until  
42 after it has consulted with the LOC.

43 **SECTION 3.2.** The Department of Health and Human Services, Division of  
44 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall

1 develop a service authorization process that separates the assessment function from the  
2 service delivery function at the LME level. In developing the process, the Department  
3 shall consider as an option separate LME assessment centers, the duties of which would  
4 include care coordination. The Department shall report on the development of the  
5 service authorization process to the Joint Legislative Oversight Committee (LOC) on  
6 Mental Health, Developmental Disabilities, and Substance Abuse Services not later than  
7 October 1, 2008. The Department shall not implement the service authorization process  
8 until after it has consulted with the LOC.

9 **SECTION 3.3.(a)** The Department of Health and Human Services shall  
10 develop a plan to return the service authorization, utilization review, and utilization  
11 management functions to LMEs for all clients. Not later than February 1, 2009, the  
12 Department shall report on the development of the plan to the House of Representatives  
13 Appropriations Subcommittee on Health and Human Services, the Senate  
14 Appropriations Committee on Health and Human Services, the Joint Legislative  
15 Oversight Committee on Mental Health, Developmental Disabilities, and Substance  
16 Abuse Services, and the Fiscal Research Division. Not later than July 1, 2009,  
17 utilization review, utilization management, and service authorization for publicly  
18 funded mental health, developmental disabilities, and substance abuse services should  
19 be returned to LMEs representing in total at least thirty percent (30%) of the State's  
20 population. The Department shall comply with the requirements of S.L. 2007-323,  
21 Section 10.49(ee). The Department shall not contract with an outside vendor for service  
22 authorization, utilization review, or utilization management functions, or otherwise  
23 obligate the State for these functions beyond September 30, 2009. The Department  
24 shall require LMEs to include in their service authorization, utilization management,  
25 and utilization review a review of assessments, as well as person-centered plans and  
26 random or triggered audits of services and assessments.

27 **SECTION 3.3.(b)** The Department shall require that the licensed  
28 professional that signs a medical order for behavioral health services must indicate on  
29 the order whether the licensed professional (i) has had direct contact with the consumer,  
30 and (ii) has reviewed the consumer's assessment. This requirement shall take effect no  
31 later than October 1, 2008.

32 **SECTION 3.4.(a)** G.S. 122C-151.4 reads as rewritten:

33 **"§ 122C-151.4. Appeal to State MH/DD/SA Appeals Panel.**

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

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

37 (1a) "Client" means an individual who is admitted to or receiving public  
38 services from an area facility. "Client" includes the client's personal  
39 representative or designee.

40 (1b) "Contract" means a contract with an area authority or county program  
41 to provide services, other than personal services, to clients and other  
42 recipients of services.

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

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

6 (b) Appeals Panel. – The State MH/DD/SA Appeals Panel is established. The  
7 Panel shall consist of three members appointed by the Secretary. The Secretary shall  
8 determine the qualifications of the Panel members. Panel members serve at the pleasure  
9 of the Secretary.

10 (c) Who Can Appeal. – The following persons may appeal to the State  
11 MH/DD/SA Appeals Panel after having exhausted the appeals process at the appropriate  
12 area authority or county program:

13 (1) A contractor or a former contractor who claims that an area authority  
14 or county program is not acting or has not acted within applicable  
15 State law or rules in denying the contractor's application for  
16 endorsement or in imposing a particular requirement on the contractor  
17 on fulfillment of the contract;

18 (2) A contractor or a former contractor who claims that a requirement of  
19 the contract substantially compromises the ability of the contractor to  
20 fulfill the contract;

21 (3) A contractor or former contractor who claims that an area authority or  
22 county program has acted arbitrarily and capriciously in reducing  
23 funding for the type of services provided or formerly provided by the  
24 contractor or former contractor;

25 (4) A client or a person who was a client in the previous fiscal year, who  
26 claims that an area authority or county program has acted arbitrarily  
27 and capriciously in reducing funding for the type of services provided  
28 or formerly provided to the client directly by the area authority or  
29 county program; and

30 (5) A person who claims that an area authority or county program did not  
31 comply with a State law or a rule adopted by the Secretary or the  
32 Commission in developing the plans and budgets of the area authority  
33 or county program and that the failure to comply has adversely  
34 affected the ability of the person to participate in the development of  
35 the plans and budgets.

36 (d) Hearing. – All members of the State MH/DD/SA Appeals Panel shall hear an  
37 appeal to the Panel. An appeal shall be filed with the Panel within the time required by  
38 the Secretary and shall be heard by the Panel within the time required by the Secretary.  
39 A hearing shall be conducted at the place determined in accordance with the rules  
40 adopted by the Secretary. A hearing before the Panel shall be informal; no sworn  
41 testimony shall be taken and the rules of evidence do not apply. The person who appeals  
42 to the Panel has the burden of proof. The Panel shall not stay a decision of an area  
43 authority during an appeal to the Panel.

1 (e) Decision. – The State MH/DD/SA Appeals Panel shall make a written  
2 decision on each appeal to the Panel within the time set by the Secretary. A decision  
3 may direct a contractor, an area authority, or a county program to take an action or to  
4 refrain from taking an action, but it shall not require a party to the appeal to pay any  
5 amount except payment due under the contract. In making a decision, the Panel shall  
6 determine the course of action that best protects or benefits the clients of the area  
7 authority or county program. If a party to an appeal fails to comply with a decision of  
8 the Panel and the Secretary determines that the failure deprives clients of the area  
9 authority or county program of a type of needed service, the Secretary may use funds  
10 previously allocated to the area authority or county program to provide the service.

11 (f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the  
12 Panel may commence a contested case under Article 3 of Chapter 150B of the General  
13 Statutes. Notwithstanding G.S. 150B-2(1a), an area authority or county program is  
14 considered an agency for purposes of the limited appeal authorized by this section. If  
15 the need to first appeal to the State MH/DD/SA Appeals Panel is waived by the  
16 Secretary, a contractor may appeal directly to the Office of Administrative Hearings  
17 after having exhausted the appeals process at the appropriate area authority or county  
18 program. The Secretary shall make a final decision in the contested case."

19 **SECTION 3.4.(b)** The Department of Health and Human Services shall  
20 adopt guidelines for LME periodic review and reendorsement of providers to ensure that  
21 only qualified providers are endorsed and that LMEs hold those providers accountable  
22 for the Medicaid and State-funded services they provide.

23 **SECTION 3.5.(a)** Effective October 1, 2008, the catch line of G.S. 108A-79  
24 reads as rewritten:

25 "**§ 108A-79. Appeals.**~~Appeals of county level decisions.~~"

26 **SECTION 3.5.(b)** Effective October 1, 2008, Article 4 of Chapter 108A of  
27 the General Statutes is amended by adding the following new section to read:

28 "**§ 108A-79.1. Appeals by Medicaid applicants and recipients.**

29 (a) An action by the Department to deny, terminate, suspend, or reduce Medicaid  
30 eligibility or to deny, terminate, suspend, or reduce Medicaid services is a "contested  
31 case" subject to the provisions of Chapter 150B of the General Statutes, except as  
32 provided by this section. At the time of providing the notice required under subsection  
33 (b) of this section, the Department shall file a petition with the Office of Administrative  
34 Hearings to determine the Medicaid applicant's or recipient's rights, duties, or  
35 privileges.

36 (b) In addition to the notice requirements of G.S. 150B-23, the Department shall  
37 provide within 30 days of its decision written notice to the aggrieved applicant or  
38 recipient, or the applicant's or recipient's legal guardian, which notice shall include:

39 (1) An explanation of the Department's decision.

40 (2) A clear and concise statement of what service is being reduced,  
41 terminated, or denied and the basis upon which the decision was made.

42 (3) A statement that the Department has filed a petition for administrative  
43 review of its decision in the Office of Administrative Hearings, and  
44 that the applicant or recipient has 30 days from the date of the



1 Department's decision to decide whether or not to proceed with the  
2 hearing.

3 (4) A clear explanation of how the hearing will proceed, what is required  
4 of the applicant in order to proceed or to decline to proceed, and that  
5 the applicant or recipient may be represented by an attorney or other  
6 person at the hearing. The notice shall further state that representation  
7 by an attorney may be available from Disability Rights of NC legal  
8 services and attorneys working with mediation centers throughout the  
9 State.

10 (5) A statement that the recipient will continue to receive Medicaid  
11 services at the level provided on the day immediately preceding the  
12 Department's decision pending a final decision.

13 (6) The telephone number of a contact person at the Department to  
14 respond in a timely fashion to applicant or recipient questions.

15 (7) A brochure supplied by the North Carolina Protection and Advocacy  
16 System that explains the rights of applicants and recipients under the  
17 State Medical Assistance Program, including the rights to appeal  
18 decisions of the Department."

19 **SECTION 3.6.** The Department of Health and Human Services, Division of  
20 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall study  
21 Medicaid waivers, including 1915(b) and (c) waivers, for all LMEs. In cases where  
22 Medicaid waivers are not appropriate for an LME, the Department shall identify and  
23 recommend strategies to increase LME flexibility to provide case management,  
24 assessment, limit provider networks, or other innovative approach for managing care.  
25 Not later than March 1, 2009, the Department shall report its findings and  
26 recommendations to the House of Representatives Appropriations Subcommittee on  
27 Health and Human Services, the Senate Appropriations Committee on Health and  
28 Human Services, the Joint Legislative Oversight Committee on Mental Health,  
29 Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research  
30 Division.

31 **SECTION 3.7.(a)** The Secretary of the Department of Health and Human  
32 Services shall develop a detailed plan for General Assembly review on its  
33 recommendation to merge, consolidate, or establish regional arrangements or consortia  
34 of LMEs. In developing the plan, the Secretary shall consult with LMEs to obtain input  
35 on the feasibility and effectiveness of potential mergers and the time frame needed to  
36 fully implement the mergers, regional arrangements, or consortia at the local level. The  
37 Secretary shall provide the plan to the House of Representatives Appropriations  
38 Subcommittee on Health and Human Services, the Senate Appropriations Committee on  
39 Health and Human Services, the Joint Legislative Oversight Committee on Mental  
40 Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal  
41 Research Division not later than March 1, 2009.

42 **SECTION 3.7.(b)** The Secretary of the Department of Health and Human  
43 Services shall not take any action prior to January 1, 2010, that would result in the  
44 merger or consolidation of LMEs operating on January 1, 2008, or that would establish

1 consortia or regional arrangements for the same purpose, except that LMEs that do not  
2 meet the catchment area requirements of G.S. 122C-115 as of January 1, 2008, may  
3 initiate, continue, or implement the LMEs' merger or consolidation plans to overcome  
4 noncompliance with G.S. 122C-115.

5           **SECTION 4. Effective date.** – This act becomes effective July 1, 2008.