

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 734
Senate Health Care Committee Substitute Adopted 6/9/21
Third Edition Engrossed 6/21/21

Short Title: Dept. of Health & Human Services Revisions.

(Public)

Sponsors:

Referred to:

May 3, 2021

1 A BILL TO BE ENTITLED
2 AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER MODIFICATIONS TO
3 LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES;
4 PROTECTING NORTH CAROLINA CITIZENS FROM THE UNLICENSED
5 OPERATION OF MENTAL HEALTH FACILITIES OR PROGRAMS PROVIDING
6 SERVICES REQUIRING A LICENSE UNDER ARTICLE 2 OF CHAPTER 122C OF THE
7 GENERAL STATUTES; AND MODIFYING THE CONSUMER AND FAMILY
8 ADVISORY COMMITTEES.

9 The General Assembly of North Carolina enacts:

10
11 **ALIGNMENT OF DEVELOPMENTAL DISABILITY DEFINITION WITH FEDERAL**
12 **LAW**

13 **SECTION 1.** G.S. 122C-3(12a) reads as rewritten:

14 "(12a) Developmental disability. – A severe, chronic disability of a person that
15 satisfies all of the following:

- 16 a. Is attributable to ~~one or more impairments~~ a mental or physical
17 impairment or combination of mental and physical impairments.
18"
19

20 **CONFORMING CHANGE TO PROCEDURE FOR APPEALING DECISIONS ON**
21 **LICENSURE WAIVER REQUESTS**

22 **SECTION 2.** G.S. 122C-23(f) reads as rewritten:

23 "(f) Upon written application and in accordance with rules of the Commission, the
24 Secretary may for good cause waive any of the rules implementing this Article, provided those
25 rules do not affect the health, safety, or welfare of the individuals within the licensable facility.
26 Decisions made pursuant to this subsection may be appealed ~~to the Commission for a hearing in~~
27 accordance with by filing a contested case under Article 3 of Chapter 150B of the General
28 Statutes."
29

30 **COPAYMENT SCHEDULE FOR BEHAVIORAL HEALTH, INTELLECTUAL AND**
31 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER SERVICES**

32 **SECTION 3.** G.S. 122C-112.1(a)(34) reads as rewritten:

33 "(34) Adopt rules for the ~~implementation of a co-payment~~ graduated a copayment
34 schedule to for behavioral health services, intellectual and developmental
35 disabilities services, and substance use disorder services based on the



1 Medicaid copayments for those services to be used by LMEs and by
 2 contractual provider agencies under G.S. 122C-146. The ~~eo-payment~~
 3 ~~graduated copayment~~ schedule shall be developed to adopted under this
 4 subdivision shall require a ~~eo-payment copayment~~ for services identified by
 5 the Secretary. Families whose family income is three hundred percent (300%)
 6 or greater of the federal poverty level are eligible for services with the
 7 applicable ~~eo-payment.copayment.~~"
 8

9 **STATE CONSUMER AND FAMILY ADVISORY COMMITTEE (CFAC)**
 10 **APPOINTMENT CHANGES**

11 **SECTION 4.(a)** G.S. 122C-171 reads as rewritten:

12 **"§ 122C-171. State Consumer and Family Advisory Committee.**

13 (a) There is established the State Consumer and Family Advisory Committee (State
 14 CFAC). The State CFAC ~~shall be~~ shall be a self-governing and self-directed organization that
 15 advises the Department and the General Assembly on the planning and management of the State's
 16 public mental health, ~~developmental disabilities, and substance abuse services system.~~ intellectual
 17 and developmental disabilities, substance use disorder, and traumatic brain injury services
 18 system.

19 (b) The State CFAC shall be composed of 21 members. The members shall be composed
 20 exclusively of adult consumers of mental health, ~~developmental disabilities, and substance abuse~~
 21 ~~services;~~ intellectual and developmental disabilities, substance use disorder, and traumatic brain
 22 injury services and family members of consumers of mental health, ~~developmental disabilities,~~
 23 ~~and substance abuse services.~~ intellectual and developmental disabilities, substance use disorder,
 24 and traumatic brain injury services. The terms of members shall be three years, and no member
 25 may serve more than two consecutive terms. Vacancies shall be filled by the appointing authority.
 26 The members shall be appointed as follows:

- 27 (1) Nine members appointed by the Secretary. The Secretary's appointments shall
 28 reflect each of the disability groups. The terms shall be staggered so that terms
 29 of three of the appointees expire each year.
- 30 (2) ~~Three~~ Four members appointed by the President Pro Tempore of the ~~Senate,~~
 31 ~~one each of whom shall come from the three State regions for institutional~~
 32 ~~services (Eastern Region, Central Region, and Western Region).~~ Senate as
 33 follows:
- 34 a. One member from the eastern region of the State.
 35 b. One member from the central region of the State.
 36 c. Two members from the western region of the State.

37 The terms of the appointees shall be staggered so that the term of one appointee
 38 expires every year.

- 39 (3) ~~Three~~ Four members appointed by the Speaker of the House of
 40 ~~Representatives, one each of whom shall come from the three State regions~~
 41 ~~for institutional services (Eastern Region, Central Region, and Western~~
 42 ~~Region).~~ Representatives as follows:
- 43 a. One member from the eastern region of the State.
 44 b. Two members from the central region of the State.
 45 c. One member from the western region of the State.

46 The terms of the appointees shall be staggered so that the term of one appointee
 47 expires every year.

- 48 (4) ~~Three by the Council of Community Programs, one each of whom shall come~~
 49 ~~from the three State regions for institutional services (Eastern Region, Central~~
 50 ~~Region, and Western Region). The terms of the appointees shall be staggered~~
 51 ~~so that the term of one appointee expires every year.~~

- 1 (5) ~~Three~~Four members appointed by the North Carolina Association of County
 2 Commissioners, ~~one each of whom shall come from the three State regions~~
 3 ~~for institutional services (Eastern Region, Central Region, and Western~~
 4 ~~Region).~~Commissioners as follows:
 5 a. Two members from the eastern region of the State.
 6 b. One member from the central region of the State.
 7 c. One member from the western region of the State.

8 The terms of the appointees shall be staggered so that the term of one appointee
 9 expires every year.

- 10 (c) The State CFAC shall undertake all of the following:
 11 (1) Review, comment on, and monitor the implementation of the State Plan for
 12 Mental Health, Developmental Disabilities, and Substance Abuse Services.
 13 (2) Identify service gaps and underserved populations.
 14 (3) Make recommendations regarding the service array and monitor the
 15 development of additional services.
 16 (4) Review and comment on the State budget for mental health, ~~developmental~~
 17 ~~disabilities, and substance abuse services.~~intellectual and developmental
 18 disabilities, substance use disorder, and traumatic brain injury services.
 19 (5) ~~Participate in all quality improvement measures and performance~~
 20 ~~indicators.~~Review and comment on contract deliverables and the process and
 21 outcomes of prepaid health plans in meeting these contract deliverables.
 22 (6) Receive the findings and recommendations by local CFACs regarding ways
 23 to improve the delivery of mental health, ~~developmental disabilities, and~~
 24 ~~substance abuse services.~~intellectual and developmental disabilities,
 25 substance use disorder, and traumatic brain injury services, including
 26 Statewide issues.
 27 (7) ~~Provide technical assistance to local CFACs in implementing their~~
 28 ~~duties.~~Develop a collaborative and working relationship with the prepaid
 29 health plan member advisory committees to obtain input related to service
 30 delivery and system change issues.

31 "

32 **SECTION 4.(b)** This section is effective when it becomes law and shall apply only
 33 to appointments to the Consumer and Family Advisory Committee made on or after that date.
 34

35 **COLLECTION OF INVOLUNTARY COMMITMENT TRANSPORTATION DATA**

36 **SECTION 5.** G.S. 122C-255 reads as rewritten:

37 "**§ 122C-255. Report required.**

38 Each 24-hour facility that (i) falls under the category of nonhospital medical detoxification,
 39 facility-based crisis service, or inpatient hospital treatment, (ii) is not a State facility under the
 40 jurisdiction of the Secretary of Health and Human Services, and (iii) is designated by the
 41 Secretary of Health and Human Services as a facility for the custody and treatment of individuals
 42 under a petition of involuntary commitment pursuant to G.S. 122C-252 and 10A NCAC
 43 26C.0101 shall submit a written report on involuntary commitments each January 1 and each
 44 July 1 to the Department of Health and Human Services, Division of Mental Health,
 45 Developmental Disabilities, and Substance Abuse Services. The report shall include all of the
 46 following:

- 47 (1) The number and primary presenting conditions of individuals receiving
 48 treatment from the facility under a petition of involuntary commitment.
 49 (1a) The transportation method utilized by individuals admitted under a petition of
 50 involuntary commitment to the 24-hour facility.

- 1 (1b) The number of individuals moved to voluntary status at any time between
- 2 arrival at the 24-hour facility and completion of the required 24-hour
- 3 examination.
- 4 (2) The number of individuals for whom an involuntary commitment proceeding
- 5 was initiated at the facility, who were referred to a different facility or
- 6 program.
- 7 (3) The reason for referring the individuals described in subdivision (2) of this
- 8 section to a different facility or program, including the need for more intensive
- 9 medical supervision."

10
11 **PERMANENT AUTHORIZATION FOR THE USE OF TELEHEALTH TO CONDUCT**
12 **REQUIRED EXAMINATIONS PRIOR TO INVOLUNTARY COMMITMENT DUE TO**
13 **MENTAL ILLNESS OR SUBSTANCE USE DISORDER**

14 **SECTION 6.(a)** G.S. 122C-263 reads as rewritten:

15 **"§ 122C-263. Duties of law enforcement officer; first examination.**

16 (a) Without unnecessary delay after assuming custody, the law enforcement officer or
17 the individual designated or required to provide transportation pursuant to G.S. 122C-251(g)
18 shall take the respondent to a facility or other location identified by the LME/MCO in the
19 community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available
20 commitment examiner and is capable of performing a first examination in conjunction with a
21 health screening at the same location, unless circumstances indicate the respondent appears to be
22 suffering a medical emergency in which case the law enforcement officer will seek immediate
23 medical assistance for the respondent. If a commitment examiner is not available, whether
24 on-site, on-call, or via ~~telemedicine~~, telehealth, at any facility or location, or if a plan has not
25 been adopted, the person designated to provide transportation shall take the respondent to an
26 alternative non-hospital provider or facility-based crisis center for a first examination in
27 conjunction with a health screening at the same location. If no non-hospital provider or
28 facility-based crisis center for a first examination in conjunction with a health screening at the
29 same location for health screening and first examination exists, the person designated to provide
30 transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute
31 care hospital, or a State facility for individuals with mental illnesses. If a commitment examiner
32 is not immediately available, the respondent may be temporarily detained in an area facility, if
33 one is available; if an area facility is not available, the respondent may be detained under
34 appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general
35 hospital, or in a State facility for individuals with mental illnesses, but not in a jail or other penal
36 facility. For the purposes of this section, "non-hospital provider" means an outpatient provider
37 that provides either behavioral health or medical services.

38 (a1) A facility or other location to which a respondent is transported under subsection (a)
39 of this section shall provide a health screening of the respondent. The health screening shall be
40 conducted by a commitment examiner or other individual who is determined by the area facility,
41 contracted facility, or other location to be qualified to perform the health screening. The
42 Department will work with commitment examiner professionals to develop a screening tool for
43 this purpose. The respondent may either be in the physical face-to-face presence of the person
44 conducting the screen or may be examined utilizing ~~telemedicine~~ telehealth equipment and
45 procedures. Documentation of the health screening required under this subsection that is
46 completed prior to transporting the patient to any general hospital, acute care hospital, or
47 designated facility shall accompany the patient or otherwise be made available at the time of
48 transportation to the receiving facility.

49 ...

50 (c) The commitment examiner described in subsection (a) of this section shall examine
51 the respondent as soon as possible, and in any event within 24 hours after the respondent is

1 presented for examination. When the examination set forth in subsection (a) of this section is
2 performed by a commitment examiner, the respondent may either be in the physical face-to-face
3 presence of the commitment examiner or may be examined utilizing ~~telemedicine-telehealth~~
4 equipment and procedures. A commitment examiner who examines a respondent by means of
5 ~~telemedicine-telehealth~~ must be satisfied to a reasonable medical certainty that the determinations
6 made in accordance with subsection (d) of this section would not be different if the examination
7 had been done in the physical presence of the commitment examiner. A commitment examiner
8 who is not so satisfied must note that the examination was not satisfactorily accomplished, and
9 the respondent must be taken for a face-to-face examination in the physical presence of a person
10 authorized to perform examinations under this section. As used in this section, "~~telemedicine~~" is
11 ~~the use of two-way real-time interactive audio and video between places of lesser and greater~~
12 ~~medical capability or expertise to provide and support health care when distance separates~~
13 ~~participants who are in different geographical locations.~~ "telehealth" means the use of two-way,
14 real-time interactive audio and video where the respondent and commitment examiner can hear
15 and see each other. A recipient is referred by one provider to receive the services of another
16 provider via ~~telemedicine-telehealth~~.

17 The examination shall include an assessment of at least all of the following with respect to
18 the respondent:

- 19 (1) Current and previous mental illness and intellectual disability including, if
20 available, previous treatment history.
- 21 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined
22 in G.S. 122C-3(11)b.
- 23 (3) Ability to survive safely without inpatient commitment, including the
24 availability of supervision from family, friends, or others.
- 25 (4) Capacity to make an informed decision concerning treatment.

26"

27 **SECTION 6.(b)** G.S. 122C-266 is amended by adding a new subsection to read:

28 "(a1) The second examination of a respondent required by subsection (a) of this section to
29 determine whether the respondent will be involuntarily committed due to mental illness may be
30 conducted either in the physical face-to-face presence of a physician or utilizing telehealth
31 equipment and procedures, provided that the physician who examines the respondent by means
32 of telehealth is satisfied to a reasonable medical certainty that the determinations made in
33 accordance with subdivisions (a)(1) through (a)(3) of this section would not be different if the
34 examination had been done in the physical presence of the examining physician. An examining
35 physician who is not so satisfied shall note that the examination was not satisfactorily
36 accomplished, and the respondent shall be taken for a face-to-face examination in the physical
37 presence of a physician. As used in this section, "telehealth" means the use of two-way, real-time
38 interactive audio and video where the respondent and commitment examiner can hear and see
39 each other."

40 **SECTION 6.(c)** G.S. 122C-283 reads as rewritten:

41 "**§ 122C-283. Duties of law enforcement officer; first examination by commitment**
42 **examiner.**

43 (a) Without unnecessary delay after assuming custody, the law enforcement officer or
44 the individual designated or required to provide transportation under G.S. 122C-251(g) shall take
45 the respondent to a facility or other location identified by the LME/MCO in the community crisis
46 services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner
47 and is capable of performing a first examination in conjunction with a health screening in the
48 same location, unless circumstances indicate the respondent appears to be suffering a medical
49 emergency in which case the law enforcement officer will seek immediate medical assistance for
50 the respondent. If a commitment examiner is not available, whether on-site, on-call, or via
51 ~~telemedicine-telehealth~~, at any facility or location, or if a plan has not been adopted, the person

1 designated to provide transportation shall take the respondent to an alternative non-hospital
2 provider or facility-based crisis center for a first examination in conjunction with a health
3 screening at the same location. If no non-hospital provider or facility-based crisis center for a
4 first examination in conjunction with a health screening at the same location, the person
5 designated to provide transportations shall take the respondent to a private hospital or clinic, a
6 general hospital, an acute care hospital, or a State facility for individuals with mental illnesses.
7 If a commitment examiner is not immediately available, the respondent may be temporarily
8 detained in an area facility if one is available; if an area facility is not available, the respondent
9 may be detained under appropriate supervision, in the respondent's home, in a private hospital or
10 a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this
11 section, "non-hospital provider" means an outpatient provider that provides either behavioral
12 health or medical services.

13 ...

14 (c) The commitment examiner described in subsection (a) of this section shall examine
15 the respondent as soon as possible, and in any event within 24 hours, after the respondent is
16 presented for examination. The examination performed by a commitment examiner pursuant to
17 subsection (a) of this section may be performed either in the physical face-to-face presence of
18 the commitment examiner or utilizing telehealth equipment and procedures. A commitment
19 examiner who examines a respondent by means of telehealth must be satisfied to a reasonable
20 medical certainty that the determinations made in accordance with subsection (d) of this section
21 would not be different if the examination had been conducted in the physical presence of the
22 commitment examiner. A commitment examiner who is not so satisfied shall note that the
23 examination was not satisfactorily accomplished, and the respondent shall be taken for a
24 face-to-face examination in the physical presence of a person authorized to perform examinations
25 under this section. As used in this section, "telehealth" is the use of two-way, real-time interactive
26 audio and video where the respondent and commitment examiner can hear and see each other. A
27 recipient is referred by one provider to receive the services of another provider via telehealth.
28 The examination shall include but is not limited to an assessment of all of the following:

- 29 (1) The respondent's current and previous substance abuse including, if available,
30 previous treatment history.
31 (2) The respondent's dangerousness to self or others as defined in
32 G.S. 122C-3(11).

33"

34 **SECTION 6.(d)** G.S. 122C-285 is amended by adding a new subsection to read:

35 "(a1) The second examination of a respondent required by subsection (a) of this section to
36 determine whether the respondent will be involuntarily committed due to substance abuse may
37 be conducted either in the physical face-to-face presence of a physician or utilizing telehealth
38 equipment and procedures, provided that the physician who examines the respondent by means
39 of telehealth is satisfied to a reasonable medical certainty that the determinations made in
40 accordance with subsection (a) of this section would not be different if the examination had been
41 done in the physical presence of the commitment examiner. An examining physician who is not
42 so satisfied shall note that the examination was not satisfactorily accomplished, and the
43 respondent shall be taken for a face-to-face examination in the physical presence of a qualified
44 professional; provided, however, that if the initial commitment examination was performed by a
45 qualified professional, then this face-to-face examination shall be in the presence of a physician.
46 As used in this section, "telehealth" means the use of two-way, real-time interactive audio and
47 video where the respondent and commitment examiner can hear and see each other."

48
49 **TECHNICAL CORRECTION TO STATUTE GOVERNING TRANSITIONAL**
50 **PERMITS FOR FOOD ESTABLISHMENTS**

51 **SECTION 7.** G.S. 130A-248 reads as rewritten:

1 **"§ 130A-248. Regulation of food and lodging establishments.**

2 ...

3 (a5) The Department of Health and Human Services may grant a variance from rules
4 adopted pursuant to this section in accordance with the United States Food and Drug
5 Administration Food Code ~~2009-2017~~ if the Department determines that the issuance of the
6 variance will not result in a health hazard or nuisance condition.

7 ...

8 (c) If ownership of an establishment is transferred or the establishment is leased, the new
9 owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a
10 transitional permit. A transitional permit may be issued upon the transfer of ownership or lease
11 of an establishment to allow the correction of construction and equipment problems that do not
12 represent an immediate threat to the public health. Upon issuance of a new permit or a transitional
13 permit for the same establishment, any previously issued permit for an establishment in that
14 location becomes void. This subsection does not prohibit issuing more than one owner or lessee
15 a permit for the same location if (i) more than one establishment is operated in the same physical
16 location and (ii) each establishment satisfies all of the rules and requirements of subsection ~~(g)~~
17 (a) of this section. For purposes of this subsection, "transitional permit" ~~shall mean means~~
18 a permit issued upon the transfer of ownership or lease of an existing food establishment to allow
19 the correction of construction and equipment problems that do not represent an immediate threat
20 to the public health.

21"

22
23 **MICHELLE'S LAW**

24 **SECTION 7.1.(a)** Article 2 of Chapter 122C of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 122C-28.1. Facilities in violation of this Article.**

27 (a) If the Department has directed a facility not licensed under this Article that is
28 providing services requiring a license under this Article to cease and desist from engaging in any
29 act or practice in violation of this Article, then the Department shall conduct a follow-up visit to
30 determine if the Secretary may issue a cease and desist order pursuant to G.S. 122C-27, unless a
31 cease and desist order has already been issued.

32 (b) The district attorney's office with jurisdiction over the facility shall collect
33 information on the total amount of fines collected pursuant to G.S. 122C-28 and report that
34 information to the Department."

35 **SECTION 7.1.(b)** G.S. 122C-23(e1) reads as rewritten:

36 "(e1) Except as provided in subsection (e2) of this section, the Secretary shall not (i) enroll
37 any as a new provider for Medicaid Home or Community Based services or other Medicaid
38 services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, in the
39 North Carolina Medicaid or North Carolina Health Choice programs, (ii) revalidate as an enrolled
40 provider in the Medicaid or NC Health Choice programs during the period of the license
41 revocation or suspension, or (iii) issue a license for a new facility or a new service to any applicant
42 meeting any of the following criteria:

43 (1) The applicant was the owner, principal, or affiliate of a licensable facility
44 under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its
45 license revoked until 60 months after the date of the revocation.

46 (2) The applicant is the owner, principal, or affiliate of a licensable facility that
47 was assessed a penalty for a Type A or Type B violation under Article 3 of
48 this Chapter, or any combination thereof, and any one of the following
49 conditions exist:

50 a. A single violation has been assessed in the six months prior to the
51 application.

- 1 b. Two violations have been assessed in the 18 months prior to the
 2 application and 18 months have not passed from the date of the most
 3 recent violation.
 4 c. Three violations have been assessed in the 36 months prior to the
 5 application and 36 months have not passed from the date of the most
 6 recent violation.
 7 d. Four or more violations have been assessed in the 60 months prior to
 8 application and 60 months have not passed from the date of the most
 9 recent violation.

10 (3) The applicant is the owner, principal, or affiliate of a licensable facility that
 11 had its license summarily suspended or downgraded to provisional status as a
 12 result of violations under G.S. 122C 24.1(a) until 60 months after the date of
 13 reinstatement or restoration of the license.

14 (4) The applicant is the owner, principal, or affiliate of a licensable facility that
 15 had its license summarily suspended or downgraded to provisional status as a
 16 result of violations under Article 1A of Chapter 131D until 60 months after
 17 the date of reinstatement or restoration of the license."

18 **SECTION 7.1.(c)** G.S. 122C-27 reads as rewritten:

19 **"§ 122C-27. Powers of the Secretary.**

20 The Secretary ~~shall~~ shall have the power to do all of the following:

- 21 (1) Administer and enforce the provisions, rules, and decisions pursuant to this
 22 ~~Article;~~ Article.
 23 (2) Appoint hearing officers to conduct appeals under this ~~Article;~~ Article.
 24 (3) Prescribe by rule the contents of the application for licensure and
 25 ~~renewal;~~ renewal.
 26 (4) Inspect facilities and records of each facility to be licensed under this Article
 27 under the rules and decisions pursuant to this ~~Article;~~ Article.
 28 (5) Issue a license upon a finding that the applicant and facility comply with the
 29 provisions of this Article and the rules of the Commission and the
 30 ~~Secretary;~~ Secretary.
 31 (6) Define by rule procedures for submission of periodic reports by facilities
 32 licensed under this ~~Article;~~ Article.
 33 (7) Grant, deny, suspend, or revoke a license under this ~~Article;~~ Article.
 34 (8) Issue orders directing facilities not licensed under this Article that are
 35 providing services requiring a license under this Article to cease and desist
 36 from engaging in any act or practice in violation of the provisions of this
 37 Article.
 38 ~~(8)(9)~~ (9) In accordance with rules of the Commission, make final agency decisions for
 39 appeals from the denial, suspension, or revocation of a license in accordance
 40 with ~~G.S. 122C-24; and~~ G.S. 122C-24.
 41 ~~(9)(10)~~ (10) In accordance with rules of the Commission, grant waiver for good cause of
 42 any rules implementing this Article that do not affect the health, safety, or
 43 welfare of individuals within a licensable facility."

44 **SECTION 7.1.(d)** This section is effective when it becomes law and shall apply to
 45 cease and desist letters sent by the Department of Health and Human Services on or after that
 46 date.

47 **SECTION 7.2.(a)** G.S. 122C-28 reads as rewritten:

48 **"§ 122C-28. Penalties.**

49 Operating a licensable facility without a license is a ~~Class 3 misdemeanor and is punishable~~
 50 ~~only by a fine not to exceed fifty dollars (\$50.00), for the first offense and a fine, not to exceed~~
 51 ~~five hundred dollars (\$500.00), for each subsequent offense. Each day's operation of a licensable~~

1 ~~facility without a license is a separate offense.~~ Class H felony, including a fine of one thousand
2 dollars (\$1,000) per day that the facility is in operation in violation of this Article."

3 **SECTION 7.2.(b)** This section becomes effective December 1, 2021, and applies to
4 offenses committed on or after that date.

5 **SECTION 7.3.(a)** G.S. 122C-22 reads as rewritten:

6 "**§ 122C-22. Exclusions from licensure; deemed status.**

7 (a) All of the following are excluded from the provisions of this Article and are not
8 required to obtain licensure under this Article:

9 (1) Physicians and psychologists engaged in private office practice.

10 (2) General hospitals licensed under Article 5 of Chapter 131E of the General
11 Statutes, that operate special units for ~~the mentally ill, developmentally~~
12 ~~disabled, or substance abusers.~~ patients with a mental health disorder
13 diagnosis, one or more developmental disabilities, or a substance use disorder.

14 ...

15 (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter
16 care and recovery from alcohol or other ~~drug addiction~~ substance use disorder
17 through a 12-step, self-help, peer role modeling, and self-governance
18 approach.

19 ...

20 (b) The Commission may adopt rules establishing a procedure whereby a ~~licensable~~
21 facility that would otherwise require licensure under this Article that is certified by a nationally
22 recognized agency, such as the Joint Commission on Accreditation of Hospitals, may be deemed
23 licensed under this Article by the Secretary. Any facility licensed under the provisions of this
24 subsection shall continue to be subject to inspection by the Secretary. The Secretary shall
25 collaborate with relevant agencies to ensure that any facilities deemed licensed under this Article
26 maintain the required certification."

27 **SECTION 7.3.(b)** The Department of Health and Human Services shall establish a
28 database or expand upon a currently existing database that makes publicly available a searchable
29 listing of all applicable facilities and programs with all of the following information:

30 (1) The facility or program name.

31 (2) The location, including street and mailing addresses, city, and county, for the
32 facility or program.

33 (3) The contact information for the owners, director, or other individual in charge
34 of the facility or program.

35 (4) The dates and types of visits conducted by the Division of Health Services
36 Regulation.

37 (5) A description of the findings, including whether a complaint was substantiated
38 or unsubstantiated, and identification of the violation cited if substantiated.

39 (6) Any action taken under G.S. 122C-28.1 by the Division of Health Services
40 Regulation.

41 **SECTION 7.3.(c)** The Department of Health and Human Services shall coordinate
42 with the Department of Insurance to establish a toll-free number or website for individuals,
43 providers, and insurers to use in verifying the licensure status of a facility providing mental
44 health, behavioral health, and substance use disorder services.

45 **SECTION 7.3.(d)** The Department of Health and Human Services, Division of
46 Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS),
47 shall collaborate with community organizations, such as the National Alliance for Mental Illness
48 (NAMI), for a public information campaign about the appropriate types of care for individuals
49 with mental health disorders that, at a minimum, includes information on the importance of
50 receiving care from a licensed facility or program with medical personnel licensed by the North
51 Carolina Medical Board.

1 **SECTION 7.3.(e)** This section becomes effective January 1, 2022.
 2 **SECTION 7.4.(a)** The title of Article 2 of Chapter 122C of the General Statutes
 3 reads as rewritten:

4 "Article 2.

5 "Licensure of Facilities for the ~~Mentally Ill, the Developmentally Disabled, Individuals With~~
 6 ~~Mental Health Disorders, Developmental Disabilities, and Substance Abusers-Use Disorders.~~"

7 **SECTION 7.4.(b)** G.S. 122C-21 reads as rewritten:

8 "**§ 122C-21. Purpose.**

9 The purpose of this Article is to provide for licensure of facilities for the ~~mentally ill,~~
 10 ~~developmentally disabled, individuals with mental health disorders, developmental disabilities,~~
 11 and substance ~~abusers-use disorders~~ by the development, establishment, and enforcement of basic
 12 rules ~~governing; governing both of the following:~~

- 13 (1) The provision of services to individuals who receive services from licensable
 14 facilities as defined by this ~~Chapter, and Chapter.~~
 15 (2) The construction, maintenance, and operation of these licensable facilities that
 16 in the light of existing knowledge will ensure safe and adequate treatment of
 17 these individuals. The Department shall ensure that licensable facilities are
 18 inspected every two years to determine compliance with physical plant and
 19 life-safety requirements."
 20

21 **REGULATION OF TEMPORARY DISPLAY SPAS**

22 **SECTION 8.(a)** G.S. 130A-280 reads as rewritten:

23 "**§ 130A-280. Scope.**

24 This Article provides for the regulation of public swimming pools in the State as they may
 25 affect the public health and safety. As used in this Article, the term "public swimming pool"
 26 means any structure, chamber, or tank containing an artificial body of water used by the public
 27 for swimming, diving, wading, recreation, or therapy, together with buildings, appurtenances,
 28 and equipment used in connection with the body of water, regardless of whether a fee is charged
 29 for its use. The term includes municipal, school, hotel, motel, apartment, boarding house, athletic
 30 club, or other membership facility pools and spas, spas operating for display at temporary events,
 31 and artificial swimming lagoons. As used in this Article, an "artificial swimming lagoon" means
 32 any body of water used for recreational purposes with more than 20,000 square feet of surface
 33 area, an artificial liner, and a method of disinfectant that results in a disinfectant residual in the
 34 swimming zone that is protective of the public health. This Article does not apply to a private
 35 pool serving a single family dwelling and used only by the residents of the dwelling and their
 36 guests. This Article also does not apply to therapeutic pools used in physical therapy programs
 37 operated by medical facilities licensed by the Department or operated by a licensed physical
 38 therapist, nor to therapeutic chambers drained, cleaned, and refilled after each individual use."

39 **SECTION 8.(b)** This section becomes effective July 1, 2022.

40 **SECTION 8.1.** G.S. 122C-170 reads as rewritten:

41 "**§ 122C-170. Local Consumer and Family Advisory Committees.**

42 (a) Area authorities ~~and county programs~~ shall establish committees made up of
 43 consumers and family members to be known as Consumer and Family Advisory Committees
 44 (CFACS). A local CFAC shall be a self-governing and a self-directed organization that advises
 45 the area authority ~~or county program~~ in its catchment area on the planning and management of
 46 the local public mental health, ~~developmental disabilities, substance abuse services and~~
 47 intellectual and developmental disabilities, substance use disorder, and traumatic brain injury
 48 services system.

49 Each CFAC shall adopt bylaws to govern the selection and appointment of its members, their
 50 terms of service, the number of members, and other procedural matters. At the request of either
 51 the CFAC or the governing board of the area ~~authority or county program,~~ authority, the CFAC

1 and the governing board shall execute an agreement that identifies the roles and responsibilities
2 of each party, channels of communication between the parties, and a process for resolving
3 disputes between the parties.

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

8 (1) Adult consumers of mental health, ~~developmental disabilities, and substance~~
9 ~~abuse services.~~intellectual and developmental disabilities, substance use
10 disorder, and traumatic brain injury services.

11 (2) Family members of consumers of mental health, ~~developmental disabilities,~~
12 ~~and substance abuse services.~~intellectual and development disabilities,
13 substance use disorder, and traumatic brain injury services.

14 (c) The CFAC shall undertake all of the following:

15 (1) Review, comment on, and monitor the implementation of the ~~local business~~
16 ~~plan.~~contract deliverables between area authorities and the Department of
17 Health and Human Services.

18 (2) Identify service gaps and underserved populations.

19 (3) Make recommendations regarding the service array and monitor the
20 development of additional services.

21 (4) Review and comment on the area authority ~~or county program~~ budget.

22 (5) ~~Participate in all quality improvement measures and performance~~
23 ~~indicators.~~Develop a collaborative and working relationship with the area
24 authorities member advisory committees to obtain input related to service
25 delivery and system change issues.

26 (6) Submit to the State Consumer and Family Advisory Committee findings and
27 recommendations regarding ways to improve the delivery of mental health,
28 ~~developmental disabilities, and substance abuse services.~~intellectual and
29 developmental disabilities, substance use disorder, and traumatic brain injury
30 services, including Statewide issues.

31 (d) The director of the area authority ~~or county program~~ shall provide sufficient staff to
32 assist the CFAC in implementing its duties under subsection (c) of this section. The assistance
33 shall include data for the identification of service gaps and underserved populations, training to
34 review and comment on ~~business plans~~ contract deliverables and budgets, procedures to allow
35 participation in quality monitoring, and technical advice on rules of procedure and applicable
36 laws."

37
38 **EFFECTIVE DATE**

39 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
40 law.