

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 537
House Committee Substitute Favorable 7/30/19
Third Edition Engrossed 8/5/19
Proposed Conference Committee Substitute S537-PCCS45371-SH-2

Short Title: Licensing & HHS Amends & Rural Health Stable.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED

1 AN ACT TO EXAMINE AND ESTABLISH A NEW ADULT CARE HOME PAYMENT
2 METHODOLOGY; TO AMEND THE LICENSED PROFESSIONAL COUNSELORS
3 ACT; TO UPDATE AND REVISE THE SUBSTANCE ABUSE PROFESSIONAL
4 PRACTICE ACT; TO AMEND THE SOCIAL WORKER CERTIFICATION AND
5 LICENSURE ACT; TO AMEND DEPARTMENT OF HEALTH AND HUMAN
6 SERVICES' STATUTES PERTAINING TO MEDICAID, SOCIAL SERVICES REFORM,
7 CHILD SUPPORT, VOCATIONAL REHABILITATION, EMPLOYEE ASSISTANCE
8 PROFESSIONALS, ADOPTIONS, CHILD ABUSE AND NEGLECT, JOINT SECURITY
9 FORCES, SECURITY RECORDINGS, NC REACH PROGRAM, TRAUMATIC BRAIN
10 INJURY, AND THE MEDICAL CARE COMMISSION MEMBERSHIP; TO POSTPONE
11 DEPLOYMENT OF NC FAST CASE-MANAGEMENT FUNCTIONALITY FOR CHILD
12 WELFARE SYSTEM/AGING AND ADULT SERVICES' PROGRAM, DEVELOP
13 REQUESTS FOR INFORMATION, AND REQUIRE PROGRAM EVALUATION
14 DIVISION TO STUDY THE ISSUE; TO IMPLEMENT CRIMINAL HISTORY RECORD
15 CHECKS FOR CHILD CARE INSTITUTIONS; TO MAKE CHANGES TO
16 INVOLUNTARY COMMITMENT; AND TO ESTABLISH THE RURAL HEALTH CARE
17 STABILIZATION PROGRAM.
18

19 The General Assembly of North Carolina enacts:
20

21 **PART I. ESTABLISH NEW ADULT CARE HOME PAYMENT METHODOLOGY**

22 **SECTION 1.(a)** It is the intent of the General Assembly to provide funding to adult
23 care homes in the State in a manner that recognizes the importance of a stable and reliable funding
24 stream to ensure access, choice, and quality of care within the adult care home segment of the
25 care continuum. In furtherance of this intent, and as the North Carolina Medicaid program
26 transitions to a managed care delivery system, the Department of Health and Human Services is
27 directed to establish and convene a workgroup to evaluate reimbursement options for services
28 provided by adult care homes that take into account all funding streams and to develop a new
29 service definition, or definitions, under Medicaid managed care for these services. The
30 workgroup shall consist of adult care home industry representatives and other relevant
31 stakeholders. In development of the new service definition, or definitions, the workgroup shall
32 include all of the following components:



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- 1 (1) Support for alternative payment models available under the State's 1115
 2 Medicaid waiver for Medicaid transformation, including pay-for-performance
 3 initiatives.
 4 (2) Best practices for long-term services and supports.
 5 (3) Efficient payment methodologies.

6 **SECTION 1.(b)** No later than December 1, 2020, the Department of Health and
 7 Human Services shall submit a report on the new service definition, or definitions, developed by
 8 the workgroup, as required in subsection (a) of this section, to the Joint Legislative Oversight
 9 Committee on Health and Human Services, the Joint Legislative Oversight Committee on
 10 Medicaid and NC Health Choice, and the Fiscal Research Division. The Department shall not
 11 submit to the Centers for Medicare and Medicaid Services any amendments to the NC Medicaid
 12 State Plan necessary to implement the new service definition without prior approval from the
 13 General Assembly.

14 **SECTION 1.(c)** If House Bill 966, 2019 Regular Session, becomes law, then Section
 15 9D.12B of that act is repealed.
 16

17 PART II-A. CHANGES TO THE LICENSED PROFESSIONAL COUNSELORS ACT

18 **SECTION 2.(a)** Article 24 of Chapter 90 of the General Statutes reads as rewritten:
 19 "Article 24.

20 "~~Licensed Professional~~ Clinical Mental Health Counselors Act.

21 "§ 90-329. Declaration of policy.

22 It is declared to be the public policy of this State that the activities of persons who render
 23 counseling services to the public be regulated to insure the protection of the public health, safety,
 24 and welfare.

25 "§ 90-330. Definitions; practice of counseling.

26 (a) Definitions. – ~~As used in this Article certain terms are defined as follows:~~ The
 27 following definitions apply in this Article:

- 28 (1) Repealed by Session Laws 1993, c. 514, s. 1.
 29 (1a) The "Board" means the Board of Licensed ~~Professional~~ Clinical Mental
 30 Health Counselors.
 31 (2) A "licensed ~~professional~~ clinical mental health counselor" is a person engaged
 32 in the practice of counseling who holds a license as a licensed ~~professional~~ clinical
 33 mental health counselor issued under the provisions of this Article.
 34 (2a) A "licensed ~~professional~~ clinical mental health counselor associate" is a
 35 person engaged in the supervised practice of counseling who holds a license
 36 as a licensed ~~professional~~ clinical mental health counselor associate issued
 37 under the provisions of this Article.
 38 (2b) A "licensed ~~professional~~ clinical mental health counselor supervisor" is a
 39 person engaged in the practice of counseling who holds a license as a licensed
 40 ~~professional~~ clinical mental health counselor and is approved by the Board to
 41 provide clinical supervision under the provisions of this Article.
 42 (3) The "practice of counseling" means holding oneself out to the public as a
 43 ~~professional~~ clinical mental health counselor offering counseling services that
 44 include, but are not limited to, the following:
 45 ...
 46 The "practice of counseling" does not include the facilitation of
 47 communication, understanding, reconciliation, and settlement of conflicts by
 48 mediators at community mediation centers authorized by G.S. 7A-38.5.
 49 (4) A "supervisor" means any licensed ~~professional~~ clinical mental health
 50 counselor supervisor or, when one is inaccessible, a licensed ~~professional~~ clinical
 51 mental health counselor or an equivalently and actively licensed

1 mental health professional, as determined by the Board, who meets the
2 qualifications established by the Board.

3 (b) Repealed by Session Laws 1993, c. 514, s. 1.

4 (c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person
5 licensed as a licensed ~~professional~~clinical mental health counselor or licensed ~~professional~~
6 clinical mental health counselor associate under the provisions of this Article shall be allowed to
7 hold himself or herself out to the public as a licensed marriage and family therapist, licensed
8 practicing psychologist, psychological associate, or licensed clinical social worker unless
9 specifically authorized by other provisions of law.

10 **"§ 90-331. Prohibitions.**

11 It shall be unlawful for any person who is not licensed under this Article to engage in the
12 practice of counseling, use the title "Licensed ~~Professional~~Clinical Mental Health Counselor
13 Associate," "Licensed ~~Professional~~Clinical Mental Health Counselor," or "Licensed
14 ~~Professional~~Clinical Mental Health Counselor Supervisor," use the letters "LPCA," "LPC," or
15 "LPCS," "LCMHCA," "LCMHC," or "LCMHCS," use any facsimile or combination of these
16 words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other
17 way that the person is a licensed ~~professional~~clinical mental health counselor.

18 **"§ 90-332. Use of title by firm.**

19 It shall be unlawful for any firm, partnership, corporation, association, or other business or
20 professional entity to assume or use the title of licensed ~~professional~~clinical mental health
21 counselor unless each of the members of the firm, partnership, or association is licensed by the
22 Board.

23 **"§ 90-332.1. Exemptions from licensure.**

24 ...

25 (b) Persons who claim to be exempt under subsection (a) of this section are prohibited
26 from advertising or offering themselves as "licensed ~~professional~~clinical mental health
27 counselors".

28 ...

29 **"§ 90-333. North Carolina Board of Licensed ~~Professional~~Clinical Mental Health
30 Counselors; appointments; terms; composition.**

31 (a) For the purpose of carrying out the provisions of this Article, there is hereby created
32 the North Carolina Board of Licensed ~~Professional~~Clinical Mental Health Counselors which
33 shall consist of seven members appointed by the Governor in the manner hereinafter prescribed.
34 Any State or nationally recognized professional association representing ~~professional~~clinical
35 mental health counselors may submit recommendations to the Governor for Board membership.
36 The Governor may remove any member of the Board for neglect of duty or malfeasance or
37 conviction of a felony or other crime of moral turpitude, but for no other reason.

38 (b) At least five members of the Board shall be licensed ~~professional~~clinical mental
39 health counselors except that initial appointees shall be persons who meet the educational and
40 experience requirements for licensure as licensed ~~professional~~clinical mental health counselors
41 under the provisions of this Article; and two members shall be public-at-large members appointed
42 from the general public. Composition of the Board as to the race and sex of its members shall
43 reflect the population of the State and each member shall reside in a different congressional
44 district.

45 (c) At all times the Board shall include at least one counselor primarily engaged in
46 counselor education, at least one counselor primarily engaged in the public sector, at least one
47 counselor primarily engaged in the private sector, and two licensed ~~professional~~clinical mental
48 health counselors at large.

49 ...

50 **"§ 90-334. Functions and duties of the Board.**

51 (a) The Board shall administer and enforce the provisions of this Article.

1 ...
2 (i) The Board shall establish the criteria for determining the qualifications constituting
3 "supervised ~~professional-clinical mental health~~ practice".

4 (j) The Board may examine, approve, issue, deny, revoke, suspend, and renew the
5 licenses of counselor applicants and licensees under this Article, and conduct hearings in
6 connection with these actions.

7 (k) The Board shall investigate, subpoena individuals and records, and take necessary
8 appropriate action to properly discipline persons licensed under this Article and to enforce this
9 Article.

10 (L) The Board shall establish a program for licensees who may be experiencing substance
11 use disorders, burnout, compassion fatigue, and other mental health concerns. In establishing this
12 program, the Board is authorized to enter into agreements with existing professional health care
13 programs. The Board is also authorized to refer any licensee to this program as part of the
14 disciplinary process. The Board may adopt rules implementing this program.

15 **"§ 90-335. Board general provisions.**

16 The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

17 **"§ 90-336. Title and qualifications for licensure.**

18 (a) Each person desiring to be a licensed ~~professional-clinical mental health~~ counselor
19 associate, licensed ~~professional-clinical mental health~~ counselor, or licensed ~~professional-clinical~~
20 mental health counselor supervisor shall make application to the Board upon such forms and in
21 such manner as the Board shall prescribe, together with the required application fee.

22 (b) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
23 counselor associate" to an applicant who applies on or before March 1, 2016, and meets all of
24 the following criteria:

25 ...
26 (b1) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
27 counselor associate" to an applicant who applies after March 1, 2016, through June 30, 2022, and
28 meets all of the following criteria:

29 ...
30 (b2) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
31 counselor associate" to an applicant who applies on or after July 1, 2022, and meets all of the
32 following criteria:

33 ...
34 (c) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
35 counselor" to an applicant who meets all of the following criteria:

36 (1) Has met all of the requirements under subsection (b), (b1), or (b2) of this
37 section, as applicable.

38 (2) Has completed a minimum of 3,000 hours of supervised ~~professional-clinical~~
39 mental health practice as determined by the Board.

40 (d) A licensed ~~professional-clinical mental health~~ counselor may apply to the Board for
41 recognition as a "licensed ~~professional-clinical mental health~~ counselor supervisor" and receive
42 the credential "licensed ~~professional-clinical mental health~~ counselor supervisor" upon meeting
43 all of the following criteria:

44 (1) Has met all of the requirements (1) under subsection (c) of this section.

45 (2) Has one of the following:

46 a. At least five years of full-time licensed ~~professional-clinical mental~~
47 health counseling experience, including a minimum of 2,500 hours of
48 direct client contact;

49 b. At least eight years of part-time licensed ~~professional-clinical mental~~
50 health counseling experience, including a minimum of 2,500 hours of
51 direct client contact; or

1 c. A combination of full-time and part-time ~~professional-clinical mental~~
2 health counseling experience, including a minimum of 2,500 hours of
3 direct client contact as determined by the Board.

4 (3) Has completed minimum education requirements in clinical supervision as
5 approved by the Board.

6 (4) Has an active license in good standing as a licensed ~~professional-clinical~~
7 mental health counselor approved by the Board.

8 **"§ 90-337. Persons credentialed in other states.**

9 (a) The Board may license any person who is currently licensed, certified, or registered
10 by another state if the individual has met requirements determined by the Board to be
11 substantially similar to or exceeding those established under this Article.

12 (b) The Board may enter into reciprocity agreements with another state.

13 ~~**"§ 90-338. Exemptions.**~~

14 ~~Applicants holding certificates of registration as Registered Practicing Counselors and in~~
15 ~~good standing with the Board shall be issued licenses as licensed professional counselors without~~
16 ~~meeting the requirements of G.S. 90-336(c). The following applicants shall be exempt from the~~
17 ~~academic qualifications required by this Article for licensed professional counselor associates or~~
18 ~~licensed professional counselors and shall be licensed upon passing the Board examination and~~
19 ~~meeting the experience requirements:~~

20 (1) ~~An applicant who was engaged in the practice of counseling before July 1,~~
21 ~~1993, and who applied to the Board prior to January 1, 1996.~~

22 (2) ~~An applicant who holds a masters degree from a college or university~~
23 ~~accredited by one of the regional accrediting associations or from a college or~~
24 ~~university determined by the Board to have standards substantially equivalent~~
25 ~~to a regionally accredited institution, provided the applicant was enrolled in~~
26 ~~the masters program prior to July 1, 1994.~~

27 ...

28 **"§ 90-340. Protection of the public.**

29 (a) The Board may, in accordance with the provisions of Chapter 150B of the General
30 Statutes, deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or
31 require examination, remediation, or rehabilitation of any person licensed under this Article on
32 one or more of the following grounds:

33 (1) Has been convicted of a felony or entered a plea of guilty or nolo contendere
34 to any felony charge under the laws of the United States or of any state of the
35 United States.

36 (2) Has been convicted of or entered a plea of guilty or nolo contendere to any
37 misdemeanor involving moral turpitude, misrepresentation, or fraud in
38 dealing with the public, or conduct otherwise relevant to fitness to practice
39 ~~professional-clinical mental health~~ counseling, or a misdemeanor charge
40 reflecting the inability to practice ~~professional-clinical mental health~~
41 counseling with due regard to the health and safety of clients or patients.

42 (3) Has engaged in fraud or deceit in securing or attempting to secure or renew a
43 license under this Article or has willfully concealed from the Board material
44 information in connection with application for a license or renewal of a license
45 under this Article.

46 (4) Has practiced any fraud, deceit, or misrepresentation upon the public, the
47 Board, or any individual in connection with the practice of ~~professional~~
48 clinical mental health counseling, the offer of ~~professional-clinical mental~~
49 health counseling services, the filing of Medicare, Medicaid, or other claims
50 to any third-party payor, or in any manner otherwise relevant to fitness for the
51 practice of ~~professional-clinical mental health~~ counseling.

- 1 (5) Has made fraudulent, misleading, or intentionally or materially false
2 statements pertaining to education, licensure, license renewal, certification as
3 a health services provider, supervision, continuing education, any disciplinary
4 actions or sanctions pending or occurring in any other jurisdiction,
5 professional credentials, or qualifications or fitness for the practice of
6 ~~professional-clinical mental health~~ counseling to the public, any individual,
7 the Board, or any other organization.
- 8 (6) Has had a license or certification for the practice of ~~professional-clinical~~
9 mental health counseling in any other jurisdiction suspended or revoked, or
10 has been disciplined by the licensing or certification board in any other
11 jurisdiction for conduct which would subject him or her to discipline under
12 this Article.
- 13 (7) Has violated any provision of this Article or any rules adopted by the Board.
- 14 (8) Has aided or abetted the unlawful practice of ~~professional-clinical mental~~
15 health counseling by any person not licensed by the Board.
- 16 (9) Has been guilty of immoral, dishonorable, unprofessional, or unethical
17 conduct as defined in this subsection or in the current code of ethics of the
18 American Counseling Association. However, if any provision of the code of
19 ethics is inconsistent and in conflict with the provisions of this Article, the
20 provisions of this Article shall control.
- 21 (10) Has practiced ~~professional-clinical mental health~~ counseling in such a manner
22 as to endanger the welfare of clients.
- 23 (11) Has demonstrated an inability to practice ~~professional-clinical mental health~~
24 counseling with reasonable skill and safety by reason of illness, inebriation,
25 misuse of drugs, narcotics, alcohol, chemicals, or any other substance
26 affecting mental or physical functioning, or as a result of any mental or
27 physical condition.
- 28 (12) Has practiced ~~professional-clinical mental health~~ counseling outside the
29 boundaries of demonstrated competence or the limitations of education,
30 training, or supervised experience.
- 31 (13) Has exercised undue influence in such a manner as to exploit the client,
32 patient, student, supervisee, or trainee for the financial or other personal
33 advantage or gratification of the licensed ~~professional-clinical mental health~~
34 counselor associate, licensed ~~professional-clinical mental health~~ counselor, or
35 a third party.
- 36 (14) Has harassed or abused, sexually or otherwise, a client, patient, student,
37 supervisee, or trainee.
- 38 (15) Has failed to cooperate with or to respond promptly, completely, and honestly
39 to the Board, to credentials committees, or to ethics committees of
40 professional associations, hospitals, or other health care organizations or
41 educational institutions, when those organizations or entities have jurisdiction.
- 42 (16) Has refused to appear before the Board after having been ordered to do so in
43 writing by the chair.
- 44 (17) Has a finding listed on the Division of Health Service Regulation of the
45 Department of Health and Human Services Health Care Personnel Registry.
- 46 (b) The Board may, in lieu of denial, suspension, or revocation, take any of the following
47 disciplinary actions:
- 48 (1) Issue a formal reprimand or formally censure the applicant or licensee.
- 49 (2) Place the applicant or licensee on probation with the appropriate conditions
50 on the continued practice of ~~professional-clinical mental health~~ counseling
51 deemed advisable by the Board.

- 1 (3) Require examination, remediation, or rehabilitation for the applicant or
 2 licensee, including care, counseling, or treatment by a professional or
 3 professionals designated or approved by the Board, the expense to be borne
 4 by the applicant or licensee.
- 5 (4) Require supervision of the ~~professional-clinical mental health~~ counseling
 6 services provided by the applicant or licensee by a licensee designated or
 7 approved by the Board, the expense to be borne by the applicant or licensee.
- 8 (5) Limit or circumscribe the practice of ~~professional-clinical mental health~~
 9 counseling provided by the applicant or licensee with respect to the extent,
 10 nature, or location of the ~~professional-clinical mental health~~ counseling
 11 services provided, as deemed advisable by the Board.
- 12 (6) Discipline and impose any appropriate combination of the types of
 13 disciplinary action listed in this section.

14 In addition, the Board may impose conditions of probation or restrictions on continued
 15 practice of ~~professional-clinical mental health~~ counseling at the conclusion of a period of
 16 suspension or as a requirement for the restoration of a revoked or suspended license. In lieu of or
 17 in connection with any disciplinary proceedings or investigation, the Board may enter into a
 18 consent order relative to discipline, supervision, probation, remediation, rehabilitation, or
 19 practice limitation of a licensee or applicant for a license.

20 (c) The Board may assess costs of disciplinary action against an applicant or licensee
 21 found to be in violation of this Article.

22 (d) When considering the issue of whether an applicant or licensee is physically or
 23 mentally capable of practicing ~~professional-clinical mental health~~ counseling with reasonable
 24 skill and safety with patients or clients, upon a showing of probable cause to the Board that the
 25 applicant or licensee is not capable of practicing ~~professional-clinical mental health~~ counseling
 26 with reasonable skill and safety with patients or clients, the Board may petition a court of
 27 competent jurisdiction to order the applicant or licensee in question to submit to a psychological
 28 evaluation by a psychologist to determine psychological status or a physical evaluation by a
 29 physician to determine physical condition, or both. The psychologist or physician shall be
 30 designated by the court. The expenses of the evaluations shall be borne by the Board. Where the
 31 applicant or licensee raises the issue of mental or physical competence or appeals a decision
 32 regarding mental or physical competence, the applicant or licensee shall be permitted to obtain
 33 an evaluation at the applicant or licensee's expense. If the Board suspects the objectivity or
 34 adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners
 35 at its own expense.

36 ...
 37 **"§ 90-343. Disclosure.**

38 Any individual, or employer of an individual, who is licensed under this Article may not
 39 charge a client or receive remuneration for ~~professional-clinical mental health~~ counseling services
 40 unless, prior to the performance of those services, the client is furnished a copy of a Professional
 41 Disclosure Statement that includes the licensee's professional credentials, the services offered,
 42 the fee schedule, and other provisions required by the Board.

43 ...
 44 **"§ 90-345. Criminal history record checks of applicants for licensure as ~~professional~~
 45 clinical mental health counselors.**

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

- 47 (1) Applicant. – A person applying for licensure as a licensed ~~professional-clinical~~
 48 mental health counselor associate pursuant to G.S. 90-336(b), 90-336(b1), or
 49 90-336(b2) or licensed ~~professional-clinical mental health~~ counselor pursuant
 50 to G.S. 90-336(c).

(2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice ~~professional~~ clinical mental health counseling. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

...."

SECTION 2.(b) This section becomes effective January 1, 2020.

PART II-B. TECHNICAL AND CONFORMING CHANGES RELATED TO THE RENAMING OF THE LICENSED CLINICAL MENTAL HEALTH COUNSELORS ACT

SECTION 3.(a) G.S. 8-53.8 reads as rewritten:

"§ 8-53.8. **Counselor privilege.**

No person, duly licensed pursuant to Chapter 90, Article 24, of the General Statutes, shall be required to disclose any information which he or she may have acquired in rendering ~~professional~~ clinical mental health counseling services, and which information was necessary to enable him or her to render ~~professional~~ clinical mental health counseling services: Provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by other statute or regulation."

SECTION 3.(b) G.S. 48-10-103(a)(3) reads as rewritten:

"(3) Counseling services for a parent or the adoptee that are directly related to the adoption and are provided by a licensed psychiatrist, licensed psychologist, licensed marriage and family therapist, licensed ~~professional~~ clinical mental health counselor, licensed or certified social worker, fee-based practicing pastoral counselor or other licensed ~~professional~~ clinical mental health counselor, or an employee of an agency;"

SECTION 3.(c) G.S. 55B-2(6) reads as rewritten:

"(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed ~~Professional~~ Clinical Mental Health Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act"."

SECTION 3.(d) G.S. 55B-14(c)(4) reads as rewritten:

"(4) A physician, a licensed psychologist, a licensed clinical social worker, or each of them and a certified clinical specialist in psychiatric and mental health nursing, a licensed marriage and family therapist, a licensed ~~professional~~ clinical mental health counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide."

SECTION 3.(e) G.S. 58-3-192(a) reads as rewritten:

"(a) As used in this section, the following definitions apply:

(1) Adaptive behavior treatment. – Behavioral and developmental interventions that systematically manage instructional and environmental factors or the consequences of behavior that have been shown to be clinically effective through research published in peer reviewed scientific journals and based upon randomized, quasi-experimental, or single subject designs. Both of the following requirements must be met:

- a. The intervention must be necessary to (i) increase appropriate or adaptive behaviors, (ii) decrease maladaptive behaviors, or (iii) develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.
- b. The treatment must be ordered by a licensed physician or licensed psychologist and the treatment must be provided or supervised by one of the following professionals, so long as the services or supervision provided is commensurate with the professional's training, experience, and scope of practice:
 1. A licensed psychologist or psychological associate.
 2. A licensed psychiatrist or developmental pediatrician.
 3. A licensed speech and language pathologist.
 4. A licensed occupational therapist.
 5. A licensed clinical social worker.
 6. A licensed ~~professional~~ clinical mental health counselor.
 7. A licensed marriage and family therapist.
 8. A board certified behavior analyst.

...

- 1 (8) Therapeutic care. – Direct or consultative services provided by a licensed
2 speech therapist, licensed occupational therapist, licensed physical therapist,
3 licensed clinical social worker, licensed ~~professional~~-clinical mental health
4 counselor, or licensed marriage and family therapists.

5"

6 **SECTION 3.(f)** G.S. 58-50-30(b)(12) reads as rewritten:

7 "(12) A ~~professional~~-clinical mental health counselor licensed by the North Carolina
8 Board of Licensed ~~Professional~~-Clinical Mental Health Counselors pursuant
9 to Article 24 of Chapter 90 of the General Statutes."

10 **SECTION 3.(g)** G.S. 90-21.41(2) reads as rewritten:

11 "(2) Psychotherapist. – A psychiatrist licensed in accordance with Article 1 of
12 Chapter 90 of the General Statutes, a psychologist as defined in
13 G.S. 90-270.2(9), a licensed ~~professional~~-clinical mental health counselor as
14 defined in ~~G.S. 90-330(a)(2)~~, G.S. 90-330(a), a substance abuse professional
15 as defined in G.S. 90-113.31(8), a social worker engaged in a clinical social
16 work practice as defined in G.S. 90B-3(6), a fee-based pastoral counselor as
17 defined in G.S. 90-382(4), a licensed marriage and family therapist as defined
18 in G.S. 90-270.47(3), or a mental health service provider, who performs or
19 purports to perform psychotherapy."

20 **SECTION 3.(h)** G.S. 90-270.48A(a) reads as rewritten:

21 "(a) This Article does not prevent members of the clergy or licensed, certified, or
22 registered members of professional groups recognized by the Board from advertising or
23 performing services consistent with their own profession. Members of the clergy include, but are
24 not limited to, persons who are ordained, consecrated, commissioned, or endorsed by a
25 recognized denomination, church, faith group, or synagogue. Professional groups the Board shall
26 recognize include, but are not limited to, licensed or certified social workers, licensed
27 ~~professional~~-clinical mental health counselors, fee-based pastoral counselors, licensed practicing
28 psychologists, psychological associates, physicians, and attorneys-at-law. However, in no event
29 may a person use the title "Licensed Marriage and Family Therapist" or "Licensed Marriage and
30 Family Therapy Associate," use the letters "LMFT" or "LMFTA," or in any way imply that the
31 person is a licensed marriage and family therapist or a licensed marriage and family therapy
32 associate unless the person is licensed as such under this Article."

33 **SECTION 3.(i)** G.S. 122C-263.1(a) reads as rewritten:

34 "(a) Physicians and eligible psychologists are qualified to perform the commitment
35 examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health
36 and Human Services may individually certify to perform the first commitment examinations
37 required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283
38 other health, mental health, and substance abuse professionals whose scope of practice includes
39 diagnosing and documenting psychiatric or substance use disorders and conducting mental status
40 examinations to determine capacity to give informed consent to treatment as follows:

41 (1) The Secretary has received a request:

- 42 a. To certify a licensed clinical social worker, a master's or higher level
43 degree nurse practitioner, a licensed ~~professional~~-clinical mental
44 health counsellor, or a physician's assistant to conduct the first
45 examinations described in G.S. 122C-263(c) and G.S. 122C-283(c).
46 b. To certify a master's level licensed clinical addictions specialist to
47 conduct the first examination described in G.S. 122C-283(c).

48 ...

49 (4) A certification granted by the Secretary under this section shall be in effect
50 for a period of up to three years and may be rescinded at any time within this
51 period if the Secretary finds the certified individual has failed to meet the

- requirements of this section. Certification may be renewed every three years upon completion of a refresher training program approved by the Department.
- (5) In no event shall the certification of a licensed clinical social worker, master's or higher level degree nurse practitioner, licensed ~~professional-clinical mental health~~ counsellor, physician assistant, or master's level certified clinical addictions specialist under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level nurse practitioner, licensed ~~professional-clinical mental health~~ counsellor, physician assistant, or the master's level certified clinical addictions specialist.

...."

SECTION 3.(j) G.S. 143B-957 reads as rewritten:

"§ 143B-957. Criminal record checks of applicants for licensure as ~~professional counselors, clinical mental health counselors.~~

The Department of Public Safety may provide to the North Carolina Board of Licensed ~~Professional-Clinical Mental Health~~ Counselors from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 3.(k) The Codifier of Rules shall make any conforming rule changes necessary to reflect the name changes made by this act.

SECTION 3.(l) This section becomes effective January 1, 2020.

PART II-C. INDEPENDENT STUDY DEFINITION CHANGES

SECTION 4.(a) G.S. 90-113.31A reads as rewritten:

"§ 90-113.31A. Definitions.

The following definitions shall apply in this Article:

...

- (18) Independent study. – ~~Any course of Directed study undertaken by an individual with little or no supervision that is~~ does not include traditional classroom-based study that must be preapproved by the Board or any organization that has deemed status with the Board, or any online course of study that does not include a network-enabled transfer of skills and knowledge from teacher to student being performed at the same time.

...

- (27) Traditional classroom-based study. – An educational method of learning involving face-to-face communication or other shared communication being performed in either a shared physical setting or by audio conferencing methods, video conferencing methods, or both."

SECTION 4.(b) This section becomes effective January 1, 2020.

1 **PART II-D. SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD**
2 **RESTRUCTURE**

3 **SECTION 5.(a)** G.S. 90-113.32(a) reads as rewritten:

4 "(a) The North Carolina Addictions Specialist Professional Practice Board is created as
5 the authority to credential substance ~~abuse~~ use disorder professionals in North Carolina."

6 **SECTION 5.(b)** G.S. 90-113.32(c) is repealed.

7 **SECTION 5.(c)** G.S. 90-113.32(c1) reads as rewritten:

8 "(c1) Every member of the Board shall have the right to vote on all matters before the
9 Board, except for the ~~President~~ chair who shall vote only in case of a tie or when another member
10 of the Board abstains on the question of whether the professional discipline the member
11 represents shall retain its deemed status."

12 **SECTION 5.(d)** G.S. 90-113.32 is amended by adding a new subsection to read:

13 "(c2) The Board shall consist of nine members appointed as follows:

14 (1) Two members appointed by the General Assembly, upon the recommendation
15 of the Speaker of the House of Representatives, each of whom shall be
16 licensed or certified in accordance with this Article. In making the
17 appointments, the Speaker shall consider the ethnicity and gender of the
18 Board's members in order to reflect the composition of the State's population
19 and shall consider the experience and knowledge of the drug and alcohol
20 recovery community when selecting members to serve on the Board.

21 (2) Two members appointed by the General Assembly, upon the recommendation
22 of the President Pro Tempore of the Senate, each of whom shall be licensed
23 or certified in accordance with this Article. In making the appointments, the
24 President Pro Tempore shall consider the ethnicity and gender of the Board's
25 members in order to reflect the composition of the State's population and shall
26 consider the experience and knowledge of the drug and alcohol recovery
27 community when selecting members to serve on the Board.

28 (3) Five members appointed by the Governor as follows:

29 a. Two members licensed or certified in accordance with this Article. In
30 making the appointments, the Governor shall consider the ethnicity
31 and gender of the Board's members in order to reflect the composition
32 of the State's population and shall consider the experience and
33 knowledge of the drug and alcohol recovery community when
34 selecting members to serve on the Board.

35 b. Two members of the public who are not licensed or certified under this
36 Article.

37 c. One member who is licensed or certified under this Article, selected
38 from the allied mental health, substance use disorder and
39 developmental disabilities treatment and prevention profession,
40 previously known as deemed status professions.

41 (4) All members of the Board shall be residents of the State of North Carolina,
42 and except for the public members, shall be certified or licensed by the Board
43 under the provisions of this Article. Professional members of the Board must
44 be actively engaged in the practice of substance use disorder counseling or
45 prevention or in the education and training of students in substance use
46 disorder counseling and have been for at least three years prior to their
47 appointment to the Board. Practice during the two years preceding the
48 appointment shall have occurred primarily in this State."

49 **SECTION 5.(e)** G.S. 90-113.32(d) is repealed.

50 **SECTION 5.(f)** G.S. 90-113.32(e) reads as rewritten:

1 "(e) Members of the Board shall serve for ~~four-year~~ three-year terms. No Board member
2 shall serve for more than two consecutive terms, but a person who has been a member for two
3 consecutive terms may be reappointed after being off the Board for a period of at least one year.
4 ~~When a vacancy occurs in an unexpired term, the Board shall, as soon as practicable, appoint~~
5 ~~temporary members to serve until the end of the unexpired terms. Time spent as a temporary~~
6 ~~member does not count in determining the limitation on consecutive terms."~~

7 **SECTION 5.(g)** G.S. 90-113.32 is amended by adding a new subsection to read:

8 "(e1) Initial members of the Board shall serve staggered terms. The members identified in
9 subdivision (1) of subsection (c2) and sub-subdivision (3)c. of subsection (c2) of this section
10 shall be appointed initially for a term of one year. The members identified in subdivision (2) of
11 subsection (c2) of this section shall be appointed initially for a term of two years. The members
12 identified in sub-subdivisions (3)a. and (3)b. of subsection (c2) of this section shall be appointed
13 initially for a term of three years.

14 At the end of their respective terms of office, their successors shall be appointed for terms of
15 three years, effective July 1. A vacancy occurring before the expiration of the term of office shall
16 be filled in the same manner as original appointments for the remainder of the term."

17 **SECTION 5.(h)** G.S. 90-113.32 is amended by adding a new subsection to read:

18 "(f1) A Board member may not receive compensation but may receive reimbursement as
19 provided in G.S. 93B-5. The officers of the Board include a chair, a secretary, and any other
20 officer deemed necessary by the Board to carry out the purposes of this Article. All officers shall
21 be elected annually by the Board at its first meeting held after appointments are made to the
22 Board. The Board shall hold a meeting within 45 days after the appointment of new Board
23 members. All officers shall serve one-year terms and shall serve until their successors are elected
24 and qualified. No person shall chair the Board for more than four consecutive years. The Board
25 may adopt rules governing the calling, holding, and conducting of regular and special meetings.
26 A majority of Board members constitutes a quorum."

27 **SECTION 5.(i)** This section becomes effective July 1, 2020.

29 **PART II-E. TERMINOLOGY MODIFICATION**

30 **SECTION 6.(a)** G.S. 90-113.40(a)(6) reads as rewritten:

31 "(6) The applicant has completed 270 hours of Board-approved education. The
32 Board may prescribe that a certain number of hours be in a course of study for
33 substance ~~abuse-use disorder~~ counseling and that a certain number of hours be
34 in a course of study for substance abuse prevention consulting. Independent
35 study hours shall not compose more than fifty percent (50%) of the total
36 number of hours required for initial credentialing."

37 **SECTION 6.(b)** G.S. 90-113.40(d1)(1) reads as rewritten:

38 "(1) Has attained 270 hours of Board-approved education or training, unless the
39 applicant has attained a minimum of a masters degree with a clinical
40 application and a substance ~~abuse-use disorder~~ specialty from a regionally
41 accredited college or university whereby the applicant must only obtain 180
42 hours. The hours of education shall be specifically related to the knowledge
43 and skills necessary to perform the tasks within the International Certification
44 and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated,
45 "IC&RC/AODA, Inc.," criminal justice addictions professional performance
46 domains as they relate to both adults and juveniles. Independent study may
47 compose up to fifty percent (50%) of the total number of hours obtained for
48 initial certification or renewal."

49 **SECTION 6.(c)** This section becomes effective January 1, 2020.

1 **PART II-F. ESTABLISHMENT OF PROGRAM FOR IMPAIRED SUBSTANCE ABUSE**
2 **PROFESSIONALS**

3 **SECTION 7.(a)** G.S. 90-113.33 reads as rewritten:

4 **"§ 90-113.33. Board; powers and duties.**

5 The Board shall:

- 6 (1) Examine and determine the qualifications and fitness of applicants for
7 certification and licensure to practice in this State.
- 8 (1a) Determine the qualifications and fitness of organizations applying for deemed
9 status.
- 10 (2) Issue, renew, deny, suspend, or revoke licensure, certification, or registration
11 to practice in this State or reprimand or otherwise discipline a license,
12 certificate, or registration holder in this State.
- 13 (3) Deal with issues concerning reciprocity.
- 14 (4) Conduct investigations for the purpose of determining whether violations of
15 this Article or grounds for disciplining exists.
- 16 (5) Employ and fix the compensation of personnel and legal counsel that the
17 Board determines is necessary to carry out the provisions of this Article. The
18 Board's employment of legal counsel is subject to the provisions of
19 G.S. 114-2.3. The Board may purchase or rent necessary office space,
20 equipment, and supplies.
- 21 (6) Conduct administrative hearings in accordance with Chapter 150B of the
22 General Statutes when a "contested case", as defined in Chapter 150B, arises.
- 23 (7) Appoint from its own membership one or more members to act as
24 representatives of the Board at any meeting in which it considers this
25 representation is desirable.
- 26 (8) Establish fees for applications for examination, registration, certificates of
27 certification, licensure, and renewal, and other services provided by the Board.
- 28 (9) Adopt any rules necessary to carry out the purpose of this Article and its duties
29 and responsibilities pursuant to this Article, including rules related to the
30 approval of a substance abuse specialty curricula developed by a school,
31 college, or university.
- 32 (10) Request that the Department of Public Safety conduct criminal history record
33 checks of applicants for registration, certification, or licensure pursuant to
34 G.S. 143B-941.
- 35 (11) Establish a program for licensees who may be experiencing substance use
36 disorders, burnout, compassion fatigue, and other mental health concerns. In
37 establishing this program, the Board is authorized to enter into agreements
38 with existing professional health care programs. The Board is also authorized
39 to refer any licensee to this program as part of the disciplinary process. The
40 Board may adopt rules implementing this program.

41 The powers and duties enumerated in this section are granted for the purposes of enabling the
42 Board to safeguard the public health, safety, and welfare against unqualified or incompetent
43 practitioners and are to be liberally construed to accomplish this objective. When the Board
44 exercises its authority under this Article to discipline a person, it may, as part of the decision
45 imposing the discipline, charge the costs of investigations and the hearing to the person
46 disciplined."

47 **SECTION 7.(b)** This section becomes effective January 1, 2020.

48
49 **PART II-G. TECHNICAL CHANGES TO THE CERTIFIED SUBSTANCE USE**
50 **DISORDER PROFESSIONAL PRACTICE ACT**

1 Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson
 2 and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
 3 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
 4 Obtaining Property or Services by False or Fraudulent Use of Credit Device
 5 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
 6 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality
 7 and Decency; Article 26A, Adult Establishments; Article 27, Prostitution;
 8 Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public
 9 Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots,
 10 Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article
 11 40, Protection of the Family; Article 59, Public Intoxication; and Article 60,
 12 Computer-Related Crime. The crimes also include possession or sale of drugs
 13 in violation of the North Carolina Controlled Substances Act in Article 5 of
 14 Chapter 90 of the General Statutes and alcohol-related offenses including sale
 15 to underage persons in violation of G.S. 18B-302 or driving while impaired in
 16 violation of G.S. 20-138.1 through G.S. 20-138.5.

17 ...
 18 (16) Dual relationship. – A relationship in addition to the professional relationship
 19 with a person to whom the substance ~~abuse~~-use disorder professional delivers
 20 services in the Twelve Core Functions or the performance domains, both as
 21 defined in rules adopted by the Board, or as provided in a supervisory
 22 capacity. These relationships may result in grounds for disciplinary action.

23 ...
 24 (20) Practice supervisor. – A certified clinical supervisor, clinical supervisor
 25 intern, or licensed clinical addictions specialist who provides oversight and
 26 responsibility in a face-to-face capacity for each certified ~~substance abuse~~
 27 alcohol and drug counselor or criminal justice addictions professional.

28 (21) Prevention. – The reduction, delay, or avoidance of alcohol and of other drug
 29 use behavior. "~~Prevention~~"-"Prevention" includes the promotion of positive
 30 environments and individual strengths that contribute to personal health and
 31 well-being over an entire life and the development of strategies that encourage
 32 individuals, families, and communities to take part in assessing and changing
 33 their lifestyles and environments.

34 ...
 35 (24) Substance ~~abuse~~-use disorder counseling. – The assessment, evaluation, and
 36 provision of counseling and therapeutic service to persons suffering from
 37 substance ~~abuse~~-use disorder or dependency.

38 (25) ~~Substance abuse~~-Alcohol and drug counselor intern. – A registrant who
 39 successfully completes 300 hours of Board-approved supervised practical
 40 training in pursuit of credentialing as a ~~substance abuse~~-alcohol and drug
 41 counselor.

42 (26) Substance ~~abuse~~-use disorder professional. – A registrant, certified ~~substance~~
 43 ~~abuse~~-alcohol and drug counselor, ~~substance abuse~~-alcohol and drug counselor
 44 intern, certified ~~substance abuse~~-prevention consultant, specialist, certified
 45 clinical supervisor, licensed clinical addictions specialist associate, licensed
 46 clinical addictions specialist, certified substance abuse residential facility
 47 director, clinical supervisor intern, or certified criminal justice addictions
 48 professional."

49 **SECTION 8.(d)** G.S. 90-113.31B reads as rewritten:

50 **"§ 90-113.31B. Scope of practice.**

1 The scope of practice is the use by all substance ~~abuse~~-use disorder professionals and their
2 ongoing supervisees of principles, methods, and procedures of the Twelve Core Functions or
3 performance domains as prescribed by the International Certification and Reciprocity
4 Consortium/Alcohol and Other Drug Abuse, Incorporated, and as limited by individual credential
5 and supervisory requirements pursuant to this Article. Specifically, the scope of practice for each
6 individual defined as a substance ~~abuse~~-use disorder professional under G.S. 90-113.31A is as
7 follows:

- 8 (1) The practice of a certified ~~substance abuse~~-alcohol and drug counselor consists
9 of the Twelve Core Functions, including screening, intake, orientation,
10 assessment, treatment planning, counseling, case management, crisis
11 intervention, client education, report and record keeping, consultation with
12 other professionals in regard to client treatment and services, and referral to
13 treat addictive disorder or disease and help prevent relapse.
- 14 (2) The practice of a certified ~~substance abuse~~-prevention consultant specialist is
15 based on knowledge in the performance domains to prevent or reduce the
16 conditions that place individuals at increased risk of developing addictive
17 disorder or disease and help prevent relapse.
- 18 (3) The practice of a certified clinical supervisor is based on knowledge in the
19 performance domains to supervise substance ~~abuse~~-use disorder professionals
20 who work to treat, prevent, or reduce the conditions that place individuals at
21 risk of developing addictive disorder or disease and help prevent relapse.

22"

23 **SECTION 8.(e)** G.S. 90-113.33(9) reads as rewritten:

24 "(9) Adopt any rules necessary to carry out the purpose of this Article and its duties
25 and responsibilities pursuant to this Article, including rules related to the
26 approval of a substance ~~abuse~~-use disorder specialty curricula developed by a
27 school, college, or university."

28 **SECTION 8.(f)** G.S. 90-113.34 reads as rewritten:

29 **"§ 90-113.34. Records to be kept; copies of records.**

30 (a) The Board shall keep a regular record of its proceedings, together with the names of
31 the members of the Board present, the names of the applicants for registration, certification, and
32 licensure as well as other information relevant to its actions. The Board shall cause a record to
33 be kept that shall show the name, last known place of business, last known place of residence,
34 and date and number of the credential assigned to each substance ~~abuse~~-use disorder professional
35 meeting the standards set forth in this Article. Any interested person in the State is entitled to
36 obtain a copy of Board records upon application to the Board and payment of a reasonable charge
37 that is based on the costs involved in providing the copy.

38 (b) The Board may in a closed session receive evidence regarding the provision of
39 substance ~~abuse~~-use disorder counseling or other treatment and services provided to a client who
40 has not expressly or through implication consented to the public disclosure of such treatment as
41 may be necessary for the protection of the rights of the client or of the accused registrant or
42 substance ~~abuse~~-use disorder professional and the full presentation of relevant evidence. All
43 records, papers, and other documents containing information collected and compiled by the
44 Board, its members, or employees as a result of investigations, inquiries, or interviews conducted
45 in connection with awarding a credential or a disciplinary matter shall not be considered public
46 records within the meaning of Chapter 132 of the General Statutes, except any notice or statement
47 of charges, or notice of hearing shall be a public record notwithstanding that it may contain
48 information collected and compiled as a result of an investigation, inquiry, or interview. If any
49 record, paper, or other document containing information collected and compiled by the Board as
50 provided in this subsection is received and admitted in evidence in any hearing before the Board,
51 it shall thereupon be a public record.

1 (c) Notwithstanding any provision to the contrary, the Board may, in any proceeding,
 2 record of any hearing, and notice of charges, withhold from public disclosure the identity of a
 3 client who has not expressly or through implication consented to such disclosure of treatment by
 4 the accused substance ~~abuse~~-use disorder professional."

5 **SECTION 8.(g)** G.S. 90-113.37A(b) reads as rewritten:

6 "(b) Renewal of licensure is subject to completion of at least 40 hours of the continuing
 7 education requirements established by the Board. Renewal of ~~substance abuse~~-alcohol and drug
 8 counselor or ~~substance abuse~~-prevention consultant-specialist certification is subject to
 9 completion of at least 60 hours of the continuing education requirements established by the
 10 Board. A certified ~~substance abuse~~-alcohol and drug counselor shall submit a Board-approved
 11 supervision contract signed by the applicant and a practice supervisor documenting ongoing
 12 supervision at a ratio of one hour of supervision to every 40 hours of practice after certification
 13 is granted by the Board on a form provided by the Board. Any person certified by the Board as a
 14 certified alcoholism counselor or certified ~~drug abuse~~-alcohol and drug counselor shall become
 15 a certified ~~substance abuse~~-alcohol and drug counselor.

16 A clinical supervisor shall complete at least 15 hours of substance ~~abuse~~-use disorder clinical
 17 supervision training prior to the certificate being renewed. ~~A substance abuse residential facility~~
 18 ~~director shall complete at least 10 hours of substance abuse training for renewal.~~ A certified
 19 criminal justice addictions professional shall complete at least 40 hours of continuing education
 20 that must be earned in the certified criminal justice addictions professional performance domains.
 21 A certified criminal justice addictions professional shall submit a Board-approved supervision
 22 contract signed by the criminal justice addictions professional and a practice supervisor
 23 documenting ongoing supervision at a ratio of one hour of supervision to every 40 hours of
 24 practice after certification is granted by the Board on a form provided by the Board."

25 **SECTION 8.(h)** G.S. 90-113.38 reads as rewritten:

26 **"§ 90-113.38. Maximums for certain fees.**

27 (a) The fee to obtain a certificate of certification as a ~~substance abuse~~-an alcohol and drug
 28 counselor, ~~substance abuse~~-prevention consultant-specialist, clinical supervisor, substance abuse
 29 residential facility director, or certified criminal justice addictions professional may not exceed
 30 four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one
 31 hundred fifty dollars (\$150.00).

32 ...

33 (f) In addition to any other prescribed fees, the Board shall charge a fee not to exceed
 34 one hundred fifty dollars (\$150.00) for each administration of the test an applicant must pass to
 35 be credentialed as a United States Department of Transportation substance ~~abuse~~-use disorder
 36 professional."

37 **SECTION 8.(i)** G.S. 90-113.40 reads as rewritten:

38 **"§ 90-113.40. Requirements for certification and licensure.**

39 (a) The Board shall issue a certificate certifying an applicant as a "Certified ~~Substance~~
 40 ~~Abuse Alcohol and Drug~~ Counselor" or as a "Certified ~~Substance Abuse~~-Prevention Consultant"
 41 Specialist" if:

42 ...

43 (8) The applicant for substance ~~abuse~~-use disorder counselor has completed a total
 44 of 6,000 hours of supervised experience in the field, whether paid or volunteer.
 45 The applicant for ~~substance abuse~~-prevention consultant-specialist has
 46 completed a total of 6,000 hours supervised experience in the field, whether
 47 paid or volunteer, or 4,000 hours if the applicant has at least a ~~bachelors~~
 48 bachelor's degree in a human services field from a regionally accredited
 49 college or university.

50 ...

1 (b) The Board shall issue a certificate certifying an individual as a "Certified Clinical
2 Supervisor" if the applicant:

- 3 ...
- 4 (3) Has 4,000 hours experience as a substance ~~abuse~~-use disorder clinical
5 supervisor as documented by his or her certified clinical supervisor.
- 6 (4) Has 30 hours of substance ~~abuse~~-use disorder clinical supervision specific
7 education or training. These hours shall be reflective of the Twelve Core
8 Functions in the applicant's clinical application and practice and may also be
9 counted toward the applicant's renewal as a ~~substance abuse~~-an alcohol and
10 drug counselor or a clinical addictions specialist.

11 ...

12 (c) The Board shall issue a license credentialing an applicant as a "Licensed Clinical
13 Addictions Specialist" if, in addition to meeting the requirements of subdivisions (a)(1) through
14 (5a) of this section, the applicant meets one of the following criteria:

15 (1) Criteria A. – The applicant:

- 16 ...
- 17 b. Has two years postgraduate supervised substance ~~abuse~~-use disorder
18 counseling experience.
- 19 c. Submits three letters of reference from licensed clinical addictions
20 specialists or certified ~~substance abuse~~-alcohol and drug counselors
21 who have obtained master's degrees.
- 22 ...
- 23 e. Has attained 180 hours of substance ~~abuse~~-use disorder specific
24 training from either a regionally accredited college or university,
25 which may include unlimited independent study, or from training
26 events of which no more than fifty percent (50%) shall be in
27 independent study. All hours shall be credited according to the
28 standards set forth in G.S. 90-113.41A.

29 ...

30 (2) Criteria B. – The applicant:

- 31 ...
- 32 e. Submits three letters of reference from either licensed clinical
33 addictions specialists or certified ~~substance abuse~~-alcohol and drug
34 counselors who have obtained master's degrees.

35 (3) Criteria C. – The applicant:

- 36 a. Has a minimum of a master's degree in a human services field with
37 both a clinical application and a substance ~~abuse~~-use disorder specialty
38 from a regionally accredited college or university that includes 180
39 hours of substance ~~abuse~~-use disorder specific education and training
40 pursuant to G.S. 90-113.41A.
- 41 b. Has one year of postgraduate supervised substance ~~abuse~~-use disorder
42 counseling experience.
- 43 ...
- 44 d. Submits three letters of reference from licensed clinical addictions
45 specialists or certified ~~substance abuse~~-alcohol and drug counselors
46 who have obtained master's degrees.

47 (4) Criteria D. – The applicant has a substance ~~abuse~~-use disorder certification
48 from a professional discipline that has been granted deemed status by the
49 Board.

50 ~~(d) The Board shall issue a certificate certifying an applicant as a "Substance Abuse~~
51 ~~Residential Facility Director" if the applicant:~~

- 1 (1) ~~Has been credentialed as a substance abuse counselor or a clinical addictions~~
 2 ~~specialist.~~
 3 (2) ~~Has 50 hours of Board approved academic or didactic management specific~~
 4 ~~training or a combination thereof. Independent study may compose up to fifty~~
 5 ~~percent (50%) of the total number of hours required for initial credentialing.~~
 6 (3) ~~Submits letters of reference from the applicant's current supervisor and a~~
 7 ~~colleague or coworker.~~

8 (d1) The Board shall issue a certificate certifying an applicant as a "Certified Criminal
 9 Justice Addictions Professional", with the acronym "CCJP", if in addition to meeting the
 10 requirements of subdivisions (a)(1) through (5a) of this section, the applicant:

- 11 ...
- 12 (3) Has provided documentation of supervised work experience providing direct
 13 service to clients or offenders involved in one of the three branches of the
 14 criminal justice system, which include law enforcement, the judiciary, and
 15 corrections. The applicant must meet one of the following criteria:
 16 ...
- 17 e. Criteria E. – In addition to having at least a masters degree in a human
 18 services field with a specialty from a regionally accredited college or
 19 university that includes 180 hours of substance ~~abuse~~-use disorder
 20 specific education or training, the applicant has a minimum of 2,000
 21 hours of postgraduate supervised substance ~~abuse~~-use disorder
 22 counseling experience.

23 ...

24 (f) Effective January 1, 2003, only a person who is certified as a certified clinical
 25 supervisor or a clinical supervisor intern shall be qualified to supervise applicants for certified
 26 clinical supervisor and certified ~~substance abuse alcohol and drug~~ counselor and applicants for
 27 licensed clinical addictions specialist who meet the qualifications of their credential other than
 28 through deemed status as provided in G.S. 90-113.40(c)(4)."

29 **SECTION 8.(j)** G.S. 90-113.40B reads as rewritten:
 30 **"§ 90-113.40B. Applicant supervision.**

31 The Board shall designate a person as an applicant supervisor of individuals applying for
 32 registration, certification, or licensure as a substance ~~abuse~~-use disorder professional as follows:

- 33 ...
- 34 (2) A certified clinical supervisor or a clinical supervisor intern shall supervise a
 35 ~~substance abuse residential facility director applicant,~~ a clinical addictions
 36 specialist applicant, or a ~~substance abuse~~-an alcohol and drug counselor
 37 applicant.
 38 ...
- 39 (4) A certified ~~substance abuse prevention consultant specialist~~ with a minimum
 40 of three years of professional experience, a certified clinical supervisor, or a
 41 clinical supervisor intern shall supervise a registrant applying for certification
 42 as a prevention ~~consultant specialist~~.

43 "

44 **SECTION 8.(k)** G.S. 90-113.41A reads as rewritten:
 45 **"§ 90-113.41A. Deemed status.**

46 (a) To be granted deemed status by the Board, a credentialing body of a professional
 47 discipline or its designee shall demonstrate that its substance ~~abuse~~-use disorder credentialing
 48 program substantially meets the following:

- 49 (1) Each person to whom the credentialing body awards credentials following the
 50 effective date of this act meets and maintains minimum requirements in
 51 substance ~~abuse~~-use disorder specific content areas. Each person also has a

1 minimum of a master's degree with a clinical application in a human services
2 field.

3 (2) The body requires 180 hours, or the equivalent thereof, of substance ~~abuse-use~~
4 disorder specific education and training that covers the following content
5 areas:

6 ...

7 (3) The program requires one year or its equivalent of post-degree supervised
8 clinical substance ~~abuse-use disorder~~ practice. At least fifty percent (50%) of
9 the practice shall consist of direct substance ~~abuse-use disorder~~ clinical care.

10"

11 **SECTION 8.(l)** G.S. 90-113.42 reads as rewritten:

12 **"§ 90-113.42. Violations; exemptions.**

13 (a) It shall be unlawful for any person not licensed or otherwise credentialed as a
14 substance ~~abuse-use disorder~~ professional pursuant to this Article to engage in those activities set
15 forth in the scope of practice of a substance ~~abuse-use disorder~~ professional under
16 G.S. 90-113.31B, unless that person is regulated by another profession or is a registrant or intern
17 as defined by this Article.

18 (b) It is not the intent of this Article to regulate members of other regulated professions
19 who provide substance ~~abuse-use disorder~~ services or consultation in the normal course of the
20 practice of their profession.

21 (c) This Article does not apply to any person registered, certified, or licensed by the State
22 or federal government to practice any other occupation or profession while rendering substance
23 ~~abuse-use disorder~~ services or consultation in the performance of the occupation or profession
24 for which the person is registered, certified, or licensed.

25 (d) Only individuals registered, certified, or licensed under this Article may use the title
26 "Certified ~~Substance Abuse Alcohol and Drug~~ Counselor", "Certified ~~Substance Abuse~~
27 ~~Prevention Consultant, Specialist,~~ "Certified Clinical Supervisor", "Licensed Clinical
28 Addictions Specialist Associate", "Certified Substance Abuse Residential Facility Director",
29 "Certified Criminal Justice Addictions Professional", "~~Substance Abuse~~ "Alcohol and Drug
30 Counselor Intern", "Provisional Licensed Clinical Addictions Specialist", "Clinical Supervisor
31 Intern", or "Registrant"."

32 **SECTION 8.(m)** G.S. 90-113.43(a) reads as rewritten:

33 **"§ 90-113.43. Illegal practice; misdemeanor penalty.**

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

35 (1) Offer substance ~~abuse-use disorder~~ professional services, practice, attempt to
36 practice, or supervise while holding himself or herself out to be a certified
37 ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse~~
38 ~~prevention consultant, specialist,~~ certified clinical supervisor, licensed clinical
39 addictions specialist, licensed clinical addictions specialist associate, certified
40 substance abuse residential facility director, certified criminal justice
41 addictions professional, clinical supervisor intern, ~~substance abuse alcohol~~
42 and drug counselor intern, or registrant without first having obtained a
43 notification of registration, certification, or licensure from the Board.

44 (2) Use in connection with any name any letters, words, numerical codes, or
45 insignia indicating or implying that this person is a registrant, certified
46 ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse~~
47 ~~prevention consultant, specialist,~~ certified clinical supervisor, licensed clinical
48 addictions specialist, certified substance abuse residential facility director,
49 ~~substance abuse alcohol and drug~~ counselor intern, certified criminal justice
50 addictions professional, or licensed clinical addictions specialist associate,
51 unless this person is registered, certified, or licensed pursuant to this Article.

- (3) Practice or attempt to practice as a certified ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse prevention consultant, specialist,~~ certified clinical supervisor, licensed clinical addictions specialist, certified criminal justice addictions professional, ~~substance abuse alcohol and drug~~ counselor intern, licensed clinical addictions specialist associate, clinical supervisor intern, certified substance abuse residential facility director or registrant with a revoked, lapsed, or suspended certification or license.
- (4) Aid, abet, or assist any person to practice as a certified ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse prevention consultant, specialist,~~ certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, registrant, ~~substance abuse alcohol and drug~~ counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern in violation of this Article.
- (5) Knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a registrant, certified ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse prevention consultant, specialist,~~ certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, ~~substance abuse alcohol and drug~~ counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern unless that person is registered, certified, or licensed under this Article.

...."

SECTION 8.(n) G.S. 90-113.44 reads as rewritten:

"§ 90-113.44. Grounds for disciplinary action.

- (a) Grounds for disciplinary action for an applicant or credentialed professional include:
 - (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain licensure, certification, or registration or renewal of licensure, certification, or registration.
 - (2) The use of drugs or alcoholic beverages to the extent that professional competency is affected.
 - (2a) The use of drugs or alcoholic beverages to the extent that a substance ~~abuse~~ use disorder professional suffers impairment.
 - (3) Conviction of an offense under any municipal, State, or federal law other than traffic laws as prescribed by Chapter 20 of the General Statutes.
 - (4) Conviction of a felony or other public offense involving moral turpitude. Conviction of a Class A-E felony shall result in an immediate suspension of licensure, certification, or registration for a minimum of one year.
 - (5) An adjudication of insanity or incompetency, until proof of recovery from this condition can be established by a licensed psychologist or psychiatrist.
 - (6) Engaging in any act or practice in violation of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a violation.
 - (7) The commission of an act of malpractice, gross negligence, or incompetence while serving as a substance ~~abuse~~ use disorder professional, intern, or registrant.
 - (8) Repealed by Session Laws 2005-431, s. 1, effective September 22, 2005.
 - (9) Engaging in conduct that could result in harm or injury to the public.
 - (10) Entering into a dual relationship that impairs professional judgment or increases the risk of exploitation with a client or supervisee.

(11) Practicing as a credentialed substance ~~abuse-use disorder~~ professional outside of his or her scope of practice pursuant to G.S. 90-113.31B.

(b) Denial of an applicant's licensure, certification, or registration or the granting of licensure, certification, or registration on a probationary or other conditional status shall be subject to substantially the same rules and procedures prescribed by the Board for review and disciplinary actions against any person holding a license, certificate, or registration. A suspension of a credential resulting from impairment due to substance use, mental health, or medical disorder shall be imposed for at least six months beginning from the date of successful discharge from a residential substance ~~abuse-use disorder~~ treatment program or other appropriate treatment modality determined as a result of an assessment by a Board-approved assessor. Disciplinary actions involving a clinical addictions specialist whose licensure is achieved through deemed status shall be initially heard by the specialist's credentialing body. The specialist may appeal the body's decision to the Board. The Board shall, however, have the discretionary authority to hear the initial disciplinary action involving a credentialed professional."

SECTION 8.(o) G.S. 90-113.46 reads as rewritten:

"§ 90-113.46. Application of requirements of Article.

All persons credentialed by the North Carolina ~~Substance Abuse Addictions Specialist~~ Professional Practice Board, Inc., as of July 1, 1994, shall be credentialed by the Board pursuant to this Article. All these persons are subject to all the other requirements of this Article and of the rules adopted pursuant to it."

SECTION 8.(p) This section becomes effective January 1, 2020, and applies to licenses granted or renewed on or after that date.

PART II-H. DISCONTINUE CERTIFIED SUBSTANCE ABUSE RESIDENTIAL FACILITY DIRECTOR CREDENTIALING

SECTION 9.(a) The certified substance abuse residential facility director credential is discontinued. The North Carolina Substance Abuse Professional Practice Board shall no longer issue or renew a certified substance abuse residential facility director credential to any person.

SECTION 9.(b) G.S. 90-113.31A(8) is repealed.

SECTION 9.(c) G.S. 90-113.31A(26), as amended by Section 8 of this act, reads as rewritten:

"(26) Substance use disorder professional. – A registrant, certified alcohol and drug counselor, alcohol and drug counselor intern, certified prevention specialist, certified clinical supervisor, licensed clinical addictions specialist associate, licensed clinical addictions specialist, ~~certified substance abuse residential facility director~~, clinical supervisor intern, or certified criminal justice addictions professional."

SECTION 9.(d) G.S. 90-113.31B(5) is repealed.

SECTION 9.(e) G.S. 90-113.38(a), as amended by Section 8 of this act, reads as rewritten:

"§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as an alcohol and drug counselor, prevention specialist, clinical supervisor, ~~substance abuse residential facility director~~, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00)."

SECTION 9.(f) G.S. 90-113.42(d), as amended by Section 8 of this act, reads as rewritten:

"(d) Only individuals registered, certified, or licensed under this Article may use the title "Certified Alcohol and Drug Counselor", "Certified Prevention Specialist", "Certified Clinical Supervisor", "Licensed Clinical Addictions Specialist Associate", ~~"Certified Substance Abuse Residential Facility Director"~~, "Certified Criminal Justice Addictions Professional", "Alcohol

1 and Drug Counselor Intern", "Provisional Licensed Clinical Addictions Specialist", "Clinical
2 Supervisor Intern", or "Registrant".

3 **SECTION 9.(g)** G.S. 90-113.43(a), as amended by Section 8(m) of this act, reads as
4 rewritten:

5 **"§ 90-113.43. Illegal practice; misdemeanor penalty.**

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

- 7 (1) Offer substance use disorder professional services, practice, attempt to
8 practice, or supervise while holding himself or herself out to be a certified
9 alcohol and drug counselor, certified prevention specialist, certified clinical
10 supervisor, licensed clinical addictions specialist, licensed clinical addictions
11 specialist associate, ~~certified substance abuse residential facility director,~~
12 certified criminal justice addictions professional, clinical supervisor intern,
13 alcohol and drug counselor intern, or registrant without first having obtained
14 a notification of registration, certification, or licensure from the Board.
- 15 (2) Use in connection with any name any letters, words, numerical codes, or
16 insignia indicating or implying that this person is a registrant, certified alcohol
17 and drug counselor, certified prevention specialist, certified clinical
18 supervisor, licensed clinical addictions specialist, ~~certified substance abuse~~
19 ~~residential facility director,~~ ~~substance abuse alcohol and drug counselor intern,~~
20 certified criminal justice addictions professional, or licensed clinical
21 addictions specialist associate, unless this person is registered, certified, or
22 licensed pursuant to this Article.
- 23 (3) Practice or attempt to practice as a certified alcohol and drug counselor,
24 certified prevention specialist, certified clinical supervisor, licensed clinical
25 addictions specialist, certified criminal justice addictions professional, alcohol
26 and drug counselor intern, licensed clinical addictions specialist associate,
27 clinical supervisor intern, ~~certified substance abuse residential facility director~~
28 or registrant with a revoked, lapsed, or suspended certification or license.
- 29 (4) Aid, abet, or assist any person to practice as a certified alcohol and drug
30 counselor, certified prevention specialist, certified criminal justice addictions
31 professional, certified clinical supervisor, licensed clinical addictions
32 specialist, ~~certified substance abuse residential facility director,~~ registrant,
33 alcohol and drug counselor intern, licensed clinical addictions specialist
34 associate, or clinical supervisor intern in violation of this Article.
- 35 (5) Knowingly serve in a position required by State law or rule or federal law or
36 regulation to be filled by a registrant, certified alcohol and drug counselor,
37 certified prevention specialist, certified criminal justice addictions
38 professional, certified clinical supervisor, licensed clinical addictions
39 specialist, ~~certified substance abuse residential facility director,~~ alcohol and
40 drug counselor intern, licensed clinical addictions specialist associate, or
41 clinical supervisor intern unless that person is registered, certified, or licensed
42 under this Article.

43"

44 **SECTION 9.(h)** Subsection (a) of this section is effective when it becomes law. The
45 remaining subsections of this section become effective upon the expiration of the last certified
46 substance abuse residential facility director credential issued prior to the effective date of this act
47 by the North Carolina Substance Abuse Professional Practice Board. The North Carolina
48 Substance Abuse Professional Practice Board shall notify the Revisor of Statutes when the last
49 credential issued by the Board has expired.

50
51 **PART II-I. AMEND SOCIAL WORKER PRACTICE ACT**

1 SECTION 10.(a) Chapter 90B of the General Statutes reads as rewritten:

2 "Chapter 90B.

3 "Social Worker Certification and Licensure Act.

4 "...

5 "§ 90B-2. Purpose.

6 Since the profession of social work significantly affects the lives of the people of this State,
7 it is the purpose of this Chapter to protect the public by setting standards for qualification,
8 training, and experience for those who seek to represent themselves to the public as certified
9 social workers or licensed clinical social workers and by promoting high standards of
10 professional performance for those engaged in the practice of social work.

11 "§ 90B-3. Definitions.

12 The following definitions apply in this Chapter:

13 (1) Applicant. – An individual who has made application to the Board for the
14 issuance, renewal, or reinstatement of any credential which the Board is
15 authorized by law to issue.

16 ~~(1)~~(1a) Board. – The North Carolina Social Work Certification and Licensure Board.

17 (2) Repealed by Session Laws 2013-410, s. 8, effective August 23, 2013.

18 (3) ~~Certified Master Social Worker.~~ master social worker. – A person who is
19 certified under this Chapter to practice social work as a master social worker
20 and is engaged in the practice of social work.

21 (4) ~~Certified Social Work Manager.~~ social work manager. – A person who is
22 certified under this Chapter to practice social work as a social work manager
23 and is engaged in the practice of social work.

24 (5) ~~Certified Social Worker.~~ social worker. – A person who is certified under this
25 Chapter to practice social work as a social worker and is engaged in the
26 practice of social work.

27 (6) ~~Clinical Social Work Practice.~~ social work practice. – The professional
28 application of social work theory and methods to the biopsychosocial
29 diagnosis, treatment, or prevention, of emotional and mental disorders.
30 Practice includes, by whatever means of communications, the treatment of
31 individuals, couples, families, and groups, including the use of psychotherapy
32 and referrals to and collaboration with other health professionals when
33 appropriate. Clinical social work practice shall not include the provision of
34 supportive daily living services to persons with severe and persistent mental
35 illness as defined in G.S. 122C-3(33a).

36 (6a) ~~Licensed Clinical Social Worker.~~ clinical social worker. – A person who is
37 competent to function independently, who holds himself or herself out to the
38 public as a social worker, and who offers or provides clinical social work
39 services or supervises others engaging in clinical social work practice.

40 (6b) ~~Licensed Clinical Social Worker Associate.~~ clinical social worker associate.
41 – A person issued an associate license to provide clinical social work services
42 pursuant to G.S. 90B-7(f).

43 (7) ~~Practice of Social Work.~~ social work. – To perform or offer to perform
44 services, by whatever means of communications, for other people that involve
45 the application of social work values, principles, and techniques in areas such
46 as social work services, consultation and administration, and social work
47 planning and research.

48 (7a) Social work continuing education. – Training that, in accordance with the
49 requirements established by the Board pursuant to G.S. 90B-6(g), (i) fosters
50 the enhancement of generalized or specialized social work practice, values,

1 skills, or knowledge, and (ii) includes an element addressing how the
2 knowledge and skills may be applied to the practice of social work.

3 (8) ~~Social Worker-worker.~~ – A person certified, licensed, or associate licensed
4 by this Chapter or otherwise exempt under ~~G.S. 90B-10~~G.S. 90B-10, or a
5 person who has earned a bachelors, masters, or doctoral degree in social work
6 from a social work program accredited by or in candidacy for accreditation by
7 the Council on Social Work Education.

8 (9) Supervision. – The professional relationship between a supervisee and the
9 supervisor in which a supervisor provides guidance, oversight, direction, and
10 evaluation of the services provided by the supervisee in the professional
11 application of social work practice as defined by law. Supervision is designed
12 to promote responsibility, competency, and accountability, and to teach the
13 skills and techniques associated with social work practice.

14 "§ 90B-4. Prohibitions.

15 (a) Except as otherwise provided in this Chapter, it is unlawful for any person who is not
16 certified as a social worker, master social worker, or social work manager under this Chapter to
17 represent himself or herself to be certified under this Chapter or hold himself or herself out to the
18 public by any title or description denoting that he or she is certified under this Chapter. A person
19 who resides and practices social work in this State while credentialed in another state or
20 jurisdiction shall clearly amend reference to his or her credential identifying the state or
21 jurisdiction in which the credential is held.

22 (b) After January 1, 1992, except as otherwise provided in this Chapter, it is unlawful to
23 engage in or offer to engage in the practice of clinical social work without first being licensed
24 under this Chapter as a clinical social worker. A person who, pursuant to G.S. 90B-8(b), resides
25 and practices clinical social work in this State for a period of not more than five days in any
26 calendar year while credentialed in another state or jurisdiction, shall clearly amend reference to
27 his or her credential identifying the state or jurisdiction in which the credential is held.

28 (c) Nothing herein shall prohibit school social workers who are certified by the State
29 Board of Education from practicing school social work under the title "Certified School Social
30 Worker." Except as provided for licensed clinical social workers, nothing herein shall be
31 construed as prohibiting social workers who are not certified by the Board from practicing social
32 work. Except as provided herein for licensed clinical social workers, no agency, institution,
33 board, commission, bureau, department, division, council, member of the Council of State, or
34 officer of the legislative, executive or judicial branches of State government or counties, cities,
35 towns, villages, other municipal corporations, political subdivisions of the State, public
36 authorities, private corporations created by act of the General Assembly or any firm or
37 corporation receiving State funds shall require the obtaining or holding of any certificate issued
38 under this Chapter or the taking of an examination held pursuant to this Chapter as a requirement
39 for obtaining or continuing in employment.

40 (d) Nothing herein shall authorize the practice of medicine as defined in Article 1 of this
41 Chapter or the practice of psychology as defined in Article 18A of this Chapter.

42 "~~§ 90B-5. North Carolina Social Work Certification and Licensure Board; Board~~ 43 ~~appointments; terms; composition.~~

44 (a) For the purpose of carrying out the provisions of this Chapter, there is hereby created
45 the North Carolina Social Work Certification and Licensure Board which shall consist of seven
46 members appointed by the Governor as follows:

47 (1) ~~At least two members~~one member of the Board shall be ~~Certified Social~~
48 ~~Workers or Certified Master Social Workers,~~ three a certified social worker,
49 a certified master social worker, or a certified social work manager, four
50 members shall be ~~Licensed Clinical Social Workers,~~ licensed clinical social
51 workers, and two members shall be appointed from the public at large.

1 Composition of the Board as to the race and sex of its members shall reflect
2 the composition of the population of the State of North Carolina.

3 ...

4 **"§ 90B-6. Functions and duties of the Board.**

5 ...

6 (g) The Board shall have the power to establish or approve study or training courses and
7 to establish reasonable standards for certification, licensure, and renewal of certification and
8 licensure, including the power to adopt or use examination materials and accreditation standards
9 of the Council on Social Work Education or other recognized accrediting agency and the power
10 to establish reasonable standards for continuing social work education; ~~provided that education,~~
11 ~~except that the Board shall not require an examination for certificate and license renewal no~~
12 ~~examination shall be required; provided further, that of a certificate or license, and~~ the Board
13 shall not have the power to withhold approval of social work study or training courses offered by
14 a college or university having a social work program approved by the Council on Social Work
15 Education.

16 (h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall
17 have the power to adopt rules to carry out the purposes of this Chapter, including but not limited
18 to the power to adopt ~~ethical supervision, ethical,~~ and disciplinary standards.

19 (i) The Board may order that any records concerning the practice of social work and
20 relevant to a complaint received by the Board or an inquiry or investigation conducted by or on
21 behalf of the Board shall be produced by the custodian of the records to the Board or for
22 inspection and copying by representatives of or counsel to the Board. A social worker licensed
23 by the Board or an agency employing a social worker licensed by the Board shall maintain
24 records for ~~a minimum of three~~ the longer of (i) 10 years from the date the social worker
25 terminates services to the client and the client services record is closed, closed or (ii) the record
26 retention period mandated by a third-party payee. A social worker certified or licensed by the
27 Board shall cooperate fully and in a timely manner with the Board and its designated
28 representatives in an inquiry or investigation of the records conducted by or on behalf of the
29 Board.

30 ...

31 **"§ 90B-7. Titles and qualifications for certificates and licenses.**

32 (a) Each person desiring to obtain a certificate or license from the Board shall make
33 application to the Board upon such forms and in such manner as the Board shall prescribe,
34 together with the required application fee established by the Board.

35 (b) The Board shall issue a certificate as "Certified Social Worker" to an applicant who
36 meets the following qualifications:

37 (1) Has a bachelors degree in ~~a social work program~~ from a college or university
38 ~~having a social work program accredited~~ approved, accredited, or admitted to
39 candidacy for accreditation by the Council on Social Work Education for
40 undergraduate curricula.

41 (2) Has passed the ~~Board examination for the certification of persons in this~~
42 ~~classification.~~ Board-approved qualifying examination.

43 (c) The Board shall issue a certificate as "Certified Master Social Worker" to an applicant
44 who meets the following qualifications:

45 (1) Has a masters or doctoral degree in ~~a social work program~~ from a college or
46 university ~~having a social work program approved~~ approved, accredited, or
47 admitted to candidacy for accreditation by the Council on Social Work
48 Education.

49 (2) Has passed the ~~Board examination for the certification of persons in this~~
50 ~~classification.~~ Board-approved qualifying examination.

1 (d) The Board shall issue a license as a "Licensed Clinical Social Worker" to an applicant
2 who meets the following qualifications:

- 3 (1) ~~Holds or qualifies for a current certificate as a Certified Master Social~~
4 ~~Worker.~~Has a masters or doctoral degree in social work from a college or
5 university social work program approved, accredited, or admitted to
6 candidacy for accreditation by the Council on Social Work Education.
7 (2) Shows to the satisfaction of the Board that he or she has had two years of
8 clinical social work experience with appropriate supervision in the field of
9 specialization in which the applicant will practice.
10 (3) Has passed the ~~Board examination for the certification of persons in this~~
11 ~~licensure.~~Board-approved qualifying examination.

12 (e) The Board shall issue a certificate as a "Certified Social Work Manager" to an
13 applicant who meets the following qualifications:

- 14 (1) ~~Holds or qualifies for a current certificate as a Certified Social Worker.~~Has a
15 bachelor's degree in social work from a college or university social work
16 program approved, accredited, or admitted to candidacy for accreditation, by
17 the Council on Social Work Education for undergraduate curricula.
18 (2) Shows to the satisfaction of the Board that he or she has had two years of
19 experience in an administrative setting with appropriate supervision and
20 training.
21 (3) Has passed the ~~Board examination for the certification of persons in this~~
22 ~~classification.~~Board-approved qualifying examination.

23 (f) The Board may issue an associate license in clinical social work to a person who has
24 a masters or doctoral degree in a social work program from a college or university ~~having~~
25 ~~work program approved~~approved, accredited, or in candidacy for accreditation by the Council
26 on Social Work Education and who desires to be licensed as a licensed clinical social worker.
27 The associate license may not be issued for a period exceeding two years and the person issued
28 the associate license must practice under the supervision of a licensed clinical social worker or a
29 Board-approved alternate. ~~Notwithstanding G.S. 90B-6(g), an associate licensee shall pass the~~
30 ~~qualifying clinical examination prescribed by the Board within two years to be eligible for~~
31 ~~renewal of the associate license.~~The associate licensee shall complete all requirements for
32 licensed clinical social worker licensure within three renewal cycles, or a total of six years, unless
33 otherwise directed by the Board. Associate licensees who fail to satisfy all requirements for
34 licensed clinical social worker licensure within six years from the date of associate license
35 issuance may apply for a new associate license. However, the Board shall not issue a subsequent
36 associate license to an applicant until the applicant has passed the qualifying examination
37 required by the Board. Supervision and experience hours acquired under an associate license
38 shall expire six years from the date of initial associate license issuance, and expired supervision
39 and experience hours shall not apply toward future licensure.

40 **"§ 90B-8. Persons from other jurisdictions.**

41 (a) The Board may grant a reciprocal certificate or license without examination or by
42 special examination to any person who, at the time of application, is certified, registered or
43 licensed in good standing as a social worker by a similar board of another country, state, or
44 territory whose certification, registration or licensing standards are substantially equivalent to
45 those required by this Chapter. The applicant shall have passed an examination in the country,
46 state, or territory in which he or she is certified, registered, or licensed that is equivalent to the
47 examination required for the level of certification or licensure sought in this State.

48 (b) The Board may issue a temporary license to a nonresident clinical social worker who
49 is either certified, registered, or licensed in another jurisdiction whose standards, in the opinion
50 of the Board, at the time of the person's certification, registration, or licensure were substantially
51 equivalent to or higher than the requirements of this Chapter. Nothing in this Chapter shall be

1 construed as prohibiting a nonresident clinical social worker certified, registered, or licensed in
2 another state from rendering professional clinical social work services in this State for a period
3 of not more than five days in any calendar year. All persons granted a temporary clinical social
4 worker license shall comply with the supervision requirements established by the ~~Board~~Board
5 and shall fulfill all requirements for licensure prior to the expiration of the temporary license.

6 (c) The Board shall issue a temporary license to a military or military spouse applicant
7 who meets the requirements of G.S. 93B-15.1. Prior to the expiration of the temporary license,
8 the applicant shall fulfill all requirements for licensure, in accordance with G.S. 93B-15.1 or the
9 requirements of this Chapter.

10 **"§ 90B-9. Renewal of certificates and licenses.**

11 (a) All certificates and ~~licenses~~licenses, excluding temporary licenses, shall be effective
12 upon date of issuance by the Board, and shall be renewed on or before the ~~second June 30~~
13 ~~thereafter~~expiration date of the certificate or license.

14 (b) All certificates and licenses issued hereunder shall be renewed at the times and in the
15 manner provided by this section. At least 45 days prior to expiration of each certificate or license,
16 the Board shall mail a notice ~~and application for~~of renewal to the certificate holder or licensee.
17 Prior to the expiration date, the applicant shall submit to the Board the properly completed
18 application shall be properly completed, together with a for renewal, the renewal fee established
19 by the Board pursuant to G.S. 90B-6.2(a)(4) G.S. 90B-6.2(a)(4), and evidence of completion of
20 the continuing education requirements established by the Board pursuant to G.S. 90B-6(g), upon
21 receipt of which the Board shall renew the certificate or license. If the application for renewal of
22 a certificate or license is not renewed received by the Board office on or before the close of
23 business on the day prior to the expiration date, date of the license, an additional fee shall be
24 charged for late renewal as provided in G.S. 90B-6.2(a)(5).

25 (c) A certificate or license issued under this Chapter shall be automatically suspended for
26 failure to renew for a period of more than 60 days after the renewal date. The Board may reinstate
27 a certificate or license suspended under this subsection upon verification of compliance with
28 current requirements and payment of a reinstatement fee as provided in G.S. 90B-6.2(a)(6) and
29 may require that the applicant file a new application, furnish new supervisory reports or
30 references or otherwise update his or her credentials, or submit to examination for reinstatement.
31 The Board shall have exclusive jurisdiction to investigate alleged violations of this Chapter by
32 any person whose certificate or license has been suspended under this subsection and, upon proof
33 of any violation of this Chapter, the Board may take disciplinary action as provided in
34 G.S. 90B-11.

35 **"§ 90B-9.1. Nonpracticing status.**

36 ~~(d)(a)~~(a) Any person certified or licensed and desiring to retire temporarily from the practice
37 of social work shall send written notice thereof to the Board. Upon receipt of such notice, his or
38 her name shall be placed upon the nonpracticing list and he or she certificate or license shall be
39 placed on nonpracticing status. During a period of nonpracticing status, the certificate or license
40 holder shall not be subject to payment of renewal fees while temporarily retired. fees and shall
41 not be subject to continuing education requirements corresponding to his or her credential. Social
42 workers whose certificate or license has been placed on nonpracticing status shall not refer to
43 themselves as certified or licensed by the Board and shall not engage in social work practice that
44 requires an active certificate or license under this Chapter.

45 (b) In order to ~~reinstate certification or licensure,~~the reactivate a certificate or license
46 that has been placed on nonpracticing status, a person shall apply to the Board by making a
47 written request for reinstatement and paying reactivation. Upon payment of the appropriate
48 renewal fee as provided in G.S. 90B-6.2 G.S. 90-6.2, and upon receipt of documentation to the
49 satisfaction of the Board that continuing education requirements for the certification or licensure
50 are complete, the Board shall reactivate the certificate or license of an applicant who is otherwise
51 qualified under this Chapter.

1 **"§ 90B-10. Exemption from certain requirements.**

2 (a) Applicants who were engaged in the practice of social work before January 1, 1984,
3 shall be exempt from the academic qualifications required by this act for ~~Certified Social Workers~~
4 certified social workers and ~~Certified Social Work Managers~~ certified social work managers and
5 shall be certified upon passing the Board examination and meeting the experience requirements,
6 if any, for certification of persons in that classification.

7 (b) The following may engage in clinical social work practice without meeting the
8 requirements of G.S. 90B-7(d):

9 (1) Repealed by Session Laws 2007-379, s. 4, effective August 19, 2007.

10 (2) A student completing a clinical requirement for graduation while pursuing a
11 course of study in social work in an institution accredited by or in candidacy
12 status with the Council on Social Work Education.

13 (3) Repealed by Session Laws 2007-379, s. 4, effective August 19, 2007.

14 (c) Notwithstanding ~~the requirements of G.S. 90B-4 and~~ G.S. 90B-16, any individual
15 who is employed by an agency of a local or State governmental entity, and who is in a position
16 holding the title of "Social Worker" or any variation of the name, and whose position title is
17 derived from the Office of State Human Resources ~~Social Work Series Classification~~
18 Specifications may use the title "Social Worker" or any variation of the title. This includes
19 persons in such positions in counties whose classification and compensation systems have been
20 certified as substantially equivalent by the State Human Resources Commission and persons
21 serving in such positions in Human Services agencies created by counties pursuant to
22 G.S. 153A-77.

23 **"§ 90B-11. Disciplinary procedures.**

24 (a) The Board may, in accordance with the provisions of Chapter 150B of the General
25 Statutes, deny, suspend, or revoke an application, certificate, or license on any of the following
26 grounds:

27 (1) Conviction of ~~a misdemeanor~~ or the entering of a plea of guilty or nolo
28 contendere to ~~a any misdemeanor under this Chapter involving moral~~
29 turpitude, misrepresentation or fraud in dealing with the public, conduct
30 otherwise relevant to fitness to practice social work, or any misdemeanor
31 reflecting inability to practice social work with due regard to the health and
32 safety of clients or patients.

33 (2) Conviction of a felony or the entering of a plea of guilty or nolo contendere to
34 a felony under the laws of the United States or of any state of the United States.

35 (3) Gross unprofessional conduct, dishonest practice or incompetence in the
36 practice of social work.

37 (4) Procuring or attempting to procure a certificate or license by fraud, deceit, or
38 misrepresentation.

39 (5) Any fraudulent or dishonest conduct in social work.

40 (6) Inability of the person to perform the functions for which he or she is certified
41 or licensed, or substantial impairment of abilities by reason of physical or
42 mental disability.

43 (7) Violations of any of the provisions of this Chapter or of rules of the Board.

44 ...

45 (d) In considering whether an applicant, certificate holder, or licensee is mentally or
46 physically capable of practicing social work with reasonable skill and safety, the Board may
47 require an applicant, certificate holder, or licensee to submit to any of the following, at his or her
48 own expense: (i) a criminal history record check, including fingerprints, (ii) a mental examination
49 and substance abuse assessment by a licensed clinical social worker or other licensed mental
50 health professional designated by the ~~Board~~ Board, and ~~to~~ (iii) a physical examination by a
51 physician or other licensed health professional designated by the Board. The examination may

1 be ordered by the Board before or after charges are presented against the applicant, certificate
2 holder, or licensee and the results of the examination shall be reported directly to the Board and
3 shall be admissible in evidence in a hearing before the Board.

4 ...

5 (h) The Board may assess costs of disciplinary action against an applicant, certificate
6 holder, or licensee found to be in violation of the provisions of this Chapter or of any rules
7 adopted by the Board pursuant to this Chapter."

8 **SECTION 10.(b)** This section becomes effective January 1, 2021.

9
10 **PART III-A. CLARIFICATIONS TO MEDICAID SUBROGATION STATUTE**

11 **SECTION 11.(a)** G.S. 108A-57 reads as rewritten:

12 **"§ 108A-57. Subrogation rights; withholding of information a misdemeanor.**

13 (a) As used in this section, the term "beneficiary" means (i) the beneficiary of medical
14 assistance, including a minor beneficiary, (ii) the medical assistance beneficiary's parent, legal
15 guardian, or personal representative, (iii) the medical assistance beneficiary's heirs, and (iv) the
16 administrator or executor of the medical assistance beneficiary's estate.

17 Notwithstanding any other provisions of the law, to the extent of payments under this Part,
18 the State shall be subrogated to all rights of recovery, contractual or otherwise, of ~~the a~~
19 ~~beneficiary of this assistance, or of the beneficiary's personal representative, heirs, or the~~
20 ~~administrator or executor of the estate,~~ against any person. ~~A personal injury or wrongful death~~
21 Any claim brought by a medical assistance beneficiary against a third party shall include a claim
22 for all medical assistance payments for health care items or services furnished to the medical
23 assistance beneficiary as a result of the ~~injury, injury or action,~~ hereinafter referred to as the
24 "Medicaid claim." Any ~~personal injury or wrongful death~~ claim brought by a medical assistance
25 beneficiary against a third party that does not state the Medicaid claim shall be deemed to include
26 the Medicaid claim. ~~If the beneficiary has claims against more than one third party related to the~~
27 same injury, then any amount received in payment of the Medicaid claim related to that injury
28 shall reduce the total balance of the Medicaid claim applicable to subsequent recoveries related
29 to that injury.

30 ...

31 (a2) A medical assistance beneficiary may dispute the presumptions established in
32 subsection (a1) of this section by applying to the court in which the medical assistance
33 beneficiary's claim against the third party is pending, or if there is none, then to a court of
34 competent ~~jurisdiction, jurisdiction in this State,~~ for a determination of the portion of the
35 beneficiary's gross recovery that represents compensation for the Medicaid claim. An application
36 under this subsection shall be filed with the court and served on the Department pursuant to the
37 Rules of Civil Procedure no later than 30 days after the date that the settlement agreement is
38 executed by all parties and, if required, approved by the court, or in cases in which judgment has
39 been entered, no later than 30 days after the date of entry of judgment. The court shall hold an
40 evidentiary hearing no sooner than ~~30-60~~ days after the date the action was filed. All of the
41 following shall apply to the court's determination under this subsection:

- 42 (1) The medical assistance beneficiary has the burden of proving by clear and
43 convincing evidence that the portion of the beneficiary's gross recovery that
44 represents compensation for the Medicaid claim is less than the portion
45 presumed under subsection (a1) of this section.
- 46 (2) The presumption arising under subsection (a1) of this section is not rebutted
47 solely by the fact that the medical assistance beneficiary was not able to
48 recover the full amount of all claims.
- 49 (3) If the beneficiary meets its burden of rebutting the presumption arising under
50 subsection (a1) of this section, then the court shall determine the portion of
51 the recovery that represents compensation for the Medicaid claim and shall

1 order the beneficiary to pay the amount so determined to the Department in
2 accordance with subsection (a5) of this section. In making this determination,
3 the court may consider any factors that it deems just and reasonable.

- 4 (4) If the beneficiary fails to rebut the presumption arising under subsection (a1)
5 of this section, then the court shall order the beneficiary to pay the amount
6 presumed pursuant to subsection (a1) of this section to the Department in
7 accordance with subsection (a5) of this section.

8 ...

9 (c) This section applies to the administration of and claims payments ~~made by the~~
10 ~~Department of Health and Human Services~~ under the NC Health Choice Program established
11 under Part 8 of this Article.

12 (d) As required to ensure compliance with this section, the Department may apply to the
13 court in which the medical assistance beneficiary's claim against the third party is pending, or if
14 there is none, then to a court of competent jurisdiction in this State for enforcement of this
15 section."

16 **SECTION 11.(b)** This section is effective when it becomes law and applies to claims
17 brought by medical assistance beneficiaries against third parties on or after that date.

18 19 **PART III-B. SOCIAL SERVICES REFORM**

20 **SECTION 12.(a)** The lead-in language for Section 3.2(a) of S.L. 2017-41 reads as
21 rewritten:

22 "**SECTION 3.2.(a)** Effective ~~March 1, 2020, July 1, 2020~~, G.S. 108A-74 reads as rewritten:"

23 **SECTION 12.(b)** The lead-in language for Section 40(c) of S.L. 2017-102 reads as
24 rewritten:

25 "**SECTION 40.(c)** ~~If House Bill 630, 2017 Regular Session, becomes law, then, effective~~
26 ~~March~~ Effective July 1, 2020, G.S. 108A-74, as amended by ~~Sections 3.1(a) and 3.2(a) of that~~
27 ~~act~~ Section 3.2(a) of S.L. 2017-41, and by Section 40(a) of this act, reads as rewritten:"

28 **SECTION 12.(c)** Section 40(g) of S.L. 2017-102 reads as rewritten:

29 "**SECTION 40.(g)** ~~If House Bill 630, 2017 Regular Session, becomes law, subsection~~
30 Subsection (c) of this section becomes effective ~~March 1, 2020, July 1, 2020~~, subsection (d) of
31 this section becomes effective March 1, 2019, subsection (f) of this section becomes effective
32 January 1, 2019, and applies to appeals filed on or after that date, and the remainder of this section
33 is effective on the date ~~House Bill 630 becomes S.L. 2017-41 became law~~."

34 **SECTION 12.(d)** G.S. 108A-74, as amended by Section 40(c) of S.L. 2017-102,
35 reads as rewritten:

36 "**§ 108A-74. Counties and regional social services departments required to enter into**
37 **annual written agreement for all social services programs other than medical**
38 **assistance; local department failure to comply with the written agreement or**
39 **applicable law; corrective action; State intervention in or control of service**
40 **delivery.**

41 (a) Notwithstanding any other provision of law to the contrary, the Secretary may take
42 action in accordance with this section to ensure the delivery of ~~child-welfare services~~ social
43 services programs other than medical assistance in accordance with State laws and applicable
44 rules. As used in this section, the following definitions shall apply:

- 45 (1) Board of social services. – The governing body responsible for oversight of
46 the department of social services, ~~including~~ includes a county social services
47 board, a regional board of social services, a consolidated human services
48 board, or a board of county commissioners that has assumed the powers and
49 duties of a social services governing board pursuant to G.S. 153A-77(a),
50 whichever applies.

- 1 (2) Child welfare services or program. – ~~Protective,~~ Child protective services,
2 foster care, and adoption services related to juveniles alleged to be abused,
3 neglected, or dependent as required by Chapter 7B of the General Statutes.
- 4 (3) Department of social services. – The department responsible for
5 administration of the social services and programs of public assistance in a
6 county. It includes a county department of social services, a consolidated
7 human services agency, or a regional social services department, whichever
8 applies.
- 9 (4) Director of social services. – The person responsible for managing and
10 administering the department of social services, including a county social
11 services director, a regional social services director, or a human services
12 director, whichever applies.
- 13 (5) Social services programs other than medical assistance. – Social services and
14 public assistance programs established in this Chapter other than the medical
15 assistance program (Chapter 108A, Article 2, Part 6). This includes, but is not
16 limited to, child welfare programs, adult protective services, guardianship
17 services for adults, and programs of public assistance established in Chapter
18 108A. It also includes the child support enforcement program, as established
19 in Chapter 110, Article 9.
- 20 (a1) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.
- 21 (a2) The Secretary shall require all counties and regional social services departments to
22 enter into a written agreement each year that specifies mandated performance requirements and
23 administrative responsibilities with regard to all social services programs other than medical
24 assistance, [subject to the following:]
- 25 (1) The mandated performance requirements shall be based upon standardized
26 metrics utilizing data and outcome measures derived from the Social Services
27 System Transparency and Wellness Dashboard and other reliable data
28 sources.
- 29 (2) The administrative responsibilities shall address, at a minimum, staff training,
30 data submission to the Department, and communication with the Department.
- 31 (3) The written agreement may be standardized or may be tailored to address
32 issues in specific jurisdictions.
- 33 (4) The written agreement shall authorize the Department to withhold State or
34 federal funds in the event the department fails to satisfy mandated
35 performance requirements or comply with the terms of the agreement or
36 applicable law.
- 37 (a3) If a department of social services fails to comply with the terms of the written
38 ~~agreement~~ agreement, the mandated performance measures, or other applicable law for three
39 consecutive months or for five months within any consecutive 12-month period, ~~period for those~~
40 terms or mandated performance measures that are measured less than annually, or fails to comply
41 for two consecutive 12-month periods for those terms or mandated performance measures that
42 are measured on an annual basis, the Secretary and the department of social services shall enter
43 into a joint corrective action plan within 60 working days. The Secretary may also require a
44 corrective action plan more quickly in urgent circumstances, regardless of whether the
45 circumstances are directly related to a mandated performance requirement specified in the written
46 agreement. The board of social services and the county manager shall be notified of any joint
47 corrective action plan.
- 48 (a4) The corrective action plan shall include each of the following components:
- 49 (1) The duration of the joint corrective action plan, not to exceed 12 months. If
50 the Secretary determines that the department of social services has not shown
51 measurable progress within six months, or at the half-way point if the duration

1 of the plan is less than 12 months, the Secretary may summarily conclude that
2 the department of social services has failed to successfully complete the joint
3 corrective plan and may proceed with steps necessary to temporarily assume
4 administrative responsibilities of the department of social services. If the
5 Secretary determines the department of social services has shown measurable
6 progress within six months, or at the half-way point if the duration of the plan
7 is less than 12 months, the Secretary may extend the joint corrective action
8 plan by six months, but in no case shall a joint corrective action plan exceed
9 18 months.

10 (2) The performance requirements for the department of social services that
11 constitute successful completion of the joint corrective action plan.

12 (3) A schedule and plan for providing updates to the ~~social services board~~ of
13 social services and county manager regarding the department's progress
14 implementing the corrective action plan.

15 (4) An acknowledgement that failure to successfully complete the joint corrective
16 action plan shall result in temporary assumption of all or part of the
17 department of social services administration.

18 (b) If the Secretary determines that a department of social services has failed to
19 successfully complete the joint corrective action plan, then the Secretary shall give the board of
20 county commissioners, the department of social services, the county manager, and the board of
21 social services at least 30 days' notice that the Secretary, through the ~~appropriate regional social~~
22 ~~services office,~~ Division of Social Services, intends to temporarily assume all or part of the
23 department's social services administration in accordance with subsection (c) of this section. In
24 a regional department of social services, notice shall be provided to boards of county
25 commissioners and county managers for all counties served by the region.

26 (c) Notwithstanding any provision of law to the contrary, if a department of social
27 services fails to successfully complete its joint corrective action plan, the Secretary shall direct
28 the ~~appropriate regional office to, within 30 calendar days,~~ Division of Social Services to
29 temporarily assume all or part of the department's social services administration ~~upon giving no~~
30 later than 30 calendar days after providing notice as required by subsection (b) of this section.
31 During the period the Secretary assumes administration of the social services program, the
32 following shall occur:

33 (1) The Secretary, through the ~~appropriate regional office,~~ Division of Social
34 Services shall administer all or part of the social services program in a county
35 or region. Administration by the Secretary may include direct operation by the
36 Department, including supervision of program staff or contracts for operation,
37 to the extent permitted by federal law.

38 (2) The department of social services shall be divested of administrative authority
39 for any component of the program the Secretary assumes.

40 (3) The director of social services shall be divested of all service delivery powers
41 conferred upon the director by G.S. 108A-14 and other applicable State law
42 as it pertains to the programs or services to be assumed. The Secretary may
43 assign any of the powers and duties of the director of social services to an
44 employee of the Department or a contractor, as the Secretary deems necessary
45 and appropriate to continue the provision of services in the county. If the local
46 director of social services has delegated any authority to staff pursuant to
47 G.S. 108A-14(b), delegated authority shall remain in effect until the
48 Secretary, or the Secretary's designee, specifically revokes the delegation.

49 (4) The Secretary shall direct and oversee the expenditure of all funding for the
50 administration of the components of the program assumed by the Secretary.

1 (5) The ~~department of social services~~ county shall not withdraw funds previously
2 obligated or appropriated for program administration and services. The
3 ~~department of social services~~ county shall continue to pay the county's or
4 region's nonfederal share for the program services and administration.

5 (6) The Secretary shall work with the county and the department of social services
6 to develop a plan for the department to resume program administration.

7 (7) The Secretary shall inform the appropriate board or boards of county
8 commissioners, the county manager or managers, the director of social
9 services, and the board of social services of key activities and ongoing
10 concerns during the temporary assumption of social services program
11 administration.

12 (c1) Upon the Secretary's determination that the department of social services is able to
13 meet performance requirements and that program administration responsibilities should be
14 restored to the department of social services, the Secretary shall notify the board of county
15 commissioners, the department of social services, the county manager, and the board of social
16 services that the temporary assumption of program administration will be terminated and the
17 effective date of the termination. Upon termination, the department of social services shall
18 resume its full authority to administer the program or programs that were assumed.

19 (d) through (g) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.

20 (h) If the Secretary determines that a county department of social services is not providing
21 child protective, foster care, or adoption services in accordance with State law and with
22 applicable rules adopted by the Social Services Commission, or fails to demonstrate reasonable
23 efforts to do so, and the failure to provide the services poses a substantial threat to the safety and
24 welfare of children in the county who receive or are eligible to receive the services, then the
25 Secretary, after providing written notification of intent to the chair of the county board of
26 commissioners, to the chair of the county board of social services, and to the county director of
27 social services, and after providing them with an opportunity to be heard, shall withhold funding
28 for the particular service or services in question and shall ensure the provision of these services
29 through contracts with public or private agencies or by direct operation by the Department of
30 Health and Human Services.

31 (i) In the event that the Secretary assumes control of service delivery pursuant to
32 subsection (h) of this section, the county director of social services shall be divested of all service
33 delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as
34 the powers pertain to the services in question. Upon assumption of control of service delivery,
35 the Secretary may assign any of the powers and duties of the county director of social services to
36 the Director of the Division of Social Services of the Department of Health and Human Services
37 or to a contractor as the Secretary deems necessary and appropriate to continue the provision of
38 the services in the county.

39 (j) In the event the Secretary takes action under this section, the Department of Health
40 and Human Services shall, in conjunction with the county board of commissioners, the county
41 board of social services, and the county director of social services, develop and implement a
42 corrective plan of action. The Department of Health and Human Services shall also keep the chair
43 of the county board of commissioners, the chair of the county board of social services, and the
44 county director of social services informed of any ongoing concerns or problems with the
45 delivery of the services in question.

46 (k) Upon the Secretary taking action pursuant to subsection (h) of this section, county
47 funding of the services in question shall continue and at no time during the period of time that
48 the Secretary is taking action shall a county withdraw funds previously obligated or appropriated
49 for the services. Upon the Secretary's assumption of the control of service delivery, the county
50 shall also pay the nonfederal share of any additional cost that may be incurred to operate the

1 services in question at the level necessary to comply fully with State law and Social Services
2 Commission rules.

3 (l) During the period of time that the Secretary is taking action pursuant to subsection
4 (h) of this section, the Department of Health and Human Services shall work with the county
5 board of commissioners, the county board of social services, and the county director of social
6 services to enable service delivery to be returned to the county if and when the Secretary has
7 determined that services can be provided by the county in accordance with State law and
8 applicable rules."

9 SECTION 12.(e) Subsection (d) of this section becomes effective July 1, 2020.

10
11 **PART III-C. CHILD SUPPORT ENFORCEMENT PROGRAM COMPLIANCE**

12 SECTION 13. G.S. 110-139 reads as rewritten:

13 "**§ 110-139. Location of absent parents.**

14 ...

15 (d) Notwithstanding any other provision of law making this information confidential,
16 including Chapter 53B of the General Statutes, any utility company, cable television company,
17 electronic communications or Internet service provider, or financial institution, including federal,
18 State, commercial, or savings banks, savings and loan associations and cooperative banks, federal
19 or State chartered credit unions, benefit associations, insurance companies, safe deposit
20 companies, money market mutual funds, and investment companies doing business in this State
21 or incorporated under the laws of this ~~State~~ State, shall provide the Department of Health and
22 Human Services with the following information upon certification by the Department that the
23 information is needed to locate a parent for the purpose of collecting child support or to establish
24 or enforce an order for child support: full name, social security number, address, telephone
25 number, account numbers, and other identifying data for any person who maintains an account
26 at the utility company, cable television company, electronic communications or Internet service
27 provider, or financial institution. A utility company, cable television company, electronic
28 communications or Internet service provider, or financial institution that discloses information
29 pursuant to this subsection in good faith reliance upon certification by the Department is not
30 liable for damages resulting from the disclosure.

31 ~~(e) Subsection (d) of this section shall not apply to telecommunication utilities or~~
32 ~~providers of electronic communication service to the general public.~~

33"

34
35 **PART III-D. WORKFORCE INNOVATION AND OPPORTUNITY ACT**
36 **COMPLIANCE/VOCATIONAL REHABILITATION**

37 SECTION 14. G.S. 143-548 reads as rewritten:

38 "**§ 143-548. Vocational State Rehabilitation Council.**

39 (a) There is established the Vocational State Rehabilitation Council ~~within (Council) in~~
40 support of the activities of the Division of Vocational Rehabilitation Services to be composed of
41 not more than 18 appointed members. Appointed members shall be voting members except where
42 prohibited by federal law or regulations. The Director of the Division of Vocational
43 Rehabilitation Services and one vocational rehabilitation counselor who is an employee of the
44 Division shall serve ex officio as nonvoting members. The President Pro Tempore of the Senate
45 shall appoint six members, the Speaker of the House of Representatives shall appoint six
46 members, and the Governor shall appoint five or six members. The appointing authorities shall
47 appoint members of the Council after soliciting recommendations from representatives of
48 organizations representing a broad range of individuals with disabilities. Terms of appointment
49 shall be as specified in subsection (d1) of this section. Appointments shall be made as follows:

50"

PART III-F. REPEAL EMPLOYEE ASSISTANCE PROFESSIONALS ARTICLE

SECTION 16. Article 32 of Chapter 90 of the General Statutes is repealed.

PART III-G. MULTI-ETHNIC PLACEMENT ACT COMPLIANCE/ADOPTION PREPLACEMENT ASSESSMENT MODIFICATIONS

SECTION 17. G.S. 48-3-303 reads as rewritten:

"§ 48-3-303. Content and timing of preplacement assessment.

(a) A preplacement assessment shall be completed within 90 days after a request has been accepted.

(b) The preplacement assessment must be based on at least one personal interview with each individual being assessed in the individual's residence and any report received pursuant to subsection (c) of this section.

(c) The preplacement assessment shall, after a reasonable investigation, report on the following about the individual being assessed:

(1) ~~Age and date of birth, nationality, Nationality,~~ race, or ethnicity, and any religious preference;

(2) Marital and family status and history, including the presence of any children born to or adopted by the individual and any other children in the household;

(3) ~~Physical~~ Date of birth and physical and mental health, including any addiction to alcohol or drugs;

...

(e) In the preplacement assessment, the agency shall review the information obtained pursuant to subsections (b), ~~(c), (c)(2) through (c)(13),~~ and (d) of this section and evaluate the individual's strengths and ~~weaknesses~~ needs to be an adoptive parent. The agency shall then determine whether the individual is suitable to be an adoptive parent.

(f) If the agency determines that the individual is suitable to be an adoptive parent, the preplacement assessment shall include specific factors which support that determination.

(g) If the agency determines that the individual is not suitable to be an adoptive parent, the preplacement assessment shall state the specific concerns which support that determination. A specific concern is one that reasonably indicates that placement of any minor, or a particular minor, in the home of the individual would pose a significant risk of harm to the well-being of the minor.

(h) In addition to the information and finding required by subsections (c) through (g) of this section, the preplacement assessment must contain a list of the sources of information on which it is based.

(i) The Social Services Commission shall have authority to establish by rule additional standards for preplacement assessments."

PART III-H. CHILD ABUSE PREVENTION AND TREATMENT ACT COMPLIANCE/EXPAND IMMUNITY FOR COOPERATING IN CHILD ABUSE AND NEGLECT REPORTS AND ASSESSMENTS

SECTION 18. G.S. 7B-309 reads as rewritten:

"§ 7B-309. Immunity of persons reporting and cooperating in an assessment.

Anyone who makes a report pursuant to this ~~Article, Article;~~ cooperates with the county department of social services in a protective services ~~assessment, assessment;~~ testifies in any judicial proceeding resulting from a protective services report or ~~assessment, assessment;~~ provides information or assistance, including medical evaluations or consultation in connection with a report, investigation, or legal intervention pursuant to a good-faith report of child abuse or neglect; or otherwise participates in the program authorized by this ~~Article, Article;~~ is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action

1 provided that the person was acting in good faith. In any proceeding involving liability, good
2 faith is presumed."
3

4 **PART III-I. DHHS LAW ENFORCEMENT**

5 **SECTION 19.(a)** G.S. 122C-183 reads as rewritten:

6 "**§ 122C-183. Appointment of employees as police officers who may arrest without warrant.**

7 The director of each State facility may appoint as special police officers the number of
8 employees of their respective facilities they consider necessary. Within the grounds of the State
9 facility the employees appointed as special police officers have all the powers of police officers
10 of cities. ~~They have~~ The Secretary, or the Secretary's designee, may assign these special police
11 officers to other State-operated facilities on a temporary basis to carry out the powers allowed
12 under this section and as otherwise provided by laws relating to the specific joint security force
13 to which they are assigned. Upon this temporary assignment, the special police officer will take
14 the oath in G.S. 122C-184 for that specific facility. Following the oath, the police officer has the
15 right to arrest without warrant individuals committing violations of the State law or the
16 ordinances or rules of that facility in their presence and to bring the offenders before a magistrate
17 who shall proceed as in other criminal cases."

18 **SECTION 19.(b)** Part 2 of Article 6 of Chapter 122C of the General Statutes reads
19 as rewritten:

20 "Part 2. Black Mountain Center and Julian F. Keith Alcohol and Drug Abuse Treatment Center
21 Joint Security Force.

22 "**§ 122C-421. Joint security force.**

23 (a) The Secretary may designate one or more special police officers who shall make up
24 a joint security force to enforce the law of North Carolina and any ordinance or regulation
25 adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the
26 Department by any other law on the territory of the Black Mountain ~~Center, Center and the Julian~~
27 ~~F. Keith Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all and Drug Abuse~~
28 Treatment Center in Buncombe County. After taking the oath of office for law enforcement
29 officers as set out in G.S. 11-11, these special police officers have the same powers as peace
30 officers now vested in sheriffs within the territory embraced by the named centers. ~~These special~~
31 ~~police officers shall also have the power prescribed by G.S. 7B-1900 outside the territory~~
32 ~~embraced by the named centers but within the confines of Buncombe County. These special~~
33 police officers may arrest persons outside the territory of the named centers but within the
34 confines of Buncombe County when the person arrested has committed a criminal offense within
35 that territory, for which the officers could have arrested the person within that territory, and the
36 arrest is made during the person's immediate and continuous flight from that territory.

37 (b) These special police officers may exercise any and all of the powers enumerated in
38 this Part upon or in pursuit from the property formerly occupied by the Black Mountain Center
39 and ~~transferred to the now occupied by the Division of Adult Correction and Juvenile Justice of~~
40 ~~the Department of Public Safety by Senate Bill 388 and House Bill 709 of the 1985 Session of~~
41 ~~the General Assembly. Safety.~~ These special police officers shall exercise said powers upon the
42 property transferred to the Division of Adult Correction and Juvenile Justice of the Department
43 of Public Safety only by agreement of the Division of Adult Correction and Juvenile Justice of
44 the Department of Public Safety and the Department of Health and Human Services.

45 (c) Upon assignment by the Secretary, or Secretary's designee, to any State-operated
46 facility pursuant to G.S. 122C-183, these special police officers may exercise the same power
47 enumerated in this Part within the territory of the named facility and within the county in which
48 the facility is located."

49 **SECTION 19.(c)** Part 2A of Article 6 of Chapter 122C of the General Statutes reads
50 as rewritten:

1 "Part 2A. ~~Broughton Hospital~~ Hospital, Western Regional Vocational Rehabilitation Facility,
2 and J. Iverson Riddle Developmental Center Joint Security Force.

3 **"§ 122C-430. Joint security force.**

4 (a) The Secretary may designate one or more special police officers who shall make up
5 a joint security force to enforce the law of North Carolina and any ordinance or regulation
6 adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the
7 Department by any other law on the territory of the Broughton Hospital, ~~North Carolina School~~
8 ~~for the Deaf at Morganton (K-12)~~, Western Regional Vocational Rehabilitation Facility, J.
9 Iverson Riddle Developmental Center, and the surrounding grounds and land adjacent to
10 Broughton Hospital allocated to the Department of Agriculture and Consumer Services, all in
11 Burke County. After taking the oath of office for law enforcement officers as set out in
12 G.S. 11-11, these special police officers have the same powers as peace officers now vested in
13 sheriffs within the territory embraced by the named facilities. These special police officers may
14 arrest persons outside the territory of the named institutions but within the confines of Burke
15 County when the person arrested has committed a criminal offense within that territory for which
16 the officers could have arrested the person within that territory, and the arrest is made during the
17 person's immediate and continuous flight from that territory.

18 (b) Upon assignment by the Secretary, or Secretary's designee, to any State-operated
19 facility pursuant to G.S. 122C-183, these special police officers may exercise the same power
20 enumerated in this Part within the territory of the named facility and within the county in which
21 the facility is located."

22 **SECTION 19.(d)** Part 2B of Article 6 of Chapter 122C of the General Statutes reads
23 as rewritten:

24 "Part 2B. Cherry Hospital and O'Berry Neuro-Medical Treatment Center Joint Security Force.

25 **"§ 122C-430.10. Joint security force.**

26 (a) The Secretary may designate one or more special police officers who shall make up
27 a joint security force to enforce the law of North Carolina and any ordinance or regulation
28 adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the
29 Department by any other law on the territory of the Cherry Hospital and the O'Berry
30 Neuro-Medical Treatment Center in Wayne County. After taking the oath of office for law
31 enforcement officers as set out in G.S. 11-11, these special police officers have the same powers
32 as peace officers now vested in sheriffs within the territory of the Cherry Hospital. These special
33 police officers shall also have the power prescribed by G.S. 122C-205 outside the territory of the
34 Cherry Hospital and the O'Berry Neuro-Medical Treatment Center but within the confines of
35 Wayne County. These special police officers may arrest persons outside the territory of the
36 Cherry Hospital but within the confines of Wayne County, when the person arrested has
37 committed a criminal offense within the territory of the Cherry ~~Hospital~~, ~~Hospital~~ and the O'Berry
38 Neuro-Medical Treatment Center, for which the officers could have arrested the person within
39 that territory, and the arrest is made during the person's immediate and continuous flight from
40 that territory.

41 (b) Upon assignment by the Secretary, or Secretary's designee, to any State-operated
42 facility pursuant to G.S. 122C-183, these special police officers may exercise the same power
43 enumerated in this Part within the territory of the named facility and within the county in which
44 the facility is located."

45 **SECTION 19.(e)** Part 2C of Article 6 of Chapter 122C of the General Statutes is
46 repealed.

47 **SECTION 19.(f)** Part 2D of Article 6 of Chapter 122C of the General Statutes reads
48 as rewritten:

49 "Part 2D. Long Leaf Neuro-Medical Treatment Center and Eastern North Carolina School for
50 the Deaf Joint Security Force.

51 **"§ 122C-430.30. Joint security force.**

1 (a) The Secretary may designate one or more special police officers who shall make up
 2 a joint security force to enforce the law of North Carolina and any ordinance or regulation
 3 adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the
 4 Department by any other law on the territory of the Long Leaf Neuro-Medical Treatment Center
 5 ~~and the Eastern North Carolina School for the Deaf~~ in Wilson County. After taking the oath of
 6 office for law enforcement officers as set out in G.S. 11-11, these special police officers have the
 7 same powers as peace officers now vested in sheriffs within the territory embraced by the ~~named~~
 8 ~~facilities~~ Long Leaf Neuro-Medical Treatment Center. These special police officers may arrest
 9 persons outside the territory of the ~~named institutions~~ Long Leaf Neuro-Medical Treatment
 10 Center, but within the confines of Wilson County when the person arrested has committed a
 11 criminal offense within that territory for which the officers could have arrested the person within
 12 that territory, and the arrest is made during the person's immediate and continuous flight from
 13 that territory.

14 (b) These special police officers may exercise any and all of the powers enumerated in
 15 this Part upon the property of, or in pursuit from, the Eastern North Carolina School for the Deaf
 16 only by agreement of the Department of Public Instruction and the Department of Health and
 17 Human Services.

18 (c) Upon assignment by the Secretary, or Secretary's designee, to any State-operated
 19 facility pursuant to G.S. 122C-183, these special police officers may exercise the same power
 20 enumerated in this Part within the territory of the named facility and within the county in which
 21 the facility is located."

22

23 PART III-J. SECURITY RECORDINGS

24 SECTION 20.(a) G.S. 122C-3, as amended by S.L. 2019-76, reads as rewritten:

25 "§ 122C-3. Definitions.

26 The following definitions apply in this Chapter:

27 ...

28 (32) Responsible professional. – An individual within a facility who is designated
 29 by the facility director to be responsible for the care, treatment, habilitation,
 30 or rehabilitation of a specific client and who is eligible to provide care,
 31 treatment, habilitation, or rehabilitation relative to the client's disability.

32 ~~(33)~~(32a) Secretary. – The Secretary of the Department of Health and Human
 33 Services.

34 (32b) Security recordings. – Any films, videos, or electronic or other media
 35 recordings of a common area in a State facility that are produced for the
 36 purpose of maintaining or enhancing the health and safety of clients, residents,
 37 staff, or visitors of that State facility. The term does not include recordings of
 38 a client's clinical sessions or any other recordings that are part of a client's
 39 confidential records or information.

40 (33a) Severe and persistent mental illness. –A mental disorder suffered by persons
 41 of 18 years of age or older that leads these persons to exhibit emotional or
 42 behavioral functioning that is so impaired as to interfere substantially with
 43 their capacity to remain in the community without supportive treatment or
 44 services of a long term or indefinite duration. This disorder is a severe and
 45 persistent mental disability, resulting in a long-term limitation of functional
 46 capacities for the primary activities of daily living, such as interpersonal
 47 relations, homemaking, self-care, employment, and recreation.

48"

49 SECTION 20.(b) Article 3 of Chapter 122C of the General Statutes is amended by
 50 adding a new section to read:

51 "§ 122C-56.1. Exceptions; security recordings.

1 (a) Security recordings are not a public record under Chapter 132 of the General Statutes
2 and are confidential information under this Chapter.

3 (b) A State facility is not required to disclose its security recordings unless required under
4 federal law or compelled by a court of competent jurisdiction.

5 (c) A State facility shall allow viewing of security recordings by an internal client
6 advocate.

7 (d) A State facility may allow viewing of a security recording by a client or their legally
8 responsible person if, in the opinion of the responsible professional, it is determined to be in the
9 best interest of the client."

10 11 **PART III-K. NC REACH PROGRAM/GUARDIANSHIP**

12 **SECTION 21.** Section 11C.5(a) of S.L. 2017-57 reads as rewritten:

13 **"SECTION 11C.5.(a)** Funds appropriated from the General Fund to the Department of
14 Health and Human Services for the child welfare postsecondary support program shall be used
15 to continue providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C.
16 § 108711 for the educational needs of (i) foster youth aging out of the foster care ~~system-system,~~
17 (ii) youth who exit foster care to a permanent home through the Guardianship Assistance
18 Program, and (iii) special needs children adopted from foster care after age 12. These funds shall
19 be allocated by the State Education Assistance Authority."

20 21 **PART III-L. TRAUMATIC BRAIN INJURY**

22 **SECTION 22.** G.S. 122C-3, as amended by S.L. 2019-76, reads as rewritten:

23 **"§ 122C-3. Definitions.**

24 The following definitions apply in this Chapter:

25 ...

26 (12a) Developmental disability. – A severe, chronic disability of a person that
27 satisfies all of the following:

28 a. Is attributable to a mental or physical impairment or combination of
29 mental and physical impairments to one or more impairments.

30 b. Is manifested before the person attains age 22, unless the disability is
31 caused by a traumatic head injury and is manifested after age 22; brain
32 injury, in which case the disability may be manifested after attaining
33 age 22.

34 c. Is likely to continue indefinitely.

35 d. Results in substantial functional limitations in three or more of the
36 following areas of major life activity: self-care, receptive and
37 expressive language, capacity for independent living, learning,
38 mobility, self-direction, and economic self-sufficiency.

39 e. Reflects the person's need for a combination and sequence of special
40 interdisciplinary, or generic care, treatment, or other services which
41 that are of a lifelong or extended duration and are individually planned
42 and eordinated.-coordinated; or when applied to children from birth
43 through age four, may be evidenced as a developmental delay.

44 f. When applied to children from birth through four years of age, a
45 developmental disability may be evidenced as a developmental delay.

46 ...

47 (38a) Traumatic brain injury. – An injury to the brain caused by an external physical
48 force resulting in total or partial functional disability, psychosocial
49 impairment, or both, and meets all of the following criteria:

50 a. Involves an open or closed head injury.

- 1 b. Resulted from a single event, or resulted from a series of events which
 2 may include multiple concussions.
 3 c. Occurs with or without a loss of consciousness at the time of injury.
 4 d. Results in impairments in one or more areas of the following functions:
 5 cognition; language; memory; attention; reasoning; abstract thinking;
 6 judgment; problem-solving; sensory, perceptual, and motor abilities;
 7 psychosocial behavior; physical functions; information processing;
 8 and speech.
 9 e. Does not include brain injuries that are congenital or degenerative.

10 "

11
 12 **PART III-M. ADD CONTINUING CARE RETIREMENT COMMUNITY (CCRC)**
 13 **REPRESENTATIVE TO MEDICAL CARE COMMISSION**

14 **SECTION 23.(a)** G.S. 143B-166 reads as rewritten:

15 **"§ 143B-166. North Carolina Medical Care Commission – members; selection; quorum;**
 16 **compensation.**

17 The North Carolina Medical Care Commission of the Department of Health and Human
 18 Services shall consist of 17 members appointed by the Governor. Three of the members
 19 appointed by the Governor shall be nominated by the North Carolina Medical Society, one
 20 member shall be nominated by the North Carolina Nurses Association, one member shall be
 21 nominated by the North Carolina Pharmaceutical Association, one member nominated by the
 22 Duke Foundation and one member nominated by the North Carolina Hospital Association. The
 23 remaining 10 members of the North Carolina Medical Care Commission shall be appointed by
 24 the Governor and selected so as to fairly represent agriculture, industry, labor, and other interest
 25 groups in North Carolina. One such member appointed by the Governor shall be a dentist licensed
 26 to practice in North Carolina. ~~Carolina~~ and one such member appointed by the Governor shall be
 27 an individual affiliated with a nonprofit Continuing Care Retirement Community licensed
 28 pursuant to Article 64 of Chapter 58 of the General Statutes. The initial members of the
 29 Commission shall be 18 members of the North Carolina Medical Care Commission who shall
 30 serve for a period equal to the remainder of their current terms on the North Carolina Medical
 31 Care Commission, six of whose appointments expire June 30, 1973, four of whose appointments
 32 expire June 30, 1974, four of whose appointments expire June 30, 1975, and four of whose
 33 appointments expire June 30, 1976. To achieve the required 17 members the Governor shall
 34 appoint three members to the Commission upon the expiration of four members' initial terms on
 35 June 30, 1973. At the end of the respective terms of office of the initial members of the
 36 Commission, their successors shall be appointed for terms of four years and until their successors
 37 are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the
 38 resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired
 39 term.

40 The Governor shall have the power to remove any member of the Commission from office
 41 for misfeasance, malfeasance or nonfeasance in accordance with the provisions of G.S. 143B-13
 42 of the Executive Organization Act of 1973.

43 Vacancies on said Commission among the membership nominated by a society, association,
 44 or foundation as hereinabove provided shall be filled by the Executive Committee or other
 45 authorized agent of said society, association or foundation until the next meeting of the society,
 46 association or foundation at which time the society, association or foundation shall nominate a
 47 member to fill the vacancy for the unexpired term.

48 The members of the Commission shall receive per diem and necessary travel and subsistence
 49 expenses in accordance with the provisions of G.S. 138-5.

50 A majority of the Commission shall constitute a quorum for the transaction of business.

1 All clerical and other services required by the Commission shall be supplied by the Secretary
2 of Health and Human Services."

3 **SECTION 23.(b)** The individual affiliated with a nonprofit Continuing Care
4 Retirement Community, as described in subsection (a) of this section, shall be appointed to fill
5 the next vacancy occurring after the effective date of this act in an appointed position held by a
6 representative of agriculture, industry, labor, or other interest group.
7

8 **PART III-N. POSTPONE DEPLOYMENT OF NC FAST CASE-MANAGEMENT**
9 **FUNCTIONALITY FOR CHILD WELFARE SYSTEM/AGING AND ADULT**
10 **SERVICES' PROGRAM, DEVELOP RFI, PROGRAM EVALUATION DIVISION**
11 **STUDY**

12 **SECTION 24.(a)** The Department of Health and Human Services, Division of Social
13 Services, shall postpone deployment of the North Carolina Families Accessing Services through
14 Technology (NC FAST) system as it relates to case-management functionality for the child
15 welfare system and aging and adult services' programs. The Division shall not deploy the child
16 welfare case-management component of the NC FAST system statewide prior to July 1, 2020,
17 but shall instead continue to develop and improve case-management functionality for the child
18 welfare component of NC FAST only in those counties that participated in the initial pilot
19 program prior to January 1, 2019.

20 **SECTION 24.(b)** Counties that were phased-in the NC FAST Child Welfare System
21 after January 1, 2019, may elect to opt out of the utilization of the Intake and Assessment
22 functionality of the NC FAST system.

23 **SECTION 24.(c)** The Division shall move forward with developing and issuing
24 requests for information (RFIs) to consider a vehicle for improving or replacing the child welfare
25 case-management component of NC FAST, but shall not issue any contracts without prior
26 approval from the General Assembly. To ensure the request for information includes areas of
27 greatest concerns to the pilot counties, the Division shall consult with the Executive Committee
28 of the North Carolina Association of County Directors of Social Services. The Department shall
29 report to the chairs of the Senate Committee on Health Care, the chairs of the Senate
30 Appropriations Committee on Health and Human Services, the chairs of the House of
31 Representatives Committee on Health, and the chairs of the House of Representatives
32 Appropriations Committee on Health and Human Services no later than May 1, 2020.

33 **SECTION 24.(d)** The Joint Legislative Program Evaluation Oversight Committee
34 shall revise the biennial 2019-2020 work plan for the Program Evaluation Division to include a
35 study of the case-management functionality of the child welfare component of NC FAST. The
36 Program Evaluation Division shall submit its evaluation to the Joint Legislative Program
37 Evaluation Oversight Committee and to the Joint Legislative Oversight Committee on Health
38 and Human Services no later than May 1, 2020.

39 **SECTION 24.(e)** This section is effective when it becomes law.
40

41 **PART III-O. CRIMINAL HISTORY RECORD CHECKS FOR CHILD CARE**
42 **INSTITUTIONS**

43 **SECTION 25.(a)** Chapter 108A of the General Statutes is amended by adding a new
44 Article to read:

45 "Article 8.

46 "Miscellaneous.

47 **"§ 108A-133. Criminal history record checks required for child care institutions.**

48 (a) Application. – This section applies to a child care institution as defined by Title IV-E
49 of the Social Security Act. The requirement for a criminal history record check applies to all
50 current employees and volunteers, applicants for employment, and all individuals wishing to
51 volunteer in a child care institution.

1 (b) Requirement. – An offer of employment by a child care institution, or by a contract
2 agency of a child care institution, is conditioned on consent to a State and national criminal
3 history record check of the applicant. Acceptance of an individual who wishes to volunteer in a
4 child care institution is conditioned on consent to a State and national criminal history record
5 check of the applicant. The national criminal history record check shall include a check of the
6 applicant's fingerprints. A child care institution shall not employ an applicant, or allow an
7 individual to volunteer, who refuses to consent to a criminal history record check required by this
8 section.

9 (c) Process. – Within five business days of making the conditional offer of employment,
10 or formally discussing a volunteer opportunity, a child care institution, or a contract agency of a
11 child care institution, shall submit a request to the Department of Public Safety under
12 G.S. 143B-972 to conduct a State and national criminal history record check as required by this
13 section. The Department of Public Safety shall return the results of the national criminal history
14 record check to the Department of Health and Human Services, Criminal Records Check Unit.

15 (d) Factors. – If an applicant's or individual's criminal history record check reveals one
16 or more convictions of a relevant offense listed under subsection (e) of this section, the conviction
17 shall not automatically bar employment. The Department of Health and Human Services,
18 Criminal Records Check Unit, shall consider all of the following factors in determining whether
19 to recommend the applicant be hired or the individual be allowed to volunteer:

20 (1) The level and seriousness of the crime.

21 (2) The date of the crime.

22 (3) The age of the person at the time of the conviction.

23 (4) The circumstances surrounding the commission of the crime, if known.

24 (5) The nexus between the criminal conduct of the person and the job duties of
25 the position to be filled.

26 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
27 the person since the date the crime was committed.

28 (7) The subsequent commission by the person of a relevant offense.

29 Once the Department of Health and Human Services, Criminal Records Check Unit,
30 considers the relevant offense listed in subsection (e) of this section, and the factors listed in this
31 subsection, the Department of Health and Human Services, Criminal Records Check Unit, shall
32 inform the child care institution, or a contract agency of a child care institution, whether an
33 applicant should be hired, or an individual should be allowed to volunteer. The Department shall
34 not provide the results of the criminal history record check to the child care institution or a
35 contract agency of a child care institution.

36 (e) Relevant Offense. – As used in this section, "relevant offense" means a county, state,
37 or federal criminal history of conviction or pending indictment of a crime, whether a
38 misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety
39 and well-being of children. These crimes include the criminal offenses set forth in any of the
40 following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing
41 Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6,
42 Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping
43 and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary
44 Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other
45 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False
46 Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use
47 of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
48 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency;
49 Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
50 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace;
51 Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article

1 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related
2 Crime. These crimes also include possession or sale of drugs in violation of the North Carolina
3 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related
4 offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired
5 in violation of G.S. 20-138.1 through G.S. 20-138.5.

6 (f) Penalty for Furnishing False Information. – Any applicant for employment, or
7 individual who wishes to volunteer, who willfully furnishes, supplies, or otherwise gives false
8 information on an employment application that is the basis for a criminal history record check
9 under this section shall be guilty of a Class A1 misdemeanor.

10 (g) Conditional Employment. – A child care institution may employ an applicant
11 conditionally prior to obtaining the results of a criminal history record check regarding the
12 applicant if both of the following requirements are met:

13 (1) The child care institution shall not employ an applicant prior to obtaining the
14 applicant's consent for a criminal history record check as required in
15 subsection (b) of this section or the completed fingerprint cards as required in
16 G.S. 143B-972.

17 (2) The child care institution shall submit the request for a criminal history record
18 check not later than five business days after the individual begins conditional
19 employment.

20 (h) Notification of Results. – Within five business days of receipt of the national criminal
21 history of the person, the Department of Health and Human Services, Criminal Records Check
22 Unit, shall notify the child care institution as to whether the information received may affect the
23 employability of the applicant or ability of the individual to volunteer. In no case shall the results
24 of the national criminal history record check be shared with the child care institution or the
25 contract agency of a child care institution. Child care institutions shall make available upon
26 request verification that a criminal history record check has been completed on all staff and
27 volunteers. All criminal history information is confidential and may not be disclosed.

28 (i) Immunity. – The Department of Health and Human Services, Criminal Records
29 Check Unit; a child care institution; a contract agency of a child care institution; and an officer
30 or employee of any of these entities acting in good faith and in compliance with this section shall
31 be immune from civil liability for denying employment to an applicant, or the opportunity for an
32 individual to volunteer, based on information provided in the criminal history record check. A
33 child care institution, or contract agency for a child care institution, and officers and employees
34 shall be immune from civil liability for failure to check an applicant's, employee's, or volunteer's
35 history of criminal offenses if the applicant's, employee's, or volunteer's criminal history record
36 check is requested and received in compliance with this section."

37 **SECTION 25.(b)** G.S. 131D-10.6(7) reads as rewritten:

38 **"§ 131D-10.6. Powers and duties of the Department.**

39 In addition to other powers and duties prescribed by law, the Department shall exercise the
40 following powers and duties:

41 ...

42 (7) Grant, deny, suspend or revoke a license or a provisional license, in
43 accordance with this Article, G.S. 108A-133, and Commission rules."

44 **SECTION 25.(c)** Article 13 of Chapter 143B of the General Statutes is amended by
45 adding a new section to read:

46 **"§ 143B-972. National criminal record checks for child care institutions.**

47 The Department of Public Safety shall provide to the Department of Health and Human
48 Services, Criminal Records Check Unit, in accordance with G.S. 108A-133, the criminal history
49 of any current or prospective employee or volunteer in a child care institution as defined by Title
50 IV-E of the Social Security Act, including individuals working with a contract agency in a child
51 care institution. The Department of Health and Human Services, Criminal Records Check Unit,

1 shall provide to the Department of Public Safety, along with the request, the fingerprints of the
 2 individual to be checked, any additional information required by the Department of Public Safety,
 3 and a form signed by the individual to be checked consenting to the check of the criminal record
 4 and to the use of fingerprints and other identifying information required by the State or National
 5 Repositories of Criminal Histories. The fingerprints of the individual shall be forwarded to the
 6 State Bureau of Investigation for a search of the State's criminal history record file, and the State
 7 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
 8 for a national criminal history record check. All information received by the Department of
 9 Health and Human Services, Criminal Records Check Unit, shall be kept confidential in
 10 accordance with G.S. 108A-133. The Department of Public Safety may charge a reasonable fee
 11 to conduct a criminal record check under this section."

12 **SECTION 25.(d)** This section is effective when it becomes law and applies to all
 13 employees, volunteers, and applicants on and after that date.

14 **PART IV. INVOLUNTARY COMMITMENT CHANGES**

15 **SECTION 26.(a)** G.S. 122C-3 reads as rewritten:

16 **"§ 122C-3. Definitions.**

17 The following definitions apply in this Chapter:

18 ...
 19
 20 (20) "Legally responsible person" means: (i) when applied to an adult, who has
 21 been adjudicated incompetent, a ~~guardian;~~ guardian, subject to the limitations
 22 of G.S. 35A-1241(3); (ii) when applied to a minor, a parent, guardian, a person
 23 standing in loco parentis, or a legal custodian other than a parent who has been
 24 granted specific authority by law or in a custody order to consent for medical
 25 care, including psychiatric treatment; or (iii) when applied to an adult who has
 26 a health care power of attorney and who is incapable as defined in
 27 G.S. 122C-72(4) and who has not been adjudicated incompetent,
 28 G.S. 122C-72(4) a health care agent named pursuant to a valid health care
 29 power of attorney; ~~attorney unless the adult is adjudicated incompetent~~
 30 following the execution of the health care power of attorney and the health
 31 care agent's authority is suspended pursuant to G.S. 32A-22 and
 32 G.S. 35A-1208; provided that if an incapable adult does not have a health care
 33 agent or guardian, "legally responsible person" means one of the persons
 34 specified in subdivisions (3) through (7) of subsection (c) of G.S. 90-21.13, to
 35 be selected based on the priority indicated in said subdivisions (3) through
 36 (7)."

37 **SECTION 26.(b)** G.S. 122C-4 reads as rewritten:

38 **"§ 122C-4. Use of phrase "client or the legally responsible person."**

39 (a) Except as otherwise provided by law, whenever in this Chapter the phrase "client or
 40 the legally responsible person" is used, and the client is a minor or an incompetent adult, the duty
 41 or right involved shall be exercised not by the client, but by the legally responsible person.

42 (b) Except as otherwise provided by law, whenever in this Chapter the phrase "client or
 43 the legally responsible person" is used, and the client is an incapable ~~adult who has not been~~
 44 ~~adjudicated incompetent under Chapter 35A of the General Statutes,~~ adult, the duty or right
 45 involved shall be exercised ~~not by the client but~~ by a health care agent named pursuant to a valid
 46 health care power of attorney, if one exists, or by the client as expressed in a valid advance
 47 instruction for mental health treatment, if one exists. If no health care power of attorney or
 48 advance instruction for mental health treatment exists, the legally responsible person for an
 49 incapable adult who has not been adjudicated incompetent under Chapter 35A of the General
 50 Statutes shall be one of the persons listed in subdivisions (3) through (7) of subsection (c) of

1 G.S. 90-21.13, to be selected based on the priority order indicated in said subdivisions (3) through
 2 (7)."

3 **SECTION 26.(c)** G.S. 122C-55 reads as rewritten:

4 "**§ 122C-55. Exceptions; care and treatment.**

5 ...

6 (a2) Any ~~or State~~ facility or the psychiatric service of the University of North Carolina
 7 Hospitals at Chapel Hill may share confidential information regarding any client of that facility
 8 with any other area facility or State facility or the psychiatric service of the University of North
 9 Carolina Hospitals at Chapel Hill when necessary to conduct payment activities relating to an
 10 individual served by the facility. Payment activities are activities undertaken by a facility to
 11 obtain payment or receive reimbursement for the provision of services and may include, but are
 12 not limited to, determinations of eligibility or coverage, coordination of benefits, determinations
 13 of cost-sharing amounts, claims management, claims processing, claims adjudication, claims
 14 appeals, billing and collection activities, medical necessity reviews, utilization management and
 15 review, precertification and preauthorization of services, concurrent and retrospective review of
 16 services, and appeals related to utilization management and review.

17 (a3) Whenever there is reason to believe that a client is eligible for benefits through a
 18 Department program, any ~~State or~~ facility or the psychiatric service of the University of North
 19 Carolina Hospitals at Chapel Hill may share confidential information regarding any client of that
 20 facility with the Secretary, and the Secretary may share confidential information regarding any
 21 client with an area facility or State facility or the psychiatric services of the University of North
 22 Carolina Hospitals at Chapel Hill. Disclosure is limited to that information necessary to establish
 23 initial eligibility for benefits, determine continued eligibility over time, and obtain
 24 reimbursement for the costs of services provided to the client.

25"

26 **SECTION 26.(d)** G.S. 122C-77 reads as rewritten:

27 "**§ 122C-77. Statutory form for advance instruction for mental health treatment.**

28 (a) This Part shall not be construed to invalidate an advance instruction for mental health
 29 treatment that was executed ~~prior to January 1, 1999~~, and was otherwise valid.

30 (b) The use of the following or similar form after the effective date of this Part in the
 31 creation of an advance instruction for mental health treatment is lawful, and, when used, it shall
 32 specifically meet the requirements and be construed in accordance with the provisions of this
 33 Part.

34 ...

35 **ADMISSION TO AND RETENTION IN FACILITY**

36 ...

37 If I become incapable of giving or withholding informed consent for mental health treatment, my
 38 instructions regarding admission to and retention in a health care facility for mental health
 39 treatment are as follows: (Place initials beside choice.)

40 _____ I consent to being admitted to a health care facility for mental health treatment.

41 My facility preference is _____

42 _____ I do not consent to being admitted to a health care facility for mental health
 43 treatment.

44 This advance instruction cannot, by law, provide consent to retain me in a facility for more than
 45 ~~10~~ 15 days.

46 Conditions or limitations _____

47"

48 **SECTION 26.(e)** G.S. 122C-216 reads as rewritten:

49 "**§ 122C-216. Voluntary admission of individuals determined to be incapable.**

50 (a) An individual in need of treatment for mental illness and who is incapable, as defined
 51 in G.S. 122C-3 and G.S. 122C-72, may be admitted to and treated in a facility pursuant to an

1 advance instruction for mental health treatment executed in accordance with Part 2 of Article 3
2 of this Chapter or pursuant to the authority of a health care agent named in a valid health care
3 power of attorney executed in accordance with Article 3 of Chapter 32A of the General Statutes.

4 (b) Except as otherwise provided in this Part, G.S. 122C-211 applies to admissions of
5 incapable adults under this Part.

6 (c) An advance instruction for mental health treatment shall be governed by Part 2 of
7 Article 3 of this Chapter.

8 (d) When a health care power of attorney authorizes a health care agent pursuant to
9 G.S. 32A-19 to make mental health treatment decisions for an incapable individual, the health
10 care agent shall act for the individual in applying for admission and consenting to treatment at a
11 facility, consistent with the extent and limitations of authority granted in the health care power
12 of attorney for as long as the individual remains incapable.

13 (e) A 24-hour facility may not hold an individual under a voluntary admission who is
14 determined to be incapable at the time of admission and who is admitted pursuant to an advance
15 instruction for mental health treatment for more than 15 days, except as provided in
16 G.S. 122C-211(b); provided, however, that an individual who regains sufficient understanding
17 and capacity to make and communicate mental health treatment decisions may elect to continue
18 his or her admission and treatment pursuant to the individual's informed consent in accordance
19 with G.S. 122C-211. A 24-hour facility may file a petition for involuntary commitment pursuant
20 to Article 5 of this Chapter if an individual meets applicable criteria at the conclusion of this
21 15-day period.

22 (f) For purposes of this section, if an incapable adult in need of treatment has no health
23 care power of attorney or advance instruction for mental health treatment that addresses the
24 needed treatment, and the incapable adult has not been adjudicated incompetent under Chapter
25 35A of the General Statutes, the legally responsible person for the incapable adult shall be one
26 of the persons listed in subdivisions (3) through (7) of subsection (c) of G.S. 90-21.13, to be
27 selected based on the priority order indicated in said subdivisions (3) through (7); provided that
28 the persons listed in subdivisions (4) through (7) of subsection (c) of G.S. 90-21.13 shall not have
29 the authority to admit an incapable adult to a 24-hour facility where the adult will be subject to
30 the same or similar restrictions on freedom of movement present in the State facilities for the
31 mentally ill."

32 **SECTION 26.(f)** G.S. 122C-251(h) reads as rewritten:

33 "(h) The cost and expenses of custody and transportation of a respondent as required by
34 the involuntary commitment procedures of this Article, to the extent they are not reimbursed by
35 a third-party insurer, are the responsibility of the county of residence of the ~~respondent, to the~~
36 ~~extent they are not reimbursed by a third-party insurer.~~ respondent. The State (when providing
37 transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable
38 cost of transportation from the county of residence of the respondent. The county of residence of
39 the respondent shall reimburse the State, another county, or a city the reasonable transportation
40 costs incurred as authorized by this subsection. The county of residence of the respondent is
41 entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county.
42 Provided that the county of residence provides the respondent or other individual liable for the
43 respondent's support a reasonable notice and opportunity to object to the reimbursement, the
44 county of residence of the respondent may recover that cost from:

- 45 (1) The respondent, if the respondent is not indigent;
- 46 (2) Any person or entity that is legally liable for the resident's support and
47 maintenance provided there is sufficient property to pay the cost;
- 48 (3) Any person or entity that is contractually responsible for the cost; or
- 49 (4) Any person or entity that otherwise is liable under federal, State, or local law
50 for the cost."

51 **SECTION 26.(g)** G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a commitment examiner, all of the following apply:

...

- (8) No commitment examiner, area facility, acute care hospital, general hospital, or other site of first examination, or its officials, staff, employees, or other individuals responsible for the custody, examination, detention, management, supervision, treatment, or release of an individual examined for commitment, who is not grossly negligent, shall be held liable in any civil or criminal action for taking measures ~~prior to the inpatient admission of the individual to a 24-hour facility to temporarily detain an individual for the period of time necessary to complete a commitment examination, submit an affidavit to the magistrate or clerk of court, and await the issuance of a custody order as authorized by this section.~~"

SECTION 26.(h) G.S. 122C-263.1 reads as rewritten:

"§ 122C-263.1. Secretary's authority to certify commitment examiners; training of certified commitment examiners performing first examinations; ~~LME/MCO responsibilities, examinations.~~

(a) Physicians and eligible psychologists are qualified to perform the commitment examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health and Human Services may individually certify to perform the first commitment examinations required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 other health, mental health, and substance abuse professionals whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment as follows:

(1) The Secretary has received a request:

- a. To certify a licensed clinical social worker, a master's or higher level degree nurse practitioner, a licensed professional ~~counselor,~~ counselor, or a ~~physician's~~ physician assistant to conduct the first examinations described in G.S. 122C-263(c) and G.S. 122C-283(c).
- b. To certify a master's level licensed clinical addictions specialist to conduct the first examination described in G.S. 122C-283(c).

(2) The Secretary shall review the request and may approve it upon finding all of the following:

- a. The request meets the requirements of this section.
- b., c. Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
- d. The Department determines that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment.
- e. The applicant for certification has successfully completed the Department's standardized training program for involuntary commitment and has successfully passed the examination for that program.

(3) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.

(4) A certification granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the certified individual has failed to meet the requirements of this section. Certification may be renewed every three years upon completion of a refresher training program approved by the Department.

- 1 (5) In no event shall the certification of a licensed clinical social worker, master's
 2 or higher level degree nurse practitioner, licensed professional counsellor,
 3 physician assistant, or master's level certified clinical addictions specialist
 4 under this section be construed as authorization to expand the scope of
 5 practice of the licensed clinical social worker, the master's level nurse
 6 practitioner, licensed professional ~~counsellor, counselor,~~ physician assistant,
 7 or the master's level certified clinical addictions specialist.
- 8 (6) The Department shall require that individuals certified to perform initial
 9 examinations under this section have successfully completed the Department's
 10 standardized involuntary commitment training program and examination. The
 11 Department shall maintain a list of these individuals on its Internet Web site.
- 12 (7) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
- 13 (7a) No less than annually, the Department shall submit a list of certified first
 14 commitment examiners to the Chief District Court Judge of each judicial
 15 district in North Carolina and maintain a current list of certified first
 16 commitment examiners on its Internet Web site.
- 17 (8) A master's level licensed clinical addiction specialist shall only be authorized
 18 to conduct the initial examination of individuals meeting the criteria of
 19 G.S. 122C-281(a).

20 (b) The Department shall expand its standardized certification training program to
 21 include refresher training for all certified providers performing initial examinations pursuant to
 22 subsection (a) of this section."

23 **SECTION 26.(i)** G.S. 122C-294 reads as rewritten:

24 "**§ 122C-294. Local plan and data submission.**

25 (a) The ~~local plan~~ "local area crisis services plans" adopted in accordance with
 26 G.S. 122C-202.2 and G.S. 122C-251(g) shall be submitted to the Division of Mental Health,
 27 Developmental Disabilities, and Substance Abuse Services ~~on or before beginning~~ October 1,
 28 ~~2019-2019, but no later than August 1, 2020.~~ If the area authority modifies ~~the any~~ plan, the
 29 modified plan shall be submitted to the Division of Mental Health, Developmental Disabilities,
 30 and Substance Abuse Services at least 10 days prior to the effective date of the new plan.

31 (b) The Department shall provide the data collected by the Division of Mental Health,
 32 Developmental Disabilities, and Substance Abuse Services concerning the number of
 33 respondents receiving treatment under involuntary commitment in designated facilities to the
 34 Fiscal Research Division and the Joint Legislative Oversight Committee for Health and Human
 35 Services on October 1 of each year beginning in 2019 and any other time upon request."

36 **SECTION 26.(j)** Section 44 of S.L. 2018-33 is repealed.

37 **SECTION 26.(k)** This section is effective when it becomes law.

38
 39 **PART V. RURAL HEALTH CARE STABILIZATION**

40 **SECTION 27.1.(a)** G.S. 131A-1 through G.S. 131A-25 are designated as Article 1
 41 of Chapter 131A of the General Statutes, which is entitled "Health Care Facilities Finance Act."

42 **SECTION 27.1.(b)** The Revisor of Statutes shall change any references in Article 1
 43 of Chapter 131A of the General Statutes from "this Chapter" to "this Article."

44 **SECTION 27.1.(c)** G.S. 113A-12(3)e. reads as rewritten:

45 "e. A health care facility financed pursuant to Article 1 of Chapter 131A
 46 of the General Statutes or receiving a certificate of need under Article
 47 9 of Chapter 131E of the General Statutes."

48 **SECTION 27.1.(d)** G.S. 142-15.16(3) reads as rewritten:

49 "(3) State-supported financing arrangement. – Any financing arrangement that
 50 requires payments that are payable, whether directly or indirectly, and whether
 51 or not subject to the appropriation of funds for payment, by payments from

1 the General Fund, the Highway Fund, the Highway Trust Fund, or other funds
 2 and accounts of the State that are funded from the general revenues and other
 3 taxes and fees of the State or State entities. A State-supported financing
 4 arrangement does not include a financing arrangement where bonds or other
 5 obligations are issued or incurred to carry out a financing program authorized
 6 by the General Assembly under which the bonds or other obligations are
 7 payable from moneys derived from specified, limited, nontax sources, such as
 8 (i) loan payments made by a non-State entity receiving the benefit of financing
 9 by a State entity (including an "obligor" or "participating institution" within
 10 the meaning of Chapter 159D of the General Statutes, a "public agency" or a
 11 "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the
 12 General Statutes, and similar entities); (ii) revenues of a revenue-producing
 13 enterprise or activity (such as "revenues" within the meaning of Part 4 of
 14 Article 1 of Chapter 116 of the General Statutes and "obligated resources"
 15 within the meaning of Article 3 of Chapter 116D of the General Statutes); and
 16 (iii) loan payments received, loans owned, and other assets of a State entity
 17 that are pledged to secure bonds under programs to finance that type of assets
 18 and the associated activities (such as mortgage loans under Chapter 122A of
 19 the General Statutes and student loans under Article 23 of Chapter 116 of the
 20 General Statutes)."

21 **SECTION 27.2.** Chapter 131A of the General Statutes is amended by adding a new
 22 Article to read:

23 "Article 2.

24 "Rural Health Care Stabilization Program.

25 **"§ 131A-30. Definitions.**

26 The following definitions apply in this Article:

- 27 (1) Commission. – The Local Government Commission established pursuant to
 28 G.S. 159-3.
- 29 (2) Eligible hospital. – A health care facility located in a development tier one or
 30 development tier two area, as defined in G.S. 143B-437.08, that is unable to
 31 sustain operations for more than three years from the date of application for a
 32 loan under the Program.
- 33 (3) Fund. – The Rural Health Care Stabilization Fund established in accordance
 34 with this Article.
- 35 (4) Health care facility. – Any one or more buildings, structures, additions,
 36 extensions, improvements or other facilities, whether or not located on the
 37 same site or sites, machinery, equipment, furnishings, or other real or personal
 38 property suitable for health care or medical care.
- 39 (5) Loan. – A sum of money loaned to an applicant with an obligation on the part
 40 of the applicant to repay the sum, plus interest, in accordance with a loan
 41 agreement.
- 42 (6) Plan. – A hospital stabilization plan developed in accordance with
 43 G.S. 131A-33.
- 44 (7) Program. – The Rural Health Care Stabilization Program established pursuant
 45 to this Article.
- 46 (8) Public agency. – Any county, city, town, hospital district, or other political
 47 subdivision of the State existing or hereafter created pursuant to the laws of
 48 the State authorized to acquire, by lease or otherwise, operate, or maintain
 49 health care facilities.
- 50 (9) UNC Health Care. – The University of North Carolina Health Care System
 51 established pursuant to G.S. 116-37.

"§ 131A-31. The Rural Health Care Stabilization Program.

(a) Program Established; Purpose. – There is established the Rural Health Care Stabilization Program to provide loans for the support of eligible hospitals located in rural areas of the State that are in financial crisis due to operation of oversized and outdated facilities and recent changes to the viability of health care delivery in their communities, including the demand for certain patient services and the composition of payer mixes and patient populations. Within the funds available in the Rural Health Care Stabilization Fund, the Program shall provide for loans at below-market interest rates with structured repayment terms in order for these financially distressed eligible hospitals to transition to sustainable, efficient, and more proportionately sized health care service models in their communities. In meeting this goal, loan funds may be used to finance construction of new health care facilities or to provide for operational costs during this transition period, or both, including while the construction of new health care facilities is undertaken.

(b) Administration. – UNC Health Care shall administer the Program and has the following duties and responsibilities:

- (1) Establishing an application period and a process for submitting an application for a loan under this Program.
- (2) Assessing Plans submitted by an applicant for a loan under the Program.
- (3) Evaluating an applicant's ability to repay the loan under the proposed Plan.
- (4) Submitting recommendations to the Commission on whether an applicant should receive a loan under the Program.
- (5) Negotiating the terms of a proposed loan agreement.
- (6) Determining the security interests necessary to enforce repayment of the loan.
- (7) Implementing approved loan agreements, including monitoring repayment and collection.
- (8) Any other duties and responsibilities necessary to the implementation of the Program and enforcement of the loan agreements under the Program.

(c) Exclusion. – UNC Health Care cannot apply for a loan under this Program and cannot be a partner in a partnership that applies for a loan under this Program. The Commission cannot approve an application for a loan if the issuance of the loan would result in a material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted to the Commission for its approval.

(d) Rules. – UNC Health Care is authorized to adopt any rules necessary for implementation of the Program.

"§ 131A-32. The Rural Health Care Stabilization Fund.

The Rural Health Care Stabilization Fund is created as a nonreverting special fund in the Office of State Budget and Management. The Fund shall operate as a revolving fund consisting of funds appropriated to, or otherwise received by, the Rural Health Care Stabilization Program and all funds received as repayment of the principal of or interest on a loan made from the Fund. The State Treasurer is the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Moneys in the Fund shall only be used for loans made pursuant to this Article.

"§ 131A-33. Application for loan evaluation.

(a) Application and Plan. – A public agency, an owner of a health care facility, or a partnership including one or more of those entities may apply for a loan under the Program to benefit an eligible hospital. To apply for a loan, an applicant must develop a hospital stabilization plan and submit the Plan with its application to UNC Health Care during the application period. The Plan shall include, at a minimum, any proposed changes in governance or ownership for the eligible hospital and the eligible hospital's financial projections, including a plan for repayment by the applicant of the requested loan and other sources of funds projected for support of the eligible hospital, such as local or federal funds. An applicant shall submit to UNC Health Care

1 any additional information requested by UNC Health Care to enable it to determine whether to
2 recommend the application to the Local Government Commission for approval.

3 (b) Evaluation. – UNC Health Care shall evaluate each Plan submitted to determine
4 whether the applicant's Plan demonstrates a financially sustainable health care service model for
5 the community in which the eligible hospital is located. UNC Health Care may also assist an
6 applicant with revisions to its Plan, including negotiating loan terms. Upon conclusion of its
7 review of an application, UNC Health Care shall notify the applicant and the Commission of its
8 recommendation on whether to approve or disapprove a loan application. If more than one
9 applicant applies during an application period, UNC Health Care may assign a priority order for
10 approval of applications when submitting its recommendations to the Commission and reasons
11 for the assigned order of priority.

12 (c) Disapproval of Application. – If UNC Health Care disapproves a loan application, the
13 applicant may engage a disinterested and qualified third party approved by the Commission to
14 evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable
15 health care service model for the community in which the eligible hospital is located. The
16 applicant may seek Commission approval of the loan based on the written evaluation of its Plan
17 by the third party.

18 **"§ 131A-34. Commission approval for loan.**

19 (a) Approval Required. – UNC Health Care shall not award a loan under the Program
20 unless the Commission approves it. If the Commission enters an order denying the loan, the
21 proceedings under this Article shall be at an end.

22 (b) Conflict of Interest. – UNC Health Care must disclose to the Commission any
23 potential conflict of interest in its review of an application and Plan. The Commission cannot
24 approve a loan if the issuance of the loan would result in a material, direct financial benefit to
25 UNC Health Care at the time the application and Plan are submitted to the Commission for its
26 approval.

27 (c) Considerations. – The Commission shall review UNC Health Care's
28 recommendations, an applicant's Plan, and any other information it may believe to have a bearing
29 on whether the loan should be approved. If UNC Health Care has recommended disapproval of
30 a loan, and the applicant has an evaluation prepared by a disinterested and qualified third party
31 approved by the Commission, the Commission may consider the third party's evaluation of the
32 applicant and the applicant's Plan. The Commission may require the applicant and eligible
33 hospital, if different, to provide any of the following information for its consideration:

34 (1) Current and historical financial information.

35 (2) Whether the undertaking is necessary or expedient.

36 (3) Its debt management procedures and policies.

37 (4) Whether it is in default in any of its debt service obligations.

38 (5) Any other information the Commission may believe to have a bearing on
39 whether the loan should be approved.

40 (d) Loan Approval. – The Commission may approve the application if, upon the
41 information and evidence it receives, it finds and determines:

42 (1) That the loan is necessary or expedient.

43 (2) That the amount proposed is adequate and not excessive for the proposed
44 purpose of the loan.

45 (3) That the Plan demonstrates a financially sustainable health care service model
46 for the community in which the eligible hospital is located.

47 (4) That the applicant's debt management procedures and policies are good, or
48 that reasonable assurances have been given that its debt will be repaid.

49 **"§ 131A-35. Award of loans; terms.**

1 (a) Award. – Upon approval of the loan by the Commission, UNC Health Care shall
2 execute the terms of the loan agreement. In adopting terms of the loan agreement, UNC Health
3 Care may require changes to the governance structure of the eligible hospital.

4 (b) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity
5 of a loan are subject to the following limitations:

6 (1) Interest rate. – The interest rate for a loan may not exceed the interest rate
7 obtained by the State on its most recent general obligation bond offering.

8 (2) Maturity. – The maturity for a loan may not exceed 20 years.

9 (c) Debt Instrument. – UNC Health Care shall execute a debt instrument with the
10 recipient of the loan to evidence the obligation to repay the principal of and interest on the loan
11 awarded under this Article to the State.

12 **"§ 131A-36. Annual reports on the Rural Health Care Stabilization Fund.**

13 (a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health
14 Care Stabilization Fund. The report shall be published by November 1 of each year and cover the
15 preceding fiscal year. UNC Health Care shall make the report available to the public and shall
16 give a copy of the report to the Joint Legislative Commission on Governmental Operations and
17 the Fiscal Research Division.

18 (b) Content. – The report required by this section shall contain the following information
19 concerning the Fund:

20 (1) The beginning and ending balance of the Fund for the fiscal year.

21 (2) The amount of revenue credited to the Fund during the fiscal year, by source.

22 (3) The total amount of loans awarded from the Fund.

23 (4) For each loan awarded, the recipient of the award, the amount of the award,
24 the amount of the award that was disbursed, and the amount of the award
25 remaining to be disbursed in a subsequent fiscal year, if applicable."

26 **SECTION 27.3.** G.S. 116-37 reads as rewritten:

27 **"§ 116-37. University of North Carolina Health Care System.**

28 ...

29 (e) Finances. – The University of North Carolina Health Care System shall be subject to
30 the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and
31 G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible
32 for all aspects of budget preparation, budget execution, and expenditure reporting. All operating
33 funds of The University of North Carolina Health Care System may be budgeted and disbursed
34 through special fund codes, maintaining separate auditable accounts for the University of North
35 Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine
36 of the University of North Carolina at Chapel Hill. All receipts of The University of North
37 Carolina Health Care System may be deposited directly to the special fund codes, and except for
38 General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel
39 Hill may be invested pursuant to G.S. 116-37.2(h). General Fund appropriations for support of
40 the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund
41 code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel
42 Hill Operations" and be transferable to a special fund operating code as receipts. General Fund
43 appropriations for the Rural Health Care Stabilization Program shall be deposited in the Rural
44 Health Care Stabilization Fund pursuant to G.S. 131A-32 and shall only be used for the purposes
45 set forth in Article 2 of Chapter 131A of the General Statutes.

46 ...

47 (l) Rural Health Care Stabilization Program. – The University of North Carolina Health
48 Care System shall administer the Rural Health Care Stabilization Program in accordance with
49 Article 2 of Chapter 131A of the General Statutes in order to further its mission to promote the
50 health and well-being of the citizens of North Carolina."

51 **SECTION 27.4.** This section is effective when it becomes law.

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PART VI. EFFECTIVE DATE

SECTION 28. Except as otherwise provided, this act is effective when it becomes law.