

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 734  
PROPOSED SENATE COMMITTEE SUBSTITUTE H734-PCS30438-BP-16

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

(Public)

Sponsors:

Referred to:

May 3, 2021

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

8 The General Assembly of North Carolina enacts:

9  
10 **ALIGNMENT OF DEVELOPMENTAL DISABILITY DEFINITION WITH FEDERAL**  
11 **LAW**

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

13 "(12a) Developmental disability. – A severe, chronic disability of a person that  
14 satisfies all of the following:

15 a. Is attributable to ~~one or more impairments~~ a mental or physical  
16 impairment or combination of mental and physical impairments.

17 ...."

18  
19 **CONFORMING CHANGE TO PROCEDURE FOR APPEALING DECISIONS ON**  
20 **LICENSURE WAIVER REQUESTS**

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

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

28  
29 **COPAYMENT SCHEDULE FOR BEHAVIORAL HEALTH, INTELLECTUAL AND**  
30 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER SERVICES**

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

32 "(34) Adopt rules for the implementation of a ~~co-payment~~ graduated a copayment  
33 schedule to for behavioral health services, intellectual and developmental  
34 disabilities services, and substance use disorder services based on the  
35 Medicaid copayments for those services to be used by LMEs and by  
36 contractual provider agencies under G.S. 122C-146. The ~~co-payment~~



\* H 7 3 4 - P C S 3 0 4 3 8 - B P - 1 6 \*

1 ~~graduated copayment~~ schedule shall be developed to ~~adopted~~ under this  
 2 ~~subdivision~~ shall require a ~~eo payment~~ copayment for services identified by  
 3 the Secretary. Families whose family income is three hundred percent (300%)  
 4 or greater of the federal poverty level are eligible for services with the  
 5 applicable ~~eo payment~~ copayment."

6  
 7 **STATE CONSUMER AND FAMILY ADVISORY COMMITTEE (CFAC)**  
 8 **APPOINTMENT CHANGES**

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

10 "(b) The State CFAC shall be composed of 21 members. The members shall be composed  
 11 exclusively of adult consumers of mental health, developmental disabilities, and substance abuse  
 12 services; and family members of consumers of mental health, developmental disabilities, and  
 13 substance abuse services. The terms of members shall be three years, and no member may serve  
 14 more than two consecutive terms. Vacancies shall be filled by the appointing authority. The  
 15 members shall be appointed as follows:

- 16 (1) Nine members appointed by the Secretary. The Secretary's appointments shall  
 17 reflect each of the disability groups. The terms shall be staggered so that terms  
 18 of three of the appointees expire each year.  
 19 (2) ~~Three-Four~~ members appointed by the President Pro Tempore of the ~~Senate,~~  
 20 ~~one each of whom shall come from the three State regions for institutional~~  
 21 ~~services (Eastern Region, Central Region, and Western Region).~~ Senate as  
 22 follows:

- 23 a. One member from the eastern region of the State.  
 24 b. One member from the central region of the State.  
 25 c. Two members from the western region of the State.

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

- 28 (3) ~~Three-Four~~ members appointed by the Speaker of the House of  
 29 ~~Representatives, one each of whom shall come from the three State regions~~  
 30 ~~for institutional services (Eastern Region, Central Region, and Western~~  
 31 ~~Region).~~ Representatives as follows:  
 32 a. One member from the eastern region of the State.  
 33 b. Two members from the central region of the State.  
 34 c. One member from the western region of the State.

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

- 37 (4) ~~Three by the Council of Community Programs, one each of whom shall come~~  
 38 ~~from the three State regions for institutional services (Eastern Region, Central~~  
 39 ~~Region, and Western Region). The terms of the appointees shall be staggered~~  
 40 ~~so that the term of one appointee expires every year.~~  
 41 (5) ~~Three-Four~~ members appointed by the North Carolina Association of County  
 42 ~~Commissioners, one each of whom shall come from the three State regions~~  
 43 ~~for institutional services (Eastern Region, Central Region, and Western~~  
 44 ~~Region).~~ Commissioners as follows:  
 45 a. Two members from the eastern region of the State.  
 46 b. One member from the central region of the State.  
 47 c. One member from the western region of the State.

48 The terms of the appointees shall be staggered so that the term of one appointee  
 49 expires every year."

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

**COLLECTION OF INVOLUNTARY COMMITMENT TRANSPORTATION DATA****SECTION 5.** G.S. 122C-255 reads as rewritten:**"§ 122C-255. Report required.**

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

- (1) The number and primary presenting conditions of individuals receiving treatment from the facility under a petition of involuntary commitment.
  - (1a) The transportation method utilized by individuals admitted under a petition of involuntary commitment to the 24-hour facility.
  - (1b) The number of individuals moved to voluntary status at any time between arrival at the 24-hour facility and completion of the required 24-hour examination.
- (2) The number of individuals for whom an involuntary commitment proceeding was initiated at the facility, who were referred to a different facility or program.
- (3) The reason for referring the individuals described in subdivision (2) of this section to a different facility or program, including the need for more intensive medical supervision."

**PERMANENT AUTHORIZATION FOR THE USE OF TELEHEALTH TO CONDUCT REQUIRED EXAMINATIONS PRIOR TO INVOLUNTARY COMMITMENT DUE TO MENTAL ILLNESS OR SUBSTANCE USE DISORDER****SECTION 6.(a)** G.S. 122C-263 reads as rewritten:**"§ 122C-263. Duties of law enforcement officer; first examination.**

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via ~~telemedicine~~, telehealth, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for individuals with mental illnesses. If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general

1 hospital, or in a State facility for individuals with mental illnesses, but not in a jail or other penal  
2 facility. For the purposes of this section, "non-hospital provider" means an outpatient provider  
3 that provides either behavioral health or medical services.

4 (a1) A facility or other location to which a respondent is transported under subsection (a)  
5 of this section shall provide a health screening of the respondent. The health screening shall be  
6 conducted by a commitment examiner or other individual who is determined by the area facility,  
7 contracted facility, or other location to be qualified to perform the health screening. The  
8 Department will work with commitment examiner professionals to develop a screening tool for  
9 this purpose. The respondent may either be in the physical face-to-face presence of the person  
10 conducting the screen or may be examined utilizing ~~telemedicine~~-telehealth equipment and  
11 procedures. Documentation of the health screening required under this subsection that is  
12 completed prior to transporting the patient to any general hospital, acute care hospital, or  
13 designated facility shall accompany the patient or otherwise be made available at the time of  
14 transportation to the receiving facility.

15 ...

16 (c) The commitment examiner described in subsection (a) of this section shall examine  
17 the respondent as soon as possible, and in any event within 24 hours after the respondent is  
18 presented for examination. When the examination set forth in subsection (a) of this section is  
19 performed by a commitment examiner, the respondent may either be in the physical face-to-face  
20 presence of the commitment examiner or may be examined utilizing ~~telemedicine~~-telehealth  
21 equipment and procedures. A commitment examiner who examines a respondent by means of  
22 ~~telemedicine~~-telehealth must be satisfied to a reasonable medical certainty that the determinations  
23 made in accordance with subsection (d) of this section would not be different if the examination  
24 had been done in the physical presence of the commitment examiner. A commitment examiner  
25 who is not so satisfied must note that the examination was not satisfactorily accomplished, and  
26 the respondent must be taken for a face-to-face examination in the physical presence of a person  
27 authorized to perform examinations under this section. As used in this section, "~~telemedicine~~" is  
28 ~~the use of two-way real-time interactive audio and video between places of lesser and greater~~  
29 ~~medical capability or expertise to provide and support health care when distance separates~~  
30 ~~participants who are in different geographical locations.~~ "telehealth" means the use of two-way,  
31 real-time interactive audio and video where the respondent and commitment examiner can hear  
32 and see each other. A recipient is referred by one provider to receive the services of another  
33 provider via ~~telemedicine~~-telehealth.

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

- 36 (1) Current and previous mental illness and intellectual disability including, if  
37 available, previous treatment history.
- 38 (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined  
39 in G.S. 122C-3(11)b.
- 40 (3) Ability to survive safely without inpatient commitment, including the  
41 availability of supervision from family, friends, or others.
- 42 (4) Capacity to make an informed decision concerning treatment.

43 ...."

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

45 "(a1) The second examination of a respondent required by subsection (a) of this section to  
46 determine whether the respondent will be involuntarily committed due to mental illness may be  
47 conducted either in the physical face-to-face presence of a physician or utilizing telehealth  
48 equipment and procedures, provided that the physician who examines the respondent by means  
49 of telehealth is satisfied to a reasonable medical certainty that the determinations made in  
50 accordance with subdivisions (a)(1) through (a)(3) of this section would not be different if the  
51 examination had been done in the physical presence of the examining physician. An examining

1 physician who is not so satisfied shall note that the examination was not satisfactorily  
2 accomplished, and the respondent shall be taken for a face-to-face examination in the physical  
3 presence of a physician. As used in this section, "telehealth" means the use of two-way, real-time  
4 interactive audio and video where the respondent and commitment examiner can hear and see  
5 each other."

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

7 **"§ 122C-283. Duties of law enforcement officer; first examination by commitment**  
8 **examiner.**

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

30 ...

31 (c) The commitment examiner described in subsection (a) of this section shall examine  
32 the respondent as soon as possible, and in any event within 24 hours, after the respondent is  
33 presented for examination. The examination performed by a commitment examiner pursuant to  
34 subsection (a) of this section may be performed either in the physical face-to-face presence of  
35 the commitment examiner or utilizing telehealth equipment and procedures. A commitment  
36 examiner who examines a respondent by means of telehealth must be satisfied to a reasonable  
37 medical certainty that the determinations made in accordance with subsection (d) of this section  
38 would not be different if the examination had been conducted in the physical presence of the  
39 commitment examiner. A commitment examiner who is not so satisfied shall note that the  
40 examination was not satisfactorily accomplished, and the respondent shall be taken for a  
41 face-to-face examination in the physical presence of a person authorized to perform examinations  
42 under this section. As used in this section, "telehealth" is the use of two-way, real-time interactive  
43 audio and video where the respondent and commitment examiner can hear and see each other. A  
44 recipient is referred by one provider to receive the services of another provider via telehealth.  
45 The examination shall include but is not limited to an assessment of all of the following:

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

50 ...."

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

1        "(a1) The second examination of a respondent required by subsection (a) of this section to  
 2 determine whether the respondent will be involuntarily committed due to substance abuse may  
 3 be conducted either in the physical face-to-face presence of a physician or utilizing telehealth  
 4 equipment and procedures, provided that the physician who examines the respondent by means  
 5 of telehealth is satisfied to a reasonable medical certainty that the determinations made in  
 6 accordance with subsection (a) of this section would not be different if the examination had been  
 7 done in the physical presence of the commitment examiner. An examining physician who is not  
 8 so satisfied shall note that the examination was not satisfactorily accomplished, and the  
 9 respondent shall be taken for a face-to-face examination in the physical presence of a qualified  
 10 professional; provided, however, that if the initial commitment examination was performed by a  
 11 qualified professional, then this face-to-face examination shall be in the presence of a physician.  
 12 As used in this section, "telehealth" means the use of two-way, real-time interactive audio and  
 13 video where the respondent and commitment examiner can hear and see each other."  
 14

15 **TECHNICAL CORRECTION TO STATUTE GOVERNING TRANSITIONAL**  
 16 **PERMITS FOR FOOD ESTABLISHMENTS**

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

18 **"§ 130A-248. Regulation of food and lodging establishments.**

19        ...

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

24        ...

25        (c) If ownership of an establishment is transferred or the establishment is leased, the new  
 26 owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a  
 27 transitional permit. A transitional permit may be issued upon the transfer of ownership or lease  
 28 of an establishment to allow the correction of construction and equipment problems that do not  
 29 represent an immediate threat to the public health. Upon issuance of a new permit or a transitional  
 30 permit for the same establishment, any previously issued permit for an establishment in that  
 31 location becomes void. This subsection does not prohibit issuing more than one owner or lessee  
 32 a permit for the same location if (i) more than one establishment is operated in the same physical  
 33 location and (ii) each establishment satisfies all of the rules and requirements of subsection ~~(g)~~  
 34 (a) of this section. For purposes of this subsection, "transitional permit" ~~shall mean~~ means  
 35 a permit issued upon the transfer of ownership or lease of an existing food establishment to allow  
 36 the correction of construction and equipment problems that do not represent an immediate threat  
 37 to the public health.

38        ...."

39 **MICHELLE'S LAW**

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

42 **"§ 122C-28.1. Facilities in violation of this Article.**

43        (a) If the Department has sent an order directing a facility not licensed under this Article  
 44 that is providing services requiring a license under this Article to cease and desist from engaging  
 45 in any act or practice in violation of this Article, then the Department shall conduct follow-up  
 46 visits, to the extent necessary, of those unlicensed programs to ensure compliance with any of  
 47 the following:

48                (1) The provision of services that require a license under this Article is no longer  
 49 available or conducted at the site.  
 50

- 1           (2) Application for, or receipt of, the required license under this Article has been  
 2           submitted or obtained by that facility.  
 3           (3) The receipt of certification by a nationally recognized agency, such as the  
 4           Joint Commission on Accreditation of Hospitals, that allows the facility to be  
 5           deemed licensed under this Article in accordance with G.S. 122C-22(b).  
 6           (4) The facility or program is no longer in operation.  
 7       (b) The Department shall collect information on the total amount of fines collected  
 8 pursuant to G.S. 122C-28."

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

10       "(e1) Except as provided in subsection (e2) of this section, the Secretary shall not (i) enroll  
 11 ~~any as a new provider for Medicaid Home or Community Based services or other Medicaid~~  
 12 ~~services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, in the~~  
 13 North Carolina Medicaid or North Carolina Health Choice programs, (ii) revalidate as an enrolled  
 14 provider in the Medicaid or NC Health Choice programs, or (iii) issue a license for a new facility  
 15 or a new service to any applicant meeting any of the following criteria:

- 16           (1) The applicant was the owner, principal, or affiliate of a licensable facility  
 17           under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its  
 18           license revoked until 60 months after the date of the revocation.  
 19           (2) The applicant is the owner, principal, or affiliate of a licensable facility that  
 20           was assessed a penalty for a Type A or Type B violation under Article 3 of  
 21           this Chapter, or any combination thereof, and any one of the following  
 22           conditions exist:  
 23           a. A single violation has been assessed in the six months prior to the  
 24           application.  
 25           b. Two violations have been assessed in the 18 months prior to the  
 26           application and 18 months have not passed from the date of the most  
 27           recent violation.  
 28           c. Three violations have been assessed in the 36 months prior to the  
 29           application and 36 months have not passed from the date of the most  
 30           recent violation.  
 31           d. Four or more violations have been assessed in the 60 months prior to  
 32           application and 60 months have not passed from the date of the most  
 33           recent violation.  
 34           (3) The applicant is the owner, principal, or affiliate of a licensable facility that  
 35           had its license summarily suspended or downgraded to provisional status as a  
 36           result of violations under G.S. 122C 24.1(a) until 60 months after the date of  
 37           reinstatement or restoration of the license.  
 38           (4) The applicant is the owner, principal, or affiliate of a licensable facility that  
 39           had its license summarily suspended or downgraded to provisional status as a  
 40           result of violations under Article 1A of Chapter 131D until 60 months after  
 41           the date of reinstatement or restoration of the license."

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

43 **"§ 122C-27. Powers of the Secretary.**

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

- 45           (1) Administer and enforce the provisions, rules, and decisions pursuant to this  
 46           ~~Article;~~Article.  
 47           (2) Appoint hearing officers to conduct appeals under this ~~Article;~~Article.  
 48           (3) Prescribe by rule the contents of the application for licensure and  
 49           ~~renewal;~~renewal.  
 50           (4) Inspect facilities and records of each facility to be licensed under this Article  
 51           under the rules and decisions pursuant to this ~~Article;~~Article.

- 1 (5) Issue a license upon a finding that the applicant and facility comply with the  
 2 provisions of this Article and the rules of the Commission and the  
 3 ~~Secretary;~~Secretary.  
 4 (6) Define by rule procedures for submission of periodic reports by facilities  
 5 licensed under this ~~Article;~~Article.  
 6 (7) Grant, deny, suspend, or revoke a license under this ~~Article;~~Article.  
 7 (8) Issue orders directing facilities not licensed under this Article that are  
 8 providing services requiring a license under this Article to cease and desist  
 9 from engaging in any act or practice in violation of the provisions of this  
 10 Article.  
 11 ~~(8)~~(9) In accordance with rules of the Commission, make final agency decisions for  
 12 appeals from the denial, suspension, or revocation of a license in accordance  
 13 with ~~G.S. 122C-24;~~ and G.S. 122C-24.  
 14 ~~(9)~~(10) In accordance with rules of the Commission, grant waiver for good cause of  
 15 any rules implementing this Article that do not affect the health, safety, or  
 16 welfare of individuals within a licensable facility."

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

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

21 "**§ 122C-28. Penalties.**

22 Operating a licensable facility without a license is a ~~Class 3 misdemeanor and is punishable~~  
 23 ~~only by a fine not to exceed fifty dollars (\$50.00), for the first offense and a fine, not to exceed~~  
 24 ~~five hundred dollars (\$500.00), for each subsequent offense. Each day's operation of a licensable~~  
 25 ~~facility without a license is a separate offense.~~Class H felony, including a fine of one thousand  
 26 dollars (\$1,000) per day that the facility is in operation in violation of this Article."

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

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

30 "**§ 122C-22. Exclusions from licensure; deemed status.**

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

- 33 (1) Physicians and psychologists engaged in private office ~~practice~~-practice, so  
 34 long as that physician or psychologist does not receive reimbursement under  
 35 the Medicare program or the North Carolina Medicaid or the NC Health  
 36 Choice program.  
 37 (2) General hospitals licensed under Article 5 of Chapter 131E of the General  
 38 Statutes, that operate special units for ~~the mentally ill, developmentally~~  
 39 disabled, or ~~substance abusers~~-patients with a mental health disorder  
 40 diagnosis, one or more developmental disabilities, or a substance use disorder.  
 41 ...  
 42 (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter  
 43 care and recovery from alcohol or other ~~drug addiction~~-substance use disorder  
 44 through a 12-step, self-help, peer role modeling, and self-governance  
 45 approach.

46 ...  
 47 (b) The Commission may adopt rules establishing a procedure whereby a ~~licensable~~  
 48 facility that would otherwise require licensure under this Article that is certified by a nationally  
 49 recognized agency, such as the Joint Commission on Accreditation of Hospitals, may be deemed  
 50 licensed under this Article by the Secretary. Any facility licensed under the provisions of this  
 51 subsection shall continue to be subject to inspection by the Secretary. The Secretary shall



1 collaborate with relevant agencies to ensure that any facilities deemed licensed under this Article  
2 maintain the required certification."

3 **SECTION 7.3.(b)** The Department of Health and Human Services, Division of  
4 Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS),  
5 shall establish a database or expand upon a currently existing database that makes publicly  
6 available the status of any ongoing investigations of reported operation of a program or facility  
7 in violation of Article 2 of Chapter 122C of the General Statutes. The database should include  
8 information on any penalties imposed and collected. The database shall be available to the public  
9 and include a searchable listing of all applicable facilities and programs with all of the following  
10 information:

- 11 (1) The facility or program name.
- 12 (2) The location, including street and mailing addresses, city, and county, for the  
13 facility or program.
- 14 (3) The contact information for the owners, director, or other individual in charge  
15 of the facility or program.
- 16 (4) The dates and types of visits conducted by DMH/DD/SAS or other division  
17 of the Department of Health and Human Services.
- 18 (5) The amount of any fines imposed and the amount actually collected.
- 19 (6) Any action taken under G.S. 122C-28.1 by DMH/DD/SAS or by a facility to  
20 comply with Article 2 of Chapter 122C of the General Statutes.

21 **SECTION 7.3.(c)** The Department of Health and Human Services, Division of  
22 Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS),  
23 shall coordinate with the Department of Insurance to establish a toll-free number or website for  
24 individuals, providers, and insurers to use in verifying the operational and licensure status of a  
25 facility providing mental health, behavioral health, and substance use disorder services.

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

33 **SECTION 7.3.(e)** This section becomes effective January 1, 2022.

34 **SECTION 7.4.(a)** The title of Article 2 of Chapter 122C of the General Statutes  
35 reads as rewritten:

36 "Article 2.

37 "Licensure of Facilities for the Mentally Ill, the Developmentally Disabled, Individuals With  
38 Mental Health Disorders, Developmental Disabilities, and Substance Abuse Use Disorders."

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

40 "**§ 122C-21. Purpose.**

41 The purpose of this Article is to provide for licensure of facilities for the ~~mentally ill,~~  
42 ~~developmentally disabled,~~ individuals with mental health disorders, developmental disabilities,  
43 and substance abuse use disorders by the development, establishment, and enforcement of basic  
44 rules ~~governing~~ governing both of the following:

- 45 (1) The provision of services to individuals who receive services from licensable  
46 facilities as defined by this ~~Chapter, and~~ Chapter.
- 47 (2) The construction, maintenance, and operation of these licensable facilities that  
48 in the light of existing knowledge will ensure safe and adequate treatment of  
49 these individuals. The Department shall ensure that licensable facilities are  
50 inspected every two years to determine compliance with physical plant and  
51 life-safety requirements."

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**REGULATION OF TEMPORARY DISPLAY SPAS**

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

**"§ 130A-280. Scope.**

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

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

**EFFECTIVE DATE**

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