



2022

# Substantive Enacted Legislation Pertaining to Health and Human Services

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Legislative Analysis Division, North Carolina General Assembly

# 2022 Substantive Enacted Legislation Pertaining to Health and Human Services

This document provides summaries of substantive legislation pertaining to health and human services enacted during the 2022 Session of the General Assembly. In an effort to facilitate use, the summaries have been categorized under subheadings, and then arranged in numerical order by Session Law.

The brief summaries contained in this document represent work products from the following Legislative Analysis Division staff members: Jessica Boney, Jennifer Hillman, Theresa Matula, and Jason Moran-Bates. A more thorough summary of most bills may be found on the [NCGA website](#).

## Subheadings:

*To facilitate use, each subheading below is hyperlinked to that section of the document.*

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## **SUMMARIES**

### **AGING**

#### **State-County Special Assistance Program Changes (S.L. 2022-74, Sec. 9A.1/HB 103 – 2022 Appropriations Act)**

Section 9A.1 of S.L. 2022-74 amends Section 9A.3A of S.L. 2021-180 that directed changes to the State-County Special Assistance (SA) program. S.L. 2021-180 brought the SA In-Home program into parity with the SA Adult Care Home program, effectively merging the two programs and allowing individuals to qualify for the SA program and receive Medicaid coverage, regardless of the individual's residential setting, based upon the criteria historically used for the SA Adult Care Home program. This section makes the following changes to S.L. 2021-180:

- Begins the annual cost-of-living adjustment (COLA) a year earlier on January 1, 2023.
- No longer requires federal approval of the use of the savings deposited in the Home and Community Based Services (HCBS) Fund to fund the SA program costs associated with the SA program changes as a condition of implementation.

The SA program changes become effective on the later of July 11, 2022, or 30 days after the date that both the Social Security Administration and the Centers for Medicare and Medicaid Services have approved the applications submitted by the Department of Health and Human Services. The remainder of this section became effective July 11, 2022.

#### **Low Income Energy Assistance Program/Allow Flexibility When Additional Funds Available (S.L. 2022-74, Sec. 9I.1/HB 103 – 2022 Appropriations Act)**

Section 9I.1 of S.L. 2022-74 increased the income threshold from 130% to 150% of the federal poverty level for individuals 60 years old and above in order to qualify for annual energy assistance payments. Additionally, the maximum amount paid per household directly to a service provider by the county department of social services under the Crisis Intervention Program increased from a maximum of \$600 to \$1,000 per household in a fiscal year.

This section became effective July 1, 2022.

## **CHILDREN AND FAMILIES**

### **Jordan's Law (S.L. 2022-48/HB 615)**

S.L. 2022-48 amends the domestic violence relief statute (G.S. 50B-3(b)) to allow a court to temporarily extend a domestic violence order of protection when the court date to consider the extension is set after the expiration date on the order.

The act also amends the custody proceeding statute (G.S. 50-13.1(b)) to allow optional participation in custody mediation, rather than mandatory participation, when motions for contempt or motions to show cause are filed.

The temporary extension of a domestic violence order of protection becomes effective December 1, 2022, and applies to pending motions to renew filed before, on, or after that date. The optional participation in custody mediation becomes effective December 1, 2022, and applies to motions filed on or after that date.

### **Codify the Feminine Hygiene Products Grant Program (S.L. 2022-74, Sec. 7.10(a)/HB 103 – 2022 Appropriations Act)**

Section 7.10(a) of S.L. 2022-74 creates a new statute (G.S. 115C-377) codifying the Feminine Hygiene Grant Program to assist participating public school units in providing students with feminine hygiene products at no charge to the student. To the extent that funds are available, the Department of Public Instruction is required to award public school units grants of up to \$5,000 on a first-come, first-served basis. No public school is allowed to receive more than one grant per fiscal year and the Department must prioritize grant awards to schools that did not receive an award in the previous fiscal year.

The Department of Public Instruction is required to report to the Joint Legislative Education Oversight Committee no later than March 15, 2023, and every year thereafter that funds are made available to the Program. The report must include those public school units that received grants under the Program, the specific feminine hygiene products purchased with the funds, and the impact of the Program on student health and well-being.

This section became effective July 1, 2022.

### **Detailed Plan for Reorganizing Certain Child and Family Well-Being Programs (S.L. 2022-74, Sec. 9B.1/HB 103 – 2022 Appropriations Act)**

Section 9B.1 of S.L. 2022-74, as amended by Section 18 of S.L. 2022-75, requires the Department of Health and Human Services to submit a plan and timeline to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division for the Department's proposal to transfer child and family well-being programs to a new division. The original plan must be submitted by October 1, 2022, with revisions to the plan due by April 1, 2023, and it must include the following:

- The mission and purpose of the proposed new division.

- A list of the specific programs and services to be transferred to the new division.
- A detailed proposed budget for the new division.
- The anticipated impact on local governments and key service providers.
- Identification of the functions, powers, duties, and obligations that would need to be transferred to the new division.
- Any legislative changes that would be necessary to implement this proposed reorganization.
- Any other information the Department deems relevant to implementing this proposed reorganization.

This section became effective July 1, 2022.

### **Raise NC Pre-K Base Reimbursement Rates (S.L. 2022-74, Sec. 9C.1/HB 103 – 2022 Appropriations Act)**

Section 9C.1 of S.L. 2022-74 amends Section 9C.3 of S.L. 2021-180 by raising the base reimbursement rates for the 2022-2023 fiscal year for child care centers participating in the North Carolina Prekindergarten (NC Pre-K) program from 2% to 7% over the 2021-2022 fiscal year rates. A portion of these funds are allocated to raise the base reimbursement rates for public schools and Head Start centers participating in the NC Pre-K program by 5% over the 2021-2022 rates for the 2022-2023 fiscal year.

This section became effective July 1, 2022.

### **Raise Cap on Administrative Costs/Smart Start (S.L. 2022-74, Sec. 9C.2/HB 103 – 2022 Appropriations Act)**

Section 9C.2 of S.L. 2022-74 amends Section 9C.6(b) of S.L. 2021-180 by raising the cap on administrative costs for local partnerships from not more than 8% to no more than 9% of the total statewide allocation to all local partnerships.

This section became effective July 1, 2022.

### **Change in Composition of Maternal Mortality Review Committee (S.L. 2022-74, Sec. 9G.2/HB 103 – 2022 Appropriations Act)**

Section 9G.2 of S.L. 2022-74 amends the statute (G.S. 130A-33.60(b)) by increasing the membership of the Maternal Mortality Review Committee from 9 members to 20 members and by adding a requirement that the membership represent the community.

This section became effective July 1, 2022.

### **Increase Foster Care Administrative Rate with Existing Funds (S.L. 2022-74, Sec. 9I.2/HB 103 – 2022 Appropriations Act)**

Section 9I.2 of S.L. 2022-74 directs the Division of Social Services, Department of Health and Human Services, to increase the administrative rate for foster care using available funds in the foster care budget.

This section became effective July 1, 2022.

### **Extend Time for Food and Nutrition Services Appeals Decisions (S.L. 2022-74, Sec. 9I.4/HB 103 – 2022 Appropriations Act)**

Section 9I.4 of S.L. 2022-74 amends the statute (G.S. 108A-79(j)) to extend, from 45 to 60 days, the period of time in which the decision must be rendered following an administrative hearing that involves the food and nutrition services program.

This section became effective July 1, 2022.

### **Allow Portion of Child Care and Development Block Grant ARPA Funds for Temporary Increase of Child Care Subsidy Rates to 2018 Market Study Rates (S.L. 2022-74, Sec. 9L.2(a)/HB 103 – 2022 Appropriations Act)**

Section 9L.2(a) of S.L. 2022-74 amends Section 9L.2(b)(1)a. of S.L. 2021-180 to allow the Division of Child Development and Early Education, Department of Health and Human Services, to use a portion of the funds to temporarily increase the child care subsidy reimbursement rates to those recommended in the 2018 Child Care Market Rate Study until the funds expire on September 30, 2024.

This section became effective July 1, 2022.

### **Child Advocacy Centers/Share Information (Vetoed/HB 823)**

House Bill 823 would have established criteria for Children's Advocacy Centers to receive State funds, established certain requirements for the sharing of information and access to records held by Children's Advocacy Centers and multidisciplinary teams, and established immunity from liability for certain circumstances for the multidisciplinary team, individuals, and volunteers working for a Children's Advocacy Center.

House Bill 823 was ratified by the General Assembly on July 1, 2022, and vetoed by the Governor on July 11, 2022.

## **HEALTH INFORMATION**

### **Further Study of the Statewide Health Information Exchange Network and the Statewide Health Information Exchange Act (HIEA) and Temporary Suspension of the HIEA Provision Conditioning the Receipt of State Funds on Connecting to and Submitting Data Through the Health Information Exchange Network (S.L. 2022-74, Sec. 9B.3/HB 103 – 2022 Appropriations Act)**

Section 9B.3 of S.L. 2022-74 requires the Health Information Exchange Advisory Board to submit a report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the Health Information Exchange. The report must be submitted by March 31, 2023, and contain (i) an update regarding the status of providers and entities required by Health Information Exchange Act to connect to and submit data through the Health Information Exchange, and (ii) recommendations for features or actions, including legislative or administrative proposals, to support enforcement of the Health Information Exchange Act. This section clarifies that, notwithstanding the provisions of the Health Information Exchange Act, connection to the Health Information Exchange cannot be a requirement for receipt of State funds until the appointment of an agency responsible for enforcing the provisions of the Health Information Exchange Act.

This section became effective July 11, 2022.

### **Expanded Access to Client Specific Information Contained in the North Carolina Immunization Registry (S.L. 2022-74, Sec. 9G.6/HB 103 – 2022 Appropriations Act)**

Section 9G.6 of S.L. 2022-74 creates a new statute (G.S. 130A-158.5) governing access to the North Carolina Immunization Registry. The new statute directs the Department of Health and Human Services to grant access to client-specific immunization information contained within the North Carolina Immunization Registry to prepaid health plans and primary care case management entities. These authorized recipients must agree in writing to maintain the confidentiality of the information.

This section became effective July 1, 2020.

### **Interchangeable Biological Product Definition Modification and Biological Product Electronic Record Requirement (S.L. 2022-74, Sec. 9K.4/HB 103 – 2022 Appropriations Act)**

Section 9K.4 of S.L. 2022-74 amends the statutory definition (G.S. 90-85.27(3a)) of an interchangeable biological product to clarify that interchangeability must meet the standards established in federal law (42 U.S.C. § 262(k)(4)). The section also reenacts and amends a previously expired subsection to require a pharmacist or designee to notify the prescriber of the name and manufacturer of a biological product dispensed to a patient. This notification must happen within five business days of dispensing and be communicated through an electronically accessible record system available to the prescriber of the biological product requiring a prescription.

This section becomes effective October 1, 2022, and applies to the dispensing of biological products requiring a prescription on or after that date.

**Juvenile Justice HIE Network Report (S.L. 2022-74, Sec. 19D.2/HB 103 – 2022 Appropriations Act)**

Section 19D.2 of S.L. 2022-74 requires the Department of Public Safety to report to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division, on the use of funds appropriated to the Division of Juvenile Justice and Delinquency Prevention, Department of Public Safety, for the digitization of juvenile health records and the ongoing resources necessary to report digital health records to the Health Information Exchange network. The report is required no later than April 1, 2023.

This section became effective July 1, 2022.



## **MEDICAID AND NC HEALTH CHOICE**

### **Medicaid Rates for Personal Care Services and Skilled Nursing (S.L. 2022-74, Sec. 9D.3/HB 103 – 2022 Appropriations Act)**

Section 9D.3 of S.L. 2022-74 appropriates funds to support the increased Medicaid rates for personal care services and skilled nursing facilities that were paid for April, May, and June of 2022, but that were not funded in S.L. 2021-180. This section also appropriates \$95 million in nonrecurring funds to be used for increased Medicaid rates for personal care services and skilled nursing facilities during the 2022-2023 fiscal year until the funds are spent. Once the funds have been spent, the Department of Health and Human Services has the statutory authority to set rates for personal care services and skilled nursing facilities within the budget for the Medicaid program.

The funding for the 2021-2022 fiscal year became effective June 30, 2022. The remainder of this section became effective July 1, 2022.

### **Medicaid Coverage/Eastern Band of Cherokee Indians (S.L. 2022-74, Sec. 9D.4/HB 103 – 2022 Appropriations Act)**

Section 9D.4 of S.L. 2022-74 authorizes the Department of Health and Human Services to submit any necessary documents to the Centers for Medicare and Medicaid Services to allow for Medicaid coverage of healthcare services that: (i) qualify for 100% federal funding, (ii) are provided by Indian Health Service providers or Eastern Band of Cherokee Indians tribal facilities, and (iii) are provided to individuals with no other form of health coverage.

This section became effective July 1, 2022.

### **Conform to Federal Requirements/Ending of Public Health Emergency (S.L. 2022-74, Sec. 9D.5/HB 103 – 2022 Appropriations Act)**

Section 9D.5 of S.L. 2022-74 amends Section 6(b) of S.L. 2020-88 pertaining to the notices of termination of Medicaid benefits that will be sent to ineligible beneficiaries after the end of the federal public health emergency. Instead of requiring all notices of termination be sent within 90 days of the end of the federal public health emergency, the amended language requires all Medicaid renewals, post-enrollment verifications, and redeterminations of eligibility to be completed as expeditiously as possible and no later than the twelfth month after the end of the federal public health emergency.

This section became effective July 1, 2022.

### **Use of the Medicaid Transformation Fund for Medicaid Transformation Needs Changes (S.L. 2022-74, Sec. 9D.6/HB 103 – 2022 Appropriations Act)**

Section 9D.6 of S.L. 2022-74 amends Section 9D.16(b) of S.L. 2021-180 to authorize the transfer of additional funds from the Medicaid Transformation Fund to the Division of Health Benefits (DHB), Department of Health and Human Services, for qualifying Medicaid transformation

needs during the 2022-2023 fiscal year. The funds available for transfer to DHB during the 2022-2023 fiscal year include any amount of funds that were authorized to be transferred during the 2021-2022 fiscal year but were not transferred.

This section became effective July 1, 2022.

### **Clarify Treatment of 340B Drugs/Address Reimbursement for Federally Qualified Health Centers (S.L. 2022-74, Sec. 9D.8/HB 103 – 2022 Appropriations Act)**

Section 9D.8 of S.L. 2022-74 amends Section 9D.19A of S.L. 2021-180 to clarify that there will be no changes to the reimbursement for drugs covered by the federal 340B Drug Pricing Program under prepaid health plan contracts for standard benefit plans through June 30, 2026. The federal 340B Drug Pricing Program is established under Section 340B of the Public Health Service Act. This section also provides \$4.4 million for temporary Medicaid reimbursement increases to federally qualified health centers (FQHCs) as a percentage above cost. By February 1, 2023, the Division of Health Benefits, Department of Health and Human Services, must collaborate with FQHCs to develop and submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice a proposed comprehensive reimbursement structure for FQHCs that addresses pharmacy costs in the context of the overall financial challenges faced by FQHCs.

The changes related to drugs covered by the 340B Drug Pricing Program became effective retroactively to November 18, 2021. The remainder of this section became effective July 1, 2022.

### **Medicaid Hospital Assessment Technical Adjustments (S.L. 2022-74, Sec. 9D.10/HB 103 – 2022 Appropriations Act)**

Section 9D.10 of S.L. 2022-74 amends statutes (G.S. 108A-146.12 and G.S. 108A-146.13) enacted in Section 9D.13A(c) of S.L. 2021-180 to make technical adjustments to the modernized hospital assessments, as follows:

- Reduces the amount of assessments collected from hospitals through the postpartum component to account for the portion of the added postpartum costs that will be collected through the other components of the modernized hospital assessments. Because the postpartum coverage and the postpartum component took effect April 1, 2022, and this section would be effective October 1, 2022, this section provides for a reconciliation of the April and July quarters in the quarter beginning October 1, 2022.
- Adjusts the historical subcomponent of the modernized hospital assessments related to the recent change of ownership of Vidant Beaufort hospital that was reported to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice.

This section becomes effective October 1, 2022, and applies to modernized hospital assessments imposed on or after that date.

**Average Commercial Rate Supplemental and Directed Payment Program/East Carolina University Health Physicians (S.L. 2022-74, Sec. 9D.11/HB 103 – 2022 Appropriations Act)**

Section 9D.11 of S.L. 2022-74 allows East Carolina University (ECU) Health Physicians to participate in the Average Commercial Rate Supplemental and Directed Payment Program with no increase to the previously established limit on payments applicable to eligible providers affiliated with the ECU Brody School of Medicine.

This section became effective July 1, 2022.

**Eliminate NC Health Choice and Move Beneficiaries to Medicaid (S.L. 2022-74, Sec. 9D.15/HB 103 – 2022 Appropriations Act)**

Section 9D.15 of S.L. 2022-74 directs the Department of Health and Human Services to submit the necessary State Plan amendments to the Centers for Medicare and Medicaid Services (CMS) to merge the NC Health Choice and the Medicaid programs by eliminating the NC Health Choice program and providing Medicaid coverage to the population of children historically served by NC Health Choice. The section directs the merger to occur before July 1, 2023. The section also makes conforming changes throughout the General Statutes.

The directive to merge the programs became effective July 11, 2022, and the remainder of this section becomes effective on the date that the NC Health Choice program is eliminated, as approved by CMS.

## **MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

### **Modify LME/MCO Intergovernmental Transfers (S.L. 2022-74, Sec. 9D.2/HB 103 – 2022 Appropriations Act)**

Section 9D.2 of S.L. 2022-74 amends Section 9D.7(a) of S.L. 2021-180 to modify the amount of the intergovernmental transfers made to the Department of Health and Human Services by each local management entity/managed care organization (LME/MCO) as result of the dissolution of Cardinal Innovations LME/MCO.

This section became effective July 1, 2022.

### **Adjust Implementation Date for Behavioral Health and Intellectual/Developmental Disabilities Tailored Plans (S.L. 2022-74, Sec. 9D.7/HB 103 – 2022 Appropriations Act)**

Section 9D.7 of S.L. 2022-74 requires the Division of Health Benefits (DHB), Department of Health and Human Services, to implement behavioral health and intellectual/developmental disabilities (BH IDD) tailored plans no later than December 1, 2022, for an initial contract term ending December 1, 2026. This section directs that the initial contract term of the standard benefit plans must continue through December 1, 2026, with an option to extend the contract for up to one additional year. If DHB extends the initial contract term of the standard benefit plans, it must offer to extend the initial term of the BH IDD tailored plan contracts an equivalent amount of time.

This section became effective July 1, 2022.

### **Adjust Implementation Date for Requiring LME/MCOs to Pay for Behavioral Health Services Provided to Beneficiaries Awaiting Hospital Discharge (S.L. 2022-74, Sec. 9D.9/HB 103 – 2022 Appropriations Act)**

Section 9D.9 of S.L. 2022-74 amends Section 9D.22(f) of S.L. 2021-180, which directed the Division of Health Benefits, Department of Health and Human Services, to develop Medicaid coverage for specified services provided to Medicaid beneficiaries in an acute hospital setting after the beneficiary has been in the care of the hospital for at least 30 hours if the beneficiary is awaiting discharge to a more appropriate setting for the treatment of behavioral health needs. This section changes the implementation date of the Medicaid coverage for the new service from July 1, 2022, to December 31, 2022.

This section became effective July 1, 2022.

## **Behavioral Health and Intellectual/Developmental Disabilities Tailored Plan Per Member Per Month Adjustment Recommendations (S.L. 2022-74, Sec. 9D.12/HB 103 – 2022 Appropriations Act)**

Section 9D.12 of S.L. 2022-74 requires the Division of Health Benefits (DHB), Department of Health and Human Services, to submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division a report containing recommendations regarding adjustments to the per member per month capitation amount paid to local management entities/managed care organizations operating behavioral health and intellectual/developmental disabilities tailored plans. The recommendations must include adjustments to increase the wages of direct support personnel who provide services to Medicaid beneficiaries residing in intermediate care facilities for individuals with intellectual disabilities (ICF/IIDs), including ICF/IID level group homes, and Medicaid beneficiaries receiving services through the North Carolina Innovations waiver program. DHB must take into account the wages of direct support personnel working at the State developmental centers, with the goal of aligning the wages of direct support personnel regardless of place of employment when making the recommendations. This report is required annually for five years beginning March 1, 2023.

This section became effective July 1, 2022.

## **Changes Related to Behavioral Health and Intellectual/Developmental Disabilities Tailored Plans Launch (S.L. 2022-74, Sec. 9D.13/HB 103 – 2022 Appropriations Act)**

Section 9D.13 of S.L. 2022-74 makes the following changes related to behavioral health and intellectual/developmental disabilities (BH IDD) tailored plans:

- Temporarily delays the coverage of outpatient point-of-sale prescription drugs by BH IDD tailored plans for up to 6 months.
- Temporarily suspends, through December 31, 2023, the statutory solvency standards applicable to local management entity/managed care organization (LME/MCOs). The Division of Health Benefits, Department of Health and Human Services (Department), is required to submit, no later than March 1, 2023, recommended solvency standards for LME/MCOs operating BH IDD tailored plans. The report must be submitted to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division.
- Clarifies the meaning of "closed network" (in Chapter 108D of the General Statutes) and specifies that BH IDD tailored plans are required to include in their closed provider networks all providers in their catchment area that provide behavioral health, intellectual and developmental disability, or traumatic brain injury services and that are designated as essential providers by the Department.
- Temporarily, through December 1, 2023, requires the dissolution of an LME/MCO upon the termination of its contract to operate a BH IDD tailored plan. No later than January 10, 2023, the Department must recommend to the Joint Legislative Oversight

Committee on Medicaid and NC Health Choice actions to be taken in the future if a contract for a BH IDD tailored plan, a capitated arrangement, or the 1915(b)/(c) waiver is terminated with an LME/MCO.

This section became effective July 1, 2022.

## **Use of Opioid Settlement Funds (S.L. 2022-74, Sec. 9F.1/HB 103 – 2022 Appropriations Act)**

Section 9F.1 of S.L. 2022-74 amends Section 9F.1 of S.L. 2021-180, which established the Opioid Abatement Reserve, to allow the reserve to maintain funds received by the State as a beneficiary of bankruptcy proceedings relating to claims regarding the manufacturing, marketing, distribution, dispensing, or sale of opioids. It also directs the State Controller to disburse funds from the Opioid Abatement Reserve as outlined below.

- \$9,225,000 to the Department of Health and Human Services, to be allocated as follows:
  - \$1,850,000 to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the Prescription Digital Therapeutics Pilot Program.
  - \$1,000,000 to Triangle Residential Options for Substance Abusers, Inc. to fund the construction of additional units of housing on its Durham campus to provide housing support to individuals in recovery from opioid use disorder.
  - \$6,000,000 to be allocated equally among the local management entities/managed care organizations (LME/MCOs) to support opioid remediation programs throughout the State.
  - \$375,000 to the North Carolina Association of County Commissioners to facilitate local and regional strategic planning to maximize the long-term positive impact of the opioid settlement funds received by the State and to satisfy all requirements of the Memorandum of Agreement governing the use of opioid settlement funds by counties and municipalities in North Carolina.
- \$5,556,203 to the Board of Governors of the University of North Carolina to be allocated to the University of North Carolina at Chapel Hill for the North Carolina Collaboratory to be used as follows:
  - \$400,000 to the University of North Carolina Injury Prevention Research Center to expand and operate the Community Opioid Resources Engine for North Carolina.
  - \$600,000 to support opioid remediation project management and community partnership outreach at North Carolina Central University.
  - \$1,900,000 to make grants available on a competitive basis to each campus of the constituent institutions of The University of North Carolina for opioid abatement research and development projects.

- \$2,656,203 to fund a research partnership concerning opioid abatement with the Eshelman Institute for Innovation at the University of North Carolina at Chapel Hill School of Pharmacy.

This section became effective July 1, 2022.

### **Prescription Digital Therapeutics Pilot Program for Opioid Use Disorder Treatment (S.L. 2022-74, Sec. 9F.2/HB 103 – 2022 Appropriations Act)**

Section 9F.2(a) of S.L. 2022-74 authorizes the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), Department of Health and Human Services, to develop and administer, from the funds allocated in Section 9F.1 of S.L. 2022-74, a two-year pilot program to gauge the effectiveness of prescription digital therapeutics (PDTs) for the treatment of opioid use disorder.

Section 9F.2(b) of S.L. 2022-74 directs the pilot program to commence no later than December 1, 2022, and terminate no later than December 1, 2024. DMH/DD/SAS is responsible for determining the number of pilot program sites, the eligibility requirements for participants, and the specific types of PDTs that will be prescribed and evaluated by the pilot program.

Section 9F.2(c) of S.L. 2022-74 instructs DMH/DD/SAS to submit a report on the impact of the pilot program to the Joint Legislative Oversight Committee on Health and Human Services within six months after the termination of the pilot program. The report must include specified criteria, including a breakdown of expenditures, and identification of the specific PDTs prescribed and an evaluation of their effectiveness.

This section became effective July 1, 2022.

## **PROVIDERS, FACILITIES, AND LICENSURE**

### **Licensed Counselors Compact/Department of Health and Human Services Contracting (S.L. 2022-52/HB 791)**

S.L. 2022-52 makes North Carolina a member of the Professional Counseling Licensure Compact, an interstate licensure compact for licensed professional counselors.

The act also implements procedures for contract reform within the Department of Health and Human Services and changes the process by which the Department of Health and Human Services enters into contracts with nonprofit grantees as follows:

- Contracts must be for a minimum of two years if the nonprofit: (i) received funds for each year of a fiscal biennium, (ii) received recurring funding, and (iii) was not prohibited from entering into a multi-year contract. These contracts can be extended for a year if the parties agreed to extend the contract and funding remained available. Contracts can also be extended for up to three months to ensure continuity of services.
- Within 15 days of S.L. 2022-74 (the Act) becoming law on July 11, 2022, the Fiscal Research Division must provide to the Division of Budget and Analysis, Department of Health and Human Services, a list of all non-state entities who receive state funds through the Act.
- For vendors who do not have a federally approved overhead rate, a de minimis cost of 10% shall apply to all contracts

The Compact provisions will be effective when the tenth member state enacts the Compact. The North Carolina Board of Licensed Clinical Mental Health Counselors must report to the Revisor of Statutes when the tenth member state has enacted the Compact. The contracting provisions became effective July 15, 2022.

### **Funeral Director Exam/Death Certificates (S.L. 2022-63/SB 138)**

S.L. 2022-63 adds a definition for "entry level examination in funeral directing" to the statute (G.S. 90-210.20) to allow greater flexibility when granting North Carolina licenses to individuals who are licensed as funeral directors in other states, allows more time for individuals selling preneed funeral contracts to pay their fees to the Board of Funeral Services, requires local health departments and registers of deeds to accept paper death certificates through August 31, 2022, and creates a penalty to be assessed against individuals who do not certify death records through the electronic system.

The portions of the act pertaining to funeral directors and contracts become effective October 1, 2022. The remainder of the act became effective July 8, 2022.



### **Recommendations on Increasing Nursing Graduates (S.L. 2022-74, Sec. 8.3/HB 103 – 2022 Appropriations Act)**

Section 8.3 of S.L. 2022-74 requires the Board of Governors of the University of North Carolina, in collaboration with the State Board of Community Colleges, to provide recommendations to the Joint Legislative Education Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services on ways to increase, by at least 50%, the number of nursing program graduates. The recommendations must be made by February 1, 2023.

This section became effective July 1, 2022.

### **Redirection of Funds from Atrium Health to Cleveland County for the Development of a Health Center (S.L. 2022-74, Sec. 9B.2/HB 103 – 2022 Appropriations Act)**

Section 9B.2 of S.L. 2022-74 requires the funds initially allocated in accordance with S.L. 2021-180 by the Office of Rural Health as a directed grant to Atrium Health for the development of a federally qualified health center to instead be allocated as a directed grant to Cleveland County for the same purpose.

The section became effective July 1, 2022.

### **Align State Criminal Background Checks for Prospective Child Care Providers with Federal Block Grant Requirements/Report (S.L. 2022-74, Sec. 9C.3/HB 103 – 2022 Appropriations Act)**

Section 9C.3 of S.L. 2022-74 amends the background check provisions of child care licensing laws to require facilities to check the criminal backgrounds of their employees every five years, rather than every three years. It also allows new employees whose criminal background checks have not yet come back to be provisionally employed, provided they are supervised by another employee at all times. Finally, it requires the Department of Health and Human Services to report to the Joint Legislative Oversight Committee on Health and Human Services on the number of provisionally employed child care providers. Beginning in 2022, the report must be made annually by December 1.

This section became effective July 1, 2022.

### **Hiring of Health Care Personnel by Nursing Facilities to Perform Nurse Aide Duties (S.L. 2022-74, Sec. 9E.1/HB 103 – 2022 Appropriations Act)**

Section 9E.1 of S.L. 2022-74 amends the Nurse Aide Registry statute (G.S. 131E-255) to clarify that nursing facilities may employ individuals who are not on the Nurse Aide Registry for up to four months, consistent with federal law. The Medical Care Commission is given the authority to adopt rules necessary to implement this section.

This section became effective July 11, 2022.

## **Emergency Flexibilities for Certain Facilities and Services Regulated by the Division of Health Service Regulation (S.L. 2022-74, Sec. 9E.2/HB 103 – 2022 Appropriations Act)**

Section 9E.2 of S.L. 2022-74 allows the Division of Health Service Regulation (DHSR), Department of Health and Human Services, to waive rules or increase bed capacity at mental health facilities, adult care homes, hospitals, combination homes, nursing homes, and hospices during a declared emergency or when necessary to conform to federal law. DHSR may also waive rules for emergency medical services and nurse aides in the same circumstances.

This section became effective on the date Executive Order No. 116 was rescinded. Executive Order No. 267 rescinded Executive Order No. 116 on August 15, 2022.

## **Flexibilities for Reaccreditation/Recertification of Asbestos Management and Lead Abatement Professionals (S.L. 2022-74, Sec. 9G.9/HB 103 – 2022 Appropriations Act)**

Section 9G.9 of S.L. 2022-74 allows individuals whose asbestos management or lead abatement accreditation or certification would expire because of a failure to take a refresher course to have until 180 days after Executive Order No. 116 is rescinded to complete the refresher course before losing their accreditation or certification.

This section became effective on the date Executive Order No. 116 was rescinded. Executive Order No. 267 rescinded Executive Order No. 116 on August 15, 2022.

## **Funds for Pregnancy Centers (S.L. 2022-74, Sec. 9G.10/HB 103 – 2022 Appropriations Act)**

Section 9G.10 of S.L. 2022-74 requires the Department of Health and Human Services to allocate funds to the nonprofit pregnancy centers as outlined below. The \$2,585,000 in nonrecurring funds for the 2022-2023 fiscal year was appropriated from the Local Project Reserve.

- \$260,000 to Davie Pregnancy Care Center, Inc.
- \$325,000 to Heartbeats – A Pregnancy Care Center, Inc.
- \$500,000 to Open Arms Pregnancy Support Services, Inc.
- \$100,000 to Salem Pregnancy Support Center, Inc.
- \$150,000 to H.E.L.P. Center, Inc.
- \$250,000 to Cabarrus Women's Center, Inc.
- \$250,000 to Coastal Pregnancy Care Center, Inc.
- \$250,000 to Havelock Pregnancy Resource Center.
- \$250,000 to Eastern Pregnancy Information Clinic.
- \$250,000 to International Athletes' Abolition Mission, to support 1st Choice Pregnancy Resources of Pamlico County.

This section became effective July 1, 2022.

## **Expand the Rights of Appeal Pursuant to Inspections of Local Confinement Facilities (S.L. 2022-74, Sec. 9K.1/HB 103 – 2022 Appropriations Act)**

Section 9K.1 of S.L. 2022-74 amends the statute (G.S. 153A-222) pertaining to inspections of local confinement facilities. The section requires that within 30 days of receiving the semiannual inspection report required by law, the governing body must (i) initiate action to bring the facility into conformity with minimum standards (G.S. 153A-221), or (ii) request a contested case hearing regarding any or all findings in the report. To comply with these changes, the Department of Health and Human Services is required to adopt temporary rules in accordance with the statute (G.S. 150B-21.1) and to adopt permanent rules by October 1, 2023.

This section becomes effective October 1, 2022, and applies to actions taken by a governing body, sheriff, or other administrator of a local confinement facility related to inspection reports received on or after that date.

## **Clarify Treatment of Pregnant Female Inmates (S.L. 2022-74, Sec. 9K.2/HB 103 – 2022 Appropriations Act)**

Section 9K.2 of S.L. 2022-74 amends the statute (G.S. 153A-221) establishing the minimum standards for the operation of local confinement facilities to require compliance with the Dignity for Women Incarcerated in Local Confinement Facilities law (Part 2B of Article 10 of Chapter 153A). Additionally this section amends the statute (G.S. 153A-229.2(c)) pertaining to nutrition for pregnant female incarcerated persons to require that local confinement facilities follow the orders of a physician or physician staff regarding dietary needs or restrictions for any particular pregnant incarcerated person or follow the guidelines for women who are pregnant or lactating, as set forth in the most recent edition of Dietary Guidelines for Americans published by the US Department of Health and Human Services and the US Department of Agriculture.

This section became effective July 11, 2022.

## **Temporary Authorization of Behavior Analysts to Practice Without Supervision (S.L. 2022-74, Sec. 9K.3/HB 103 – 2022 Appropriations Act)**

Section 9K.3 of S.L. 2022-74 authorizes an individual engaging in the practice of behavior analysis to practice without the supervision of a licensed psychologist under the following circumstances:

- The individual is licensed or certified in another state or jurisdiction as a behavior analyst, assistant behavior analyst, or behavior technician, as defined in statute (G.S. 90-732).
- The individual is nationally accredited by the Behavior Analyst Certification Board, or its successor, as a board-certified behavior analyst, board-certified assistant behavior analyst, or registered behavior technician.

- The individual is nationally accredited by the Qualified Applied Behavior Analysis Credentialing Board, or its successor, as a qualified behavior analyst, qualified autism services practitioner supervisor, or applied behavior analysis technician.

The section further provides that assistant behavior analysts, behavior technicians, or their nationally accredited equivalents authorized to practice under this section must be supervised by a behavior analyst in accordance with the law (Article 43 of Chapter 90).

This section became effective July 11, 2022, and expires 60 calendar days from the date the North Carolina Behavior Analysis Board accepts licensure applications for behavior analysts, assistant behavior analysts, and behavior technicians.

## **PUBLIC HEALTH**

### **Amendments to Schedule VI of the Controlled Substances Act (S.L. 2022-9/SB 448)**

S.L. 2022-9 makes prescription drugs containing marijuana and tetrahydrocannabinols (THC) automatically lawful in North Carolina if the following factors are met:

- The FDA approves the use of the prescription drug.
- The Drug Enforcement Administration makes the appropriate change to the federal controlled substance schedules.
- The North Carolina Commission for Mental Health, Developmental Disabilities, and Substance Abuse (the Commission) does not object to excluding the new drug from Schedule VI within the timeframe provided in statute (G.S. 90-88(d)).

While S.L. 2022-9 allows the Commission to object to removing the new drug from Schedule VI, it does not require any positive action by the Commission. If the Commission does not make an objection, the new drug is automatically excluded from Schedule VI.

This act became effective July 14, 2022, and applies to prescription drugs approved by the FDA on or after that date.

### **Funds for the Office of the Chief Medical Examiner to Increase the Transportation Rate for Death Investigations and Autopsies and to Increase the Number of Forensic Pathologist Positions (S.L. 2022-74, Sec. 9G.1/HB 103 – 2022 Appropriations Act)**

Section 9G.1 of S.L. 2022-74 appropriates \$4.75 million to the Office of the Chief Medical Examiner (OCME), Division of Public Health, Department of Health and Human Services, in recurring funds for the 2022-2023 fiscal year to be used as follows:

- \$3 million to increase the current base contract rate to transport bodies one way for death investigations or autopsies to \$170 for the first 40 miles, and \$1 per mile thereafter.
- \$1.75 million to create seven new full-time Forensic Pathologist positions within the OCME.

This section became effective July 1, 2022, and applies to contracts entered into, renewed, or amended on or after that date.

## **Use of Juul Settlement Funds (S.L. 2022-74, Sec. 9G.3/HB 103 – 2022 Appropriations Act)**

Section 9G.3 of S.L. 2022-74 amends Section 9G.10 of S.L. 2021-180 to direct that funds allocated to the Youth Electronic Nicotine Dependence Abatement Fund remain available for expenditures as specified until expended.

This section became effective June 30, 2022.

## **Filing of Death Certificates (S.L. 2022-74, Sec. 9G.4/HB 103 – 2022 Appropriations Act)**

Section 9G.4(a) of S.L. 2022-74 notes the intent of the General Assembly to ensure a smooth transition from a paper-based process for creating death records toward a web-based, online electronic death registration system and directs each local health department and register of deeds to accept paper death certificates through August 31, 2022.

Section 9G.4(b) of S.L. 2022-74 amends the death registration statute (G.S. 130A-115) to require death certificates be electronically filed with the Office of Vital Records via the North Carolina Database Application for Vital Events system beginning on September 1, 2022. The Department of Health and Human Services may impose an administrative penalty against any individual who willfully and knowingly violates the electronic filing requirement in the amount of \$250 for the first violation, \$500 for the second violation, and \$1000 for third or subsequent violations.

This section became effective July 1, 2022.

Also see Funeral Director/Death Certificates summary of S.L. 2022-63 under the [Providers, Facilities, and Licensure](#) subheading of this document.

## **Extension of Terms of NC Rare Disease Advisory Council Members and Expansion of Council Membership (S.L. 2022-74, Sec. 9G.5/HB 103 – 2022 Appropriations Act)**

Section 9G.5 of S.L. 2022-74 amends the statute (G.S. 130A-33.65) to add a parent of a childhood rare disease survivor to the membership of the Advisory Council on Rare Diseases and to increase the term limit of Advisory Council members from two to three consecutive terms.

This section is effective July 11, 2022, and applies to current members of the Advisory Council on Rare Diseases.

## **Authorization for State Health Directors to Issue Statewide Standing Orders to Facilitate the Administration of COVID-19 Vaccinations, Diagnostic Tests, or Other Treatments (S.L. 2022-74, Sec. 9G.7/HB 103 – 2022 Appropriations Act)**

Section 9G.7 of S.L. 2022-74 allows the State Health Director to issue a statewide standing order to facilitate the administration of vaccinations, diagnostic tests, or other treatments for

COVID-19 when the State Health Director determines a statewide standing order is necessary for the protection of public health, safety, and welfare of North Carolinians.

Any statewide standing order concerning the administration of vaccinations, diagnostic tests, or other treatments for COVID-19 issued on or before July 1, 2022, remains in effect until rescinded by the State Health Director. This section shall not be construed to authorize the State Health Director to require a vaccination, diagnostic test, or other treatment for COVID-19.

This section became effective on July 11, 2022, and expires on December 31, 2023.

### **Modifications to Quarantine and Isolation Authority (S.L. 2022-74, Sec. 9G.8/ HB 103 – 2022 Appropriations Act)**

Section 9G.8 of S.L. 2022-7 amends the statute (G.S. 130A-145) governing the State Health Director's quarantine authority to clarify that quarantine orders may be issued only for seven days if the quarantine order applies statewide and only for 30 days if the order is less than statewide. The statute is also amended to give local health directors the same authority.

This section becomes effective January 1, 2023, and applies  
to quarantine orders issued on or after that date.

## **STUDIES, REPORTS, AND PILOT PROGRAMS REPORTING REQUIREMENTS**

### **Licensed Counselors Compact/Department of Health and Human Services Contracting (S.L. 2022-52/HB 791)**

S.L. 2022-52 requires that within 15 days of S.L. 2022-74 (the Act) becoming law on July 11, 2022, the Fiscal Research Division must provide to the Division of Budget and Analysis, Department of Health and Human Services, a list of all non-state entities who receive State funds through the Act. This requirement became effective July 15, 2022.

The full summary for this section is located under the [Providers, Facilities, and Licensure](#) subheading of this document.

### **Codify the Feminine Hygiene Products Grant Program (S.L. 2022-74, Sec. 7.10(a)/HB 103 – 2022 Appropriations Act)**

Section 7.10(a) of S.L. 2021-74 requires the Department of Public Instruction to report to the Joint Legislative Education Oversight Committee no later than March 15, 2023, and every year thereafter that funds are made available to the Feminine Hygiene Grant Program. The report must include those public school units that received grants under the Program, the specific feminine hygiene products purchased with the funds, and the impact of the Program on student health and well-being. This section became effective July 1, 2022.

The full summary for this section is located under the [Children and Families](#) subheading of this document.

### **Recommendations on Increasing Nursing Graduates (S.L. 2022-74, Sec. 8.3/ HB 103 – 2022 Appropriations Act)**

Section 8.3 of S.L. 2022-74 requires the Board of Governors of the University of North Carolina, in collaboration with the State Board of Community Colleges, to provide recommendations to the Joint Legislative Education Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services on ways to increase, by at least 50%, the number of nursing program graduates. The recommendations must be made by February 1, 2023. This section became effective July 1, 2022.

### **Detailed Plan for Reorganizing Certain Child and Family Well-Being Programs (S.L. 2022-74, Sec. 9B.1/HB 103 – 2022 Appropriations Act)**

Section 9B.1 of S.L. 2022-74, as amended by Section 18 of S.L. 2022-75, requires the Department of Health and Human Services to submit a plan and timeline to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division for the Department's proposal to transfer child and family well-being programs to a new division. The



original plan must be submitted by October 1, 2022, with revisions to the plan due by April 1, 2023. This section became effective July 1, 2022.

The full summary for this section is located under the [Children and Families](#) subheading of this document.

### **Further Study of the Statewide Health Information Exchange Network and the Statewide Health Information Exchange Act (HIEA) and Temporary Suspension of the HIEA Provision Conditioning the Receipt of State Funds on Connecting to and Submitting Data Through the Health Information Exchange Network (S.L. 2022-74, Sec. 9B.3/HB 103 – 2022 Appropriations Act)**

Section 9B.3 of S.L. 2022-74 requires the Health Information Exchange Advisory Board to submit a report to the Joint Legislative Oversight Committee on Health and Human Services on the status of the Health Information Exchange by March 31, 2023. This section became effective July 11, 2022.

The full summary for this section is located under the [Health Information](#) subheading of this document.

### **Align State Criminal Background Checks for Prospective Child Care Providers with Federal Block Grant Requirements/Report (S.L. 2022-74, Sec. 9C.3/HB 103 – 2022 Appropriations Act)**

Section 9C.3 of S.L. 2022-74 requires the Department of Health and Human Services to report to the Joint Legislative Oversight Committee on Health and Human Services on the number of provisionally employed child care providers. Beginning in 2022, the report must be made annually by December 1. This section became effective July 1, 2022.

The full summary for this section is located under the [Providers, Facilities, and Licensure](#) subheading of this document.

### **Clarify Treatment of 340B Drugs / Address Reimbursement for Federally Qualified Health Centers (S.L. 2022-74, Sec. 9D.8/HB 103 – 2022 Appropriations Act)**

Section 9D.8 of S.L. 2022-74 amends Section 9D.19A of S.L. 2021-180 to require that by February 1, 2023, the Division of Health Benefits, Department of Health and Human Services, must collaborate with federally qualified health centers (FQHCs) to develop and submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice a proposed comprehensive reimbursement structure for FQHCs that addresses pharmacy costs in the context of the overall financial challenges faced by FQHCs. This portion of the section became effective July 1, 2022.

The full summary for this section is located under the [Medicaid and NC Health Choice](#) subheading of this document.

## **Behavioral Health and Intellectual/Developmental Disabilities Tailored Plan Per Member Per Month Adjustment Recommendations (S.L. 2022-74, Sec. 9D.12/HB 103 – 2022 Appropriations Act)**

Section 9D.12 of S.L. 2022-74 requires the Division of Health Benefits (DHB), Department of Health and Human Services, to submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division a report containing recommendations regarding adjustments to the per member per month capitation amount paid to local management entities/managed care organizations operating behavioral health and intellectual/developmental disabilities tailored plans. This report is required annually for five years beginning March 1, 2023. This section became effective July 1, 2022.

The full summary for this section is located under the [Mental Health, Developmental Disabilities, and Substance Abuse Services](#) subheading of this document.

## **Changes Related to Behavioral Health and Intellectual/Developmental Disabilities Tailored Plans Launch (S.L. 2022-74, Sec. 9D.13/HB 103 – 2022 Appropriations Act)**

Section 9D.13 of S.L. 2022-74 requires the Division of Health Benefits, Department of Health and Human Services (Department), to submit, no later than March 1, 2023, recommended solvency standards for local management entities/managed care organizations (LME/MCOs) operating behavioral health and intellectual/developmental disabilities (BH IDD) tailored plans. The report must be submitted to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Fiscal Research Division. No later than January 10, 2023, the Department must recommend to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice actions to be taken in the future if a contract for a BH IDD tailored plan, a capitated arrangement, or the 1915(b)/(c) waiver is terminated with an LME/MCO. This section became effective July 1, 2022.

The full summary for this section is located under the [Mental Health, Developmental Disabilities, and Substance Abuse Services](#) subheading of this document.

## **Prescription Digital Therapeutics Pilot Program for Opioid Use Disorder Treatment (S.L. 2022-74, Sec. 9F.2/HB 103 – 2022 Appropriations Act)**

Section 9F.2(c) of S.L. 2022-74 instructs the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), Department of Health and Human Services, to submit a report on the impact of the prescription digital therapeutics (PDTs) pilot program to the Joint Legislative Oversight Committee on Health and Human Services within six months after the termination of the pilot program. The report must include specified criteria, including a breakdown of expenditures, and identification of the specific PDTs prescribed and an evaluation of their effectiveness. This section became effective July 1, 2022.

The full summary for this section is located under the [Mental Health, Developmental Disabilities, and Substance Abuse Services](#) subheading of this document.

## **Juvenile Justice HIE Network Report (S.L. 2022-74, Sec. 19D.2/HB 103 – 2022 Appropriations Act)**

Section 19D.2 requires the Department of Public Safety to report to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division, on the use of funds appropriated to the Division of Juvenile Justice and Delinquency Prevention, Department of Public Safety, for the digitization of juvenile health records and the ongoing resources necessary to report digital health records to the Health Information Exchange network. The report is required no later than April 1, 2023. This section became effective July 1, 2022.