

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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Fifth Edition Engrossed 6/13/18

Short Title: Heroin & Opioid Prevention & Enforcement Act.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED

AN ACT AMENDING LAWS PERTAINING TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT AND THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT, INCLUDING THE REVISION AND ESTABLISHMENT OF PENALTIES FOR CERTAIN VIOLATIONS, AND EXPRESSING THE INTENT TO APPROPRIATE ADDITIONAL FUNDS IN THE FUTURE FOR COMMUNITY-BASED SUBSTANCE USE DISORDER TREATMENT AND RECOVERY SERVICES, THE PURCHASE OF OVERDOSE MEDICATIONS, OPERATION MEDICINE DROP, AND A SPECIAL AGENT POSITION WITHIN THE STATE BUREAU OF INVESTIGATION, AND TO AMEND THE STATEWIDE TELEPSYCHIATRY PROGRAM THAT DELIVERS MENTAL HEALTH AND SUBSTANCE ABUSE CARE.

The General Assembly of North Carolina enacts:

**PART I. TITLE**

**SECTION 1.** This act shall be known and may be cited as "The Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018."

**PART II. AMENDMENTS TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT**

**SECTION 2.** G.S. 90-89(3)ee. reads as rewritten:

"ee.

~~5-Methoxy-N-diisopropyltryptamine.~~ 5-Methoxy-N,N-diisopropyltryptamine."

**SECTION 3.** For each NBOMe compound listed in G.S. 90-89(6)a. through l., the Revisor of Statutes is authorized to replace the hyphen that appears after "NBOMe" and before "2" with a space.

**SECTION 4.** G.S. 90-90(2) is amended by adding a new sub-subdivision to read:

"h1. Fentanyl immediate precursor chemical, 4-anilino-N-phenethyl-4-piperidine (ANPP)."

**SECTION 5.** G.S. 90-95(d2) is amended by adding a new subdivision to read:

"(29a) N-phenethyl-4-piperidinone (NPP)."

**SECTION 6.** G.S. 90-95(d2)(31) reads as rewritten:

"(31) ~~Phenyl-2-propane.~~ Phenyl-2-propanone."



1           **SECTION 7.** G.S. 90-95(h) reads as rewritten:

2           "(h) Notwithstanding any other provision of law, the following provisions apply except as  
3 otherwise provided in this Article.

4           ...

5           (3d) Any person who sells, manufactures, delivers, transports, or possesses 28  
6 grams or more of ~~MDPV~~any substituted cathinone, as defined in  
7 G.S. 90-89(5)(j), or any mixture containing such substance shall be guilty of  
8 a felony, which felony shall be known as "trafficking in MDPV,"~~substituted~~  
9 ~~cathinones,"~~ and if the quantity of such substance or mixture involved:

- 10           a. Is 28 grams or more, but less than 200 grams, such person shall be  
11 punished as a Class F felon and shall be sentenced to a minimum term  
12 of 70 months and a maximum term of 93 months in the State's prison  
13 and shall be fined not less than fifty thousand dollars (\$50,000);  
14           b. Is 200 grams or more, but less than 400 grams, such person shall be  
15 punished as a Class E felon and shall be sentenced to a minimum term  
16 of 90 months and a maximum term of 120 months in the State's prison  
17 and shall be fined not less than one hundred thousand dollars  
18 (\$100,000);  
19           c. Is 400 grams or more, such person shall be punished as a Class C felon  
20 and shall be sentenced to a minimum term of 225 months and a  
21 maximum term of 282 months in the State's prison and shall be fined  
22 at least two hundred fifty thousand dollars (\$250,000).

23           ~~(3e) Any person who sells, manufactures, delivers, transports, or possesses 28~~  
24 ~~grams or more of mephedrone or any mixture containing such substance shall~~  
25 ~~be guilty of a felony, which felony shall be known as "trafficking in~~  
26 ~~mephedrone," and if the quantity of such substance or mixture involved:~~

- 27           ~~a. Is 28 grams or more, but less than 200 grams, such person shall be~~  
28 ~~punished as a Class F felon and shall be sentenced to a minimum term~~  
29 ~~of 70 months and a maximum term of 93 months in the State's prison~~  
30 ~~and shall be fined not less than fifty thousand dollars (\$50,000);~~  
31           ~~b. Is 200 grams or more, but less than 400 grams, such person shall be~~  
32 ~~punished as a Class E felon and shall be sentenced to a minimum term~~  
33 ~~of 90 months and a maximum term of 120 months in the State's prison~~  
34 ~~and shall be fined not less than one hundred thousand dollars~~  
35 ~~(\$100,000);~~  
36           ~~e. Is 400 grams or more, such person shall be punished as a Class C felon~~  
37 ~~and shall be sentenced to a minimum term of 225 months and a~~  
38 ~~maximum term of 282 months in the State's prison and shall be fined~~  
39 ~~at least two hundred fifty thousand dollars (\$250,000).~~

40           (4) Any person who sells, manufactures, delivers, transports, or possesses four  
41 grams or more of ~~opium or opiate~~opium, opiate, or opioid, or any salt,  
42 compound, derivative, or preparation of ~~opium or opiate~~opium, opiate, or  
43 opioid (except apomorphine, nalbuphine, analoxone and naltrexone and their  
44 respective salts), including heroin, or any mixture containing such substance,  
45 shall be guilty of a felony which felony shall be known as "trafficking in  
46 ~~opium~~opium, opiate, opioid, or heroin" and if the quantity of such controlled  
47 substance or mixture involved:

- 48           a. Is four grams or more, but less than 14 grams, such person shall be  
49 punished as a Class F felon and shall be sentenced to a minimum term  
50 of 70 months and a maximum term of 93 months in the State's prison  
51 and shall be fined not less than fifty thousand dollars (\$50,000);

- b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of 120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of 282 months in the State's prison and shall be fined not less than five hundred thousand dollars (\$500,000).

...

(4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in ~~MDA/MDMA.~~" MDA/MDMA. If the quantity of the substance or mixture involved:

- a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars (\$250,000).

...."

**SECTION 8.** Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-107.1. Certified diversion investigator access to prescription records.**

(a) A certified diversion investigator associated with a qualified law enforcement agency, as those terms are defined in G.S. 90-113.74(i), shall request and receive from a pharmacy copies of prescriptions and records related to prescriptions in connection with a bona fide active investigation related to the enforcement of laws governing licit or illicit drugs by providing in writing or electronically all of the following:

- (1) The certified diversion investigator's name and certification number.
- (2) The name of the qualified law enforcement agency for whom the investigator works.
- (3) The case number associated with the request.
- (4) A description of the nature and purpose of the request.
- (5) The first name, last name, and date of birth of each individual whose prescription and records related to the prescription the investigator seeks,

1 including, when appropriate, any alternative name, spelling, or date of birth  
2 associated with each such individual.

3 (b) When a certified diversion investigator transmits such a request to a pharmacy, the  
4 certified diversion investigator shall also transmit a copy of the request to the North Carolina  
5 State Bureau of Investigation, Diversion and Environmental Crimes Unit. The North Carolina  
6 State Bureau of Investigation shall conduct periodic audits of a random sample of these requests.

7 (c) A pharmacy shall provide copies of requested prescriptions and records related to  
8 prescriptions as soon as practicable and no later than two business days after receipt of the request  
9 from the certified diversion investigator.

10 (d) No certified diversion investigator having knowledge by virtue of his office of any  
11 such prescription or record related to prescriptions shall divulge such knowledge other than to  
12 other law enforcement officials or agencies involved in the bona fide active investigation, except  
13 in connection with a prosecution or proceeding in court or before a licensing board or officer to  
14 which prosecution or proceeding the person to whom such prescriptions, orders, or records relate  
15 is a party, or as provided in G.S. 90-113.74 (i)(4), or as otherwise allowed by law.

16 (e) A pharmacy or pharmacist that in good faith complies with this section and provides  
17 copies of prescriptions and records related to prescriptions to a certified diversion investigator  
18 shall have no liability for improper use of information divulged to the certified diversion  
19 investigator."

20 **SECTION 9.** G.S. 90-108 reads as rewritten:

21 **"§ 90-108. Prohibited acts; penalties.**

22 (a) It shall be unlawful for any person:

- 23 (1) Other than practitioners licensed under Articles 1, 2, 4, 6, 11, 12A of this  
24 Chapter to represent to any registrant or practitioner who manufactures,  
25 distributes, or dispenses a controlled substance under the provision of this  
26 Article that he or she is a licensed practitioner in order to secure or attempt to  
27 secure any controlled substance as defined in this Article or to in any way  
28 impersonate a practitioner for the purpose of securing or attempting to secure  
29 any drug requiring a prescription from a practitioner as listed above and who  
30 is licensed by this ~~State;~~State.
- 31 (2) Who is subject to the requirements of G.S. 90-101 or a practitioner to  
32 distribute or dispense a controlled substance in violation of G.S. 90-105 or  
33 ~~90-106;~~G.S. 90-106.
- 34 (3) Who is a registrant to manufacture, distribute, or dispense a controlled  
35 substance not authorized by his or her registration to another registrant or  
36 other authorized ~~person;~~person.
- 37 (4) To omit, remove, alter, or obliterate a symbol required by the Federal  
38 Controlled Substances Act or its ~~successor;~~successor.
- 39 (5) To refuse or fail to make, keep, or furnish any record, notification, order form,  
40 statement, invoice or information required under this ~~Article;~~Article.
- 41 (6) To refuse any entry into any premises or inspection authorized by this  
42 ~~Article;~~Article.
- 43 (7) To knowingly keep or maintain any store, shop, warehouse, dwelling house,  
44 building, vehicle, boat, aircraft, or any place whatever, which is resorted to by  
45 persons using controlled substances in violation of this Article for the purpose  
46 of using such substances, or which is used for the keeping or selling of the  
47 same in violation of this ~~Article;~~Article.
- 48 (8) Who is a registrant or a practitioner to distribute a controlled substance  
49 included in Schedule I or II of this Article in the course of his or her legitimate  
50 business, except pursuant to an order form as required by ~~G.S.~~  
51 ~~90-105;~~G.S. 90-105.

- 1 (9) To use in the course of the manufacture or distribution of a controlled  
2 substance a registration number which is fictitious, revoked, suspended, or  
3 issued to another ~~person;~~person.
- 4 (10) To acquire or obtain possession of a controlled substance by  
5 misrepresentation, fraud, forgery, deception, or ~~subterfuge;~~subterfuge.
- 6 (11) To furnish false or fraudulent material information in, or omit any material  
7 information from, any application, report, or other document required to be  
8 kept or filed under this Article, or any record required to be kept by this  
9 ~~Article;~~Article.
- 10 (12) To make, distribute, or possess any punch, die, plate, stone, or other thing  
11 designed to print, imprint, or reproduce the trademark, trade name, or other  
12 identifying mark, imprint, or device of another or any likeness of any of the  
13 foregoing upon any drug or container or labeling thereof so as to render such  
14 drug a counterfeit controlled ~~substance;~~substance.
- 15 (13) To obtain controlled substances through the use of legal prescriptions which  
16 have been obtained by the knowing and willful misrepresentation to or by the  
17 intentional withholding of information from one or more  
18 ~~practitioners;~~practitioners.
- 19 (14) Who is a registrant or practitioner or an employee of a registrant or practitioner  
20 and who is authorized to possess controlled substances or has access to  
21 controlled substances by virtue of ~~his—~~employment, to embezzle or  
22 fraudulently or knowingly and willfully misapply or divert to his or her own  
23 use or other unauthorized or illegal use or to take, make away with or secrete,  
24 with intent to embezzle or fraudulently or knowingly and willfully misapply  
25 or divert to his or her own use or other unauthorized or illegal use any  
26 controlled substance which shall have come into his or her possession or under  
27 his or her care.
- 28 (15) Who is not a registrant or practitioner nor an employee of a registrant or  
29 practitioner and who, by virtue of his or her occupation or profession,  
30 administers or provides medical care, aid, emergency treatment, or any  
31 combination of these to a person who is prescribed a controlled substance, to  
32 embezzle or fraudulently or knowingly and willfully misapply or divert to his  
33 or her own use or other unauthorized or illegal use or to take, make away with,  
34 or secrete, with intent to embezzle or fraudulently or knowingly and willfully  
35 misapply or divert to his or her own use or other unauthorized or illegal use  
36 any controlled substance that is prescribed to another.
- 37 (b) Any person who violates this section shall be guilty of a Class 1 misdemeanor.  
38 Provided, that if the criminal pleading alleges that the violation was committed intentionally, and  
39 upon trial it is specifically found that the violation was committed intentionally, such violations  
40 shall be a Class I felony unless one of the following applies:
- 41 (1) A person who violates subdivision (7) of subsection (a) of this section and  
42 also fortifies the structure, with the intent to impede law enforcement entry,  
43 (by barricading windows and doors) shall be punished as a Class I felon.
- 44 (2) A person who violates subdivision (14) or (15) of subsection (a) of this section  
45 shall be punished as a Class G felon.
- 46 (3) A person who violates subdivision (14) or (15) of subsection (a) of this section  
47 and intentionally diverts any controlled substance by means of dilution or  
48 substitution or both shall be punished as a Class E felon. As used in this  
49 subdivision, the following terms have the following meanings:
- 50 a. Dilution. – The act of diluting or the state of being diluted; the act of  
51 reducing the concentration of a mixture or solution.

b. Substitution. – To take the place of or replace."

**PART III. AMENDMENTS PERTAINING TO THE NORTH CAROLINA  
CONTROLLED SUBSTANCES REPORTING SYSTEM ACT**

**SECTION 10.** G.S. 90-113.73(b) reads as rewritten:

"(b) The Commission shall adopt rules requiring dispensers to report the following information. The Commission may modify these requirements as necessary to carry out the purposes of this Article. The dispenser shall report:

- (1) The dispenser's DEA number.
- (2) The name of the patient for whom the controlled substance is being dispensed, and the patient's:
  - a. Full address, including city, state, and zip ~~code~~code.
  - b. Telephone ~~number, and~~number.
  - c. Date of birth.
- (3) The date the prescription was written.
- (4) The date the prescription was filled.
- (5) The prescription number.
- (6) Whether the prescription is new or a refill.
- (7) Metric quantity of the dispensed drug.
- (8) Estimated days of supply of dispensed drug, if provided to the dispenser.
- (9) National Drug Code of dispensed drug.
- (10) Prescriber's DEA number.
- (10a) Prescriber's national provider identification number, for any prescriber that has a national provider identification number. A pharmacy shall not be subject to a civil penalty under subsection (e) of this section for failure to report the prescriber's national provider identification number when it is not received by the pharmacy.
- (11) Method of payment for the prescription."

**SECTION 11.(a)** G.S. 90-113.74 reads as rewritten:

**"§ 90-113.74. Confidentiality.**

...  
(c) The Department shall release data in the controlled substances reporting system to the following persons only:

- (1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients. A person authorized to receive data pursuant to this paragraph may delegate the authority to receive the data to other persons working under his or her direction and supervision, provided the Department approves this delegation.

The administrator of a hospital emergency department or hospital acute care facility shall provide the Department with a list of prescribers who are authorized to prescribe controlled substances for the purpose of providing medical care for patients of the hospital emergency department or hospital acute care facility and a list of delegates who are authorized to receive data on behalf of the providers listed. The administrator acting under this paragraph shall submit the lists to the Department no later than December 1 of the calendar year preceding the year during which the delegates are to receive data and may provide updated lists at any time during the course of the year. Within one week of receiving the initial or updated lists described in this paragraph, the Department shall establish all of the delegate accounts necessary to enable each delegate listed by the administrator of the hospital emergency department or hospital acute care facility to receive data on behalf of the listed prescribers.

- 1 Delegations made pursuant to this paragraph are valid during the calendar year  
2 for which submitted by the administrator.
- 3 (2) An individual who requests the individual's own controlled substances  
4 reporting system information.
- 5 (3) Special agents of the North Carolina State Bureau of Investigation who are  
6 assigned to the Diversion & Environmental Crimes Unit and whose primary  
7 duties involve the investigation of diversion and illegal use of prescription  
8 medication. SBI agents assigned to the Diversion & Environmental Crimes  
9 Unit may then provide this information to other SBI agents who are engaged  
10 in a bona fide specific investigation related to enforcement of laws governing  
11 licit drugs. ~~The SBI shall notify the Office of the Attorney General of North~~  
12 ~~Carolina of each request for inspection of records maintained by the~~  
13 ~~Department. The Attorney General of North Carolina, or a designee who is a~~  
14 ~~full-time employee in the North Carolina Department of Justice, shall have~~  
15 access to the system to monitor requests for inspection of records.
- 16 (4) Primary monitoring authorities for other states pursuant to a specific ongoing  
17 investigation involving a designated person, if information concerns the  
18 dispensing of a Schedule II through V controlled substance to an ultimate user  
19 who resides in the other state or the dispensing of a Schedule II through V  
20 controlled substance prescribed by a licensed health care practitioner whose  
21 principal place of business is located in the other state.
- 22 (5) To a sheriff or designated deputy sheriff or a police chief or a designated  
23 police investigator who is assigned to investigate the diversion and illegal use  
24 of prescription medication or pharmaceutical products identified in Article 5  
25 of this Chapter of the General Statutes as Schedule II through V controlled  
26 substances and who is engaged in a bona fide specific investigation related to  
27 the enforcement of laws governing licit drugs pursuant to a lawful court order  
28 specifically issued for that purpose.
- 29 (6) The Division of Medical Assistance for purposes of administering the State  
30 Medical Assistance Plan.
- 31 (7) Licensing boards with jurisdiction over health care disciplines pursuant to an  
32 ongoing investigation by the licensing board of a specific individual licensed  
33 by the board.
- 34 (8) Any county medical examiner appointed by the Chief Medical Examiner  
35 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose  
36 of investigating the death of an individual.
- 37 (9) The federal Drug Enforcement Administration's Office of Diversion  
38 ~~Control~~. Control or Tactical Diversion Squad in North Carolina.
- 39 (10) The North Carolina Health Information Exchange Authority (NC HIE  
40 Authority), established under Article 29B of this Chapter, through  
41 Web-service calls.
- 42 ...
- 43 (k) In addition to the civil penalties provided in G.S. 90-113.75(a) and any other  
44 applicable civil or criminal penalties, the following criminal penalties apply to any individual  
45 authorized to access data in the controlled substances reporting system when that access is  
46 authorized by subdivisions (3) through (10) of subsection (c) of this section:
- 47 (1) An individual who knowingly and intentionally accesses prescription  
48 information in the controlled substances reporting system for a purpose not  
49 authorized by this section shall be guilty of a Class I felony.

1           (2)    An individual who knowingly and intentionally discloses or disseminates  
2           prescription information from the system for a purpose not authorized by this  
3           section shall be guilty of a Class I felony.

4           (3)    An individual who willfully and maliciously obtains, discloses, or  
5           disseminates prescription information for a purpose not authorized by this  
6           section and with the intent to use such information for commercial advantage  
7           or personal gain, or to maliciously harm any person, shall be guilty of a Class  
8           H felony.

9           Any person who is convicted of a criminal offense under this subsection is permanently  
10          barred from accessing the controlled substances reporting system.

11          (l)    The State Bureau of Investigation, Diversion & Environmental Crimes Unit, may  
12          investigate suspected violations of this section and shall notify the Department of any charges or  
13          convictions pursuant to this section."

14                **SECTION 11.(b)** G.S. 90-113.74 reads as rewritten:

15        "**§ 90-113.74. Confidentiality.**

16                ...

17          (c)    The Department shall release data in the controlled substances reporting system to the  
18          following persons only:

19                ...  
20          (5)    To a sheriff or designated deputy sheriff or a police chief or a designated  
21          police investigator who is assigned to investigate the diversion and illegal use  
22          of prescription medication or pharmaceutical products identified in Article 5  
23          of this Chapter of the General Statutes as Schedule II through V controlled  
24          substances and who is engaged in a bona fide specific investigation related to  
25          the enforcement of laws governing licit drugs pursuant to a lawful court order  
26          specifically issued for that purpose.

27          (5a)  Local law enforcement officers pursuant to subsection (i) of this section.

28                ...

29          (i)    Data released by the Department from the controlled substances reporting system to  
30          local law enforcement officers is subject to all of the following conditions and requirements:

31          (1)    The Department shall release data in the controlled substances reporting  
32          system to a local law enforcement officer only if all of the following  
33          conditions are satisfied:

34                a.    The local law enforcement officer is a certified diversion investigator.

35                b.    The agency that supervises the investigator is a qualified law  
36                enforcement agency.

37                c.    The request is reasonably related to a bona fide active investigation  
38                involving a specific violation of any State or federal law involving a  
39                controlled substance.

40                d.    The request has been reviewed and approved by the State Bureau of  
41                Investigation, Diversion & Environmental Crimes Unit.

42          (2)    In the event a special agent of the State Bureau of Investigation, Diversion &  
43          Environmental Crimes Unit, takes action upon a request by a certified  
44          diversion investigator for access to data in the controlled substances reporting  
45          system, the special agent shall not incur criminal or civil liability for such  
46          action or for actions taken by the certified diversion investigator making the  
47          request.

48          (3)    The conditions outlined in this subsection shall create an audit trail that may  
49          be used to investigate or prosecute violations of this section. The Department  
50          shall grant access to the system to the Attorney General of North Carolina or  
51          a designee and Special Agents of the State Bureau of Investigation who are



1 assigned to the Diversion & Environmental Crimes Unit for the purpose of  
2 reviewing the audit trail. The State Bureau of Investigation shall conduct  
3 periodic audits of a random sample of requests from certified diversion  
4 investigators for access to data in the controlled substances reporting system.

5 (4) Data obtained by certified diversion investigators from the controlled  
6 substances reporting system in the manner prescribed by this subsection may  
7 be shared with other law enforcement personnel or prosecutorial officials (i)  
8 only upon the direction of the certified diversion investigator who originally  
9 requested the information and (ii) in the case of law enforcement personnel  
10 from other law enforcement agencies, only with law enforcement personnel  
11 who are directly participating in an official joint investigation or as provided  
12 in subdivision (5) of this subsection.

13 (5) In the event the data provided to the local law enforcement officer indicates  
14 transactions solely outside of that local law enforcement officer's jurisdiction,  
15 the matter shall be referred to the State Bureau of Investigation, Diversion &  
16 Environmental Crimes Unit, or to a certified diversion investigator employed  
17 by a qualified law enforcement agency with jurisdiction over the transactions  
18 at issue.

19 (6) Certified diversion investigators may not request or receive prescription data  
20 from other states through PMP Interconnect or any other mechanism  
21 established by the Department to facilitate interstate connectivity of the  
22 controlled substances reporting system.

23 (7) As used in this subsection, the following terms have the following meanings:

24 a. Bona fide active investigation. – An investigation of one or more  
25 specific persons conducted with a reasonable, good-faith belief based  
26 on specific facts and circumstances equivalent to those normally  
27 necessary for the issuance of a court order, as described in  
28 G.S. 90-113.74(c)(5).

29 a1. Certified diversion investigator. – An officer affiliated with a qualified  
30 law enforcement agency who is certified as a diversion investigator by  
31 either the North Carolina Sheriffs' Education and Training Standards  
32 Commission or the North Carolina Criminal Justice Education and  
33 Training Standards Commission. If for any reason a certified diversion  
34 investigator leaves a position involving diversion investigation, the  
35 qualified law enforcement agency shall notify the North Carolina  
36 Department of Health and Human Services Controlled Substance  
37 Reporting System and the State Bureau of Investigation, Diversion &  
38 Environmental Crimes Unit, within 72 hours after the effective date of  
39 the change.

40 b. Certified diversion supervisor. – The head of a municipal police  
41 department, a county police department, a sheriff's office, or the  
42 designee of the agency head with supervisory authority over that  
43 agency's diversion investigators who is certified as a diversion  
44 supervisor by either the North Carolina Sheriffs' Education and  
45 Training Standards Commission or the North Carolina Criminal  
46 Justice Education and Training Standards Commission.

47 c. Qualified law enforcement agency. – Any of the following entities  
48 whose head is a certified diversion investigator or that employs at least  
49 one certified diversion investigator and at least one certified diversion  
50 supervisor:

51 1. A municipal police department.



1 negligently released confidential information or records concerning the individual for either or  
2 both of the following:

3 (1) Nominal damages of one thousand dollars (\$1,000). In order to recover  
4 damages under this subdivision, it shall not be necessary that the plaintiff  
5 suffered or was threatened with actual damages.

6 (2) The amount of actual damages, if any, sustained by the individual.

7 (c) ~~Notwithstanding the foregoing, G.S. 8-53, G.S. 75-65, or any other provision of~~  
8 ~~international, federal, State, or local law, a practitioner as defined in G.S. 90-87, a dispenser, or~~  
9 ~~other person or entity permitted access to data or required or permitted to submit or transmit~~  
10 ~~reports or other records, data, or information, including, without limitation, any protected health~~  
11 ~~information or any other individually identifying or personal information, under this Article that,~~  
12 ~~in good faith, makes a report or transmits data-submits or transmits such reports or other records,~~  
13 ~~data, or information as required or allowed by this Article is immune from civil or criminal~~  
14 ~~liability that might otherwise be incurred or imposed as a result of making the report or~~  
15 ~~transmitting the data-submitting or transmitting such reports or other records, data, or~~  
16 ~~information, or as a result of any subsequent actual or attempted access to or use or disclosure of~~  
17 ~~such reports or other records, data, or information, whether by the Department, any law~~  
18 ~~enforcement officer or agency, or any other person or entity."~~

19 **SECTION 13.** Article 5E of Chapter 90 of the General Statutes is amended by adding  
20 a new section to read:

21 **"§ 90-113.74E. Certification of diversion investigators and diversion supervisors.**

22 Pursuant to its authority under G.S. 17C-6 and G.S. 17E-4, the North Carolina Criminal  
23 Justice Education and Training Standards Commission and the North Carolina Sheriffs'  
24 Education and Training Standards Commission, in consultation with the Department of Justice,  
25 North Carolina Justice Academy, and State Bureau of Investigation, shall ensure that educational  
26 materials are created and that training programs are conducted for the certification of diversion  
27 investigators and diversion supervisors, as defined in G.S. 90-113.74(i)."

28 **SECTION 14.(a)** G.S. 17C-6(a) is amended by adding two new subdivisions to read:

29 "(18) Establish minimum standards and levels of training for certification of  
30 diversion investigators and diversion supervisors, as defined in  
31 G.S. 90-113.74(i). As part of these minimum standards, the Commission shall  
32 require that certified diversion investigators receive training in the following:

- 33 a. Definition of drug diversion.  
34 b. Categories of drugs most subject to diversion and misuse.  
35 c. Methods used to divert drugs.  
36 d. Proper investigation of drug diversion cases.  
37 e. Appropriate use of the controlled substances reporting system to  
38 investigate drug diversion cases.  
39 f. Requests of prescriptions and records related to prescriptions pursuant  
40 to G.S. 90-107.1, including best practices for working with  
41 pharmacies in a manner that minimizes disruption of customer service  
42 and pharmacy operations.  
43 g. Data privacy and security provisions of the Health Insurance  
44 Portability and Accountability Act of 1996 (HIPAA) and other  
45 pertinent federal and State laws governing privacy and security of  
46 confidential data and records.  
47 h. Proper handling of confidential data and records from any source.  
48 i. Criminal and civil penalties under federal and State law for improperly  
49 accessing, handling, or disclosing confidential prescription data or  
50 other confidential data or records.

1           (19) Certify and recertify at least once every three years, suspend, revoke, or deny,  
2           pursuant to the standards that it has established for the purpose, persons as  
3           qualified to be employed at entry level and retained as diversion investigators  
4           and diversion supervisors, as defined in G.S. 90-113.74(i)."

5           **SECTION 14.(b)** G.S. 17E-4(a) is amended by adding two new subdivisions to read:

6           "(14) Establish minimum standards and levels of training for certification of  
7           diversion investigators and diversion supervisors, as defined in  
8           G.S. 90-113.74(i). As part of these minimum standards, the Commission shall  
9           require that certified diversion investigators receive training in the following:

10           a. Definition of drug diversion.

11           b. Categories of drugs most subject to diversion and misuse.

12           c. Methods used to divert drugs.

13           d. Proper investigation of drug diversion cases.

14           e. Appropriate use of the controlled substances reporting system to  
15           investigate drug diversion cases.

16           f. Requests of prescriptions and records related to prescriptions pursuant  
17           to G.S. 90-107.1, including best practices for working with  
18           pharmacies in a manner that minimizes disruption of customer service  
19           and pharmacy operations.

20           g. Data privacy and security provisions of the Health Insurance  
21           Portability and Accountability Act of 1996 (HIPAA) and other  
22           pertinent federal and State laws governing privacy and security of  
23           confidential data and records.

24           h. Proper handling of confidential data and records from any source.

25           i. Criminal and civil penalties under federal and State law for improperly  
26           accessing, handling, or disclosing confidential prescription data or  
27           other confidential data or records.

28           (15) Certify and recertify at least once every three years, suspend, revoke, or deny,  
29           pursuant to the standards that it has established for the purpose, persons as  
30           qualified to be employed at entry level and retained as diversion investigators  
31           and diversion supervisors, as defined in G.S. 90-113.74(i)."

#### 32 33 **PART IV. APPROPRIATIONS**

34           **SECTION 15.(a)** It is the intent of the General Assembly to appropriate from the  
35 General Fund to the Department of Health and Human Services, Division of Mental Health,  
36 Developmental Disabilities, and Substance Abuse Services, the sum of ten million dollars  
37 (\$10,000,000) in recurring funds for the 2019-2020 fiscal year. These funds shall not be used for  
38 any purpose other than to increase the availability of community-based treatment and recovery  
39 services for substance use disorders, including medication-assisted treatment. These funds shall  
40 not supplant existing funds for community-based treatment and recovery services for substance  
41 abuse disorders.

42           **SECTION 15.(b)** It is the intent of the General Assembly to appropriate from the  
43 General Fund to the Department of Health and Human Services, Division of Mental Health,  
44 Developmental Disabilities, and Substance Abuse Services, the sum of one million dollars  
45 (\$1,000,000) in recurring funds for the 2019-2020 fiscal year to purchase opioid antagonists, as  
46 defined in G.S. 90-12.7, which shall be distributed at no charge to North Carolina law  
47 enforcement agencies for the reversal of opioid-related drug overdoses.

48           **SECTION 15.(c)** It is the intent of the General Assembly to appropriate from the  
49 General Fund to the State Bureau of Investigation the sum of one hundred sixty thousand dollars  
50 (\$160,000) in recurring funds for the 2019-2020 fiscal year to fund Operation Medicine Drop.

1           **SECTION 15.(d)** It is the intent of the General Assembly to appropriate from the  
2 General Fund to the State Bureau of Investigation the sum of one hundred twenty-two thousand  
3 dollars (\$122,000) in recurring funds and the sum of fifty-eight thousand dollars (\$58,000) in  
4 nonrecurring funds for the 2019-2020 fiscal year. The State Bureau of Investigation shall use  
5 these funds to create one full-time equivalent special agent position within the State Bureau of  
6 Investigation to enhance drug investigations throughout the State. These funds shall not be used  
7 to supplant any other source of funding for this position.

8           **SECTION 15.(e)** G.S. 143C-5-2 does not apply to this act.  
9

#### 10 **PART IV-A. TELEPSYCHIATRY**

11           **SECTION 15.1.** G.S. 143B-139.4B reads as rewritten:

12 **"§ 143B-139.4B. Office of Rural Health to oversee and monitor establishment and**  
13 **administration of statewide telepsychiatry program.**

14       (a) The following definitions apply in this section:

15       (1) Community-based site. – Community-based health care setting to include, but  
16 not limited to, public health department, rural health center, rural health clinic,  
17 federally qualified health center, school-based health center, free and  
18 charitable clinic that accepts reimbursement.

19       ~~(1) Consultant site.~~ ~~The hospital or other site at which the consulting provider~~  
20 ~~is physically located at the time the consulting provider delivers the acute~~  
21 ~~mental health or substance abuse care by means of telepsychiatry.~~

22       (1a) Consultant site. – The hospital or other site at which the consulting provider  
23 is physically located at the time the consulting provider delivers the mental  
24 health or substance abuse care by means of telepsychiatry.

25       (1b) Consulting provider. – A physician or other health care provider licensed in  
26 this State to provide mental health or substance abuse care.

27       (2) Hospital. – A facility licensed under Chapter 131E or Chapter 122C of the  
28 General Statutes, or a State facility listed in G.S. 122C-181.

29       (3) Referring site. – The hospital or approved community-based site at which the  
30 patient is physically located.

31       (4) Telepsychiatry. – The delivery of ~~acute~~ mental health or substance abuse care,  
32 including diagnosis or treatment, by means of two-way real-time interactive  
33 audio and video by a consulting provider at a consultant site to an individual  
34 patient at a referring site. The term does not include the standard use of  
35 telephones, facsimile transmissions, unsecured electronic mail, or a  
36 combination of these in the course of care.

37       ~~(5) Consulting provider.~~ ~~A physician or other health care provider licensed in~~  
38 ~~this State to provide acute mental health or substance abuse care.~~

39       (b) The North Carolina Office of Rural Health shall oversee the establishment and  
40 administration of a statewide telepsychiatry program that allows referring sites to utilize  
41 consulting providers at a consultant site to provide timely psychiatric assessment and rapid  
42 initiation of treatment for patients at the referring emergency department site experiencing an  
43 ~~acute~~ mental health or substance abuse ~~erisis.~~ or for patients in need of mental health or substance  
44 abuse care at an approved community-based site. Notwithstanding the provisions of Article 3 of  
45 Chapter 143 of the General Statutes or any other provision of law, the Office of Rural Health  
46 shall contract with East Carolina University Center for Telepsychiatry and e-Behavioral Health  
47 to administer the telepsychiatry program. The contract shall include a provision requiring East  
48 Carolina University Center for Telepsychiatry and e-Behavioral Health to work toward  
49 implementing this program on a statewide basis by no later than January 1, 2014, and to report  
50 annually to the Office of Rural Health on the following performance measures:

51       (1) Number of consultant sites and referring sites participating in the program.

- 1 (2) Number of psychiatric assessments conducted under the program, reported by  
2 site or region.
- 3 (3) Length of stay of patients receiving telepsychiatry services in the emergency  
4 departments of hospitals participating in the program, reported by disposition.
- 5 (4) Number of involuntary commitments recommended as a result of psychiatric  
6 assessments conducted by consulting providers under the program, reported  
7 by site or region and by year, and compared to the number of involuntary  
8 commitments recommended prior to implementation of this program.
- 9 (c) The Office of Rural Health shall have all of the following powers and duties relative  
10 to the statewide telepsychiatry program:
- 11 (1) Ongoing oversight and monitoring of the program.
- 12 (2) Ongoing monitoring of the performance of East Carolina University Center  
13 for Telepsychiatry and e-Behavioral Health under its contract with the  
14 Department, including all of the following:
- 15 a. Review of the performance measures described in subsection (b) of  
16 this section.
- 17 b. Annual site visits to East Carolina University Center for  
18 Telepsychiatry and e-Behavioral Health.
- 19 (3) Facilitation of program linkages with critical access hospitals and small rural  
20 hospitals.
- 21 (4) Conducting visits to referring sites and consultant sites to monitor  
22 implementation of the program; and upon implementation, conducting these  
23 site visits at least once annually.
- 24 (5) Addressing barriers and concerns identified by consulting providers,  
25 consultant sites, and referring sites participating in the program.
- 26 (6) Encouraging participation in the program by all potential consultant sites,  
27 consulting providers, and referring sites throughout the State and promoting  
28 continued participation in the program by consultant sites, consulting  
29 providers, and referring sites throughout the State.
- 30 (7) Compiling a list of recommendations for future tele-health initiatives, based  
31 on operation of the statewide telepsychiatry program.
- 32 (8) Reviewing on a quarterly basis the financial statements of East Carolina  
33 University Center for Telepsychiatry and e-Behavioral Health related to the  
34 telepsychiatry program in order to compare and monitor projected and actual  
35 program costs.
- 36 (9) Annually reporting to the Legislative Oversight Committee on Health and  
37 Human Services and the Fiscal Research Division on or before November 1  
38 on the operation and effectiveness of the program. The report shall include  
39 information on each of the performance measures described in subsection (b)  
40 of this section.
- 41 (d) The Department shall adopt rules necessary to ensure the health and safety of patients  
42 who receive care, diagnosis, or treatment under the telepsychiatry program authorized by this  
43 section."  
44

#### 45 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

46 **SECTION 16.** If any provision of this act or its application is held invalid, the  
47 invalidity does not affect other provisions or applications of this act that can be given effect  
48 without the invalid provisions or application, and to this end the provisions of this act are  
49 severable.

50 **SECTION 17.** Sections 8 and 11(b) of this act become effective July 1, 2019. Section  
51 10 becomes effective September 1, 2018. Section 9 of this act, and the criminal offenses created

1 in G.S. 90-113.74(k) by Section 11(a) of this act, and Sections 2-7 of this act become effective  
2 December 1, 2018. The remainder of this act becomes effective July 1, 2018.