

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SENATE BILL 537  
RATIFIED BILL**

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

The General Assembly of North Carolina enacts:

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

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

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

**SECTION 1.(b)** No later than December 1, 2020, the Department of Health and Human Services shall submit a report on the new service definition, or definitions, developed by the workgroup, as required in subsection (a) of this section, 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. The Department shall not



submit to the Centers for Medicare and Medicaid Services any amendments to the NC Medicaid State Plan necessary to implement the new service definition without prior approval from the General Assembly.

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

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

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

"Article 24.

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

### **"§ 90-329. Declaration of policy.**

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

### **"§ 90-330. Definitions; practice of counseling.**

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

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

(1a) The "Board" means the Board of Licensed ~~Professional~~ Clinical Mental Health Counselors.

(2) A "licensed ~~professional~~ clinical mental health counselor" is a person engaged in the practice of counseling who holds a license as a licensed ~~professional~~ clinical mental health counselor issued under the provisions of this Article.

(2a) A "licensed ~~professional~~ clinical mental health counselor associate" is a person engaged in the supervised practice of counseling who holds a license as a licensed ~~professional~~ clinical mental health counselor associate issued under the provisions of this Article.

(2b) A "licensed ~~professional~~ clinical mental health counselor supervisor" is a person engaged in the practice of counseling who holds a license as a licensed ~~professional~~ clinical mental health counselor and is approved by the Board to provide clinical supervision under the provisions of this Article.

(3) The "practice of counseling" means holding oneself out to the public as a ~~professional~~ clinical mental health counselor offering counseling services that include, but are not limited to, the following:

...

The "practice of counseling" does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

(4) A "supervisor" means any licensed ~~professional~~ clinical mental health counselor supervisor or, when one is inaccessible, a licensed ~~professional~~ clinical mental health counselor or an equivalently and actively licensed mental health professional, as determined by the Board, who meets the qualifications established by the Board.

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

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

### **"§ 90-331. Prohibitions.**

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

**"§ 90-332. Use of title by firm.**

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

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

...

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

...

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

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

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

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

...

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

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

...

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

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

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

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

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

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

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

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

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

...

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

...

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

...

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

- (1) Has met all of the requirements under subsection (b), (b1), or (b2) of this section, as applicable.
- (2) Has completed a minimum of 3,000 hours of supervised ~~professional-clinical~~ mental health practice as determined by the Board.

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

- (1) Has met all of the requirements under subsection (c) of this section.
- (2) Has one of the following:
  - a. At least five years of full-time licensed ~~professional-clinical~~ mental health counseling experience, including a minimum of 2,500 hours of direct client contact;
  - b. At least eight years of part-time licensed ~~professional-clinical~~ mental health counseling experience, including a minimum of 2,500 hours of direct client contact; or
  - c. A combination of full-time and part-time ~~professional-clinical~~ mental health counseling experience, including a minimum of 2,500 hours of direct client contact as determined by the Board.
- (3) Has completed minimum education requirements in clinical supervision as approved by the Board.
- (4) Has an active license in good standing as a licensed ~~professional-clinical~~ mental health counselor approved by the Board.

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

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

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

**~~"§ 90-338. Exemptions.~~**

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

- ~~(1) An applicant who was engaged in the practice of counseling before July 1, 1993, and who applied to the Board prior to January 1, 1996.~~
- ~~(2) An applicant who holds a masters degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, provided the applicant was enrolled in the masters program prior to July 1, 1994.~~

...

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

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

- (1) Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge under the laws of the United States or of any state of the United States.
- (2) Has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice professional-clinical mental health counseling, or a misdemeanor charge reflecting the inability to practice professional-clinical mental health counseling with due regard to the health and safety of clients or patients.
- (3) Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license or renewal of a license under this Article.
- (4) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of professional-clinical mental health counseling, the offer of professional-clinical mental health counseling services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any manner otherwise relevant to fitness for the practice of professional-clinical mental health counseling.
- (5) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of professional-clinical mental health counseling to the public, any individual, the Board, or any other organization.

- (6) Has had a license or certification for the practice of ~~professional~~-clinical mental health counseling in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article.
- (7) Has violated any provision of this Article or any rules adopted by the Board.
- (8) Has aided or abetted the unlawful practice of ~~professional~~-clinical mental health counseling by any person not licensed by the Board.
- (9) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the American Counseling Association. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.
- (10) Has practiced ~~professional~~-clinical mental health counseling in such a manner as to endanger the welfare of clients.
- (11) Has demonstrated an inability to practice ~~professional~~-clinical mental health counseling with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition.
- (12) Has practiced ~~professional~~-clinical mental health counseling outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.
- (13) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the licensed ~~professional~~-clinical mental health counselor associate, licensed ~~professional~~-clinical mental health counselor, or a third party.
- (14) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.
- (15) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction.
- (16) Has refused to appear before the Board after having been ordered to do so in writing by the chair.
- (17) Has a finding listed on the Division of Health Service Regulation of the Department of Health and Human Services Health Care Personnel Registry.

(b) The Board may, in lieu of denial, suspension, or revocation, take any of the following disciplinary actions:

- (1) Issue a formal reprimand or formally censure the applicant or licensee.
- (2) Place the applicant or licensee on probation with the appropriate conditions on the continued practice of ~~professional~~-clinical mental health counseling deemed advisable by the Board.
- (3) Require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee.
- (4) Require supervision of the ~~professional~~-clinical mental health counseling services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee.

- (5) Limit or circumscribe the practice of ~~professional~~-clinical mental health counseling provided by the applicant or licensee with respect to the extent, nature, or location of the ~~professional~~-clinical mental health counseling services provided, as deemed advisable by the Board.
- (6) Discipline and impose any appropriate combination of the types of disciplinary action listed in this section.

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

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

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

...

**"§ 90-343. Disclosure.**

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

...

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

- (a) Definitions. – The following definitions shall apply in this section:
  - (1) Applicant. – A person applying for licensure as a licensed ~~professional~~-clinical mental health counselor associate pursuant to G.S. 90-336(b), 90-336(b1), or 90-336(b2) or licensed ~~professional~~-clinical mental health counselor pursuant to G.S. 90-336(c).
  - (2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice ~~professional~~-clinical mental health counseling. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury

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

...."

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

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

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

### **"§ 8-53.8. Counselor privilege.**

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

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

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

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

"(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A,



"Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed ~~Professional~~ Clinical Mental Health Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act"."

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

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

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

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

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

a. The intervention must be necessary to (i) increase appropriate or adaptive behaviors, (ii) decrease maladaptive behaviors, or (iii) develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.

b. The treatment must be ordered by a licensed physician or licensed psychologist and the treatment must be provided or supervised by one of the following professionals, so long as the services or supervision provided is commensurate with the professional's training, experience, and scope of practice:

1. A licensed psychologist or psychological associate.
2. A licensed psychiatrist or developmental pediatrician.
3. A licensed speech and language pathologist.
4. A licensed occupational therapist.
5. A licensed clinical social worker.
6. A licensed ~~professional~~ clinical mental health counselor.
7. A licensed marriage and family therapist.
8. A board certified behavior analyst.

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

...."

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

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

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

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

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

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

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

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

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

...

- (4) A certification granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the certified individual has failed to meet the requirements of this section. Certification may be renewed every three years upon completion of a refresher training program approved by the Department.
- (5) In no event shall the certification of a licensed clinical social worker, master's or higher level degree nurse practitioner, licensed ~~professional~~clinical mental health counsellor, physician assistant, or master's level certified clinical addictions specialist under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level nurse practitioner, licensed ~~professional~~clinical mental health counsellor, physician assistant, or the master's level certified clinical addictions specialist.

...."

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

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

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

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

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

## **PART II-C. INDEPENDENT STUDY DEFINITION CHANGES**

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

"§ **90-113.31A. Definitions.**

The following definitions ~~shall~~ apply in this Article:

...

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

...

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

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

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

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

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

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

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

"(c1) Every member of the Board shall have the right to vote on all matters before the Board, except for the ~~President~~ chair who shall vote only in case of a tie or when another member

of the Board abstains on the question of whether the professional discipline the member represents shall retain its deemed status."

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

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

- (1) Two members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, each of whom shall be licensed or certified in accordance with this Article. In making the appointments, the Speaker shall consider the ethnicity and gender of the Board's members in order to reflect the composition of the State's population and shall consider the experience and knowledge of the drug and alcohol recovery community when selecting members to serve on the Board.
- (2) Two members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, each of whom shall be licensed or certified in accordance with this Article. In making the appointments, the President Pro Tempore shall consider the ethnicity and gender of the Board's members in order to reflect the composition of the State's population and shall consider the experience and knowledge of the drug and alcohol recovery community when selecting members to serve on the Board.
- (3) Five members appointed by the Governor as follows:
  - a. Two members licensed or certified in accordance with this Article. In making the appointments, the Governor shall consider the ethnicity and gender of the Board's members in order to reflect the composition of the State's population and shall consider the experience and knowledge of the drug and alcohol recovery community when selecting members to serve on the Board.
  - b. Two members of the public who are not licensed or certified under this Article.
  - c. One member who is licensed or certified under this Article, selected from the allied mental health, substance use disorder and developmental disabilities treatment and prevention profession, previously known as deemed status professions.
- (4) All members of the Board shall be residents of the State of North Carolina, and except for the public members, shall be certified or licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of substance use disorder counseling or prevention or in the education and training of students in substance use disorder counseling and have been for at least three years prior to their appointment to the Board. Practice during the two years preceding the appointment shall have occurred primarily in this State."

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

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

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

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

"(e1) Initial members of the Board shall serve staggered terms. The members identified in subdivision (1) of subsection (c2) and sub-subdivision (3)c. of subsection (c2) of this section shall be appointed initially for a term of one year. The members identified in subdivision (2) of

subsection (c2) of this section shall be appointed initially for a term of two years. The members identified in sub-subdivisions (3)a. and (3)b. of subsection (c2) of this section shall be appointed initially for a term of three years.

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

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

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

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

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

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

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

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

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

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

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

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

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

The Board shall:

- (1) Examine and determine the qualifications and fitness of applicants for certification and licensure to practice in this State.
- (1a) Determine the qualifications and fitness of organizations applying for deemed status.

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

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

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

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

**SECTION 8.(a)** The title of Article 5C of Chapter 90 of the General Statutes reads as rewritten:

"Article 5C.

"North Carolina Substance ~~Abuse~~-Use Disorder Professional Practice Act."

**SECTION 8.(b)** G.S. 90-113.30 reads as rewritten:

### **"§ 90-113.30. Declaration of purpose.**

The North Carolina ~~Substance Abuse Addictions Specialist~~ Professional Practice Board, established by G.S. 90-113.32, is recognized as the registering, certifying, and licensing authority for substance ~~abuse~~-use disorder professionals described in this Article in order to safeguard the public health, safety, and welfare, to protect the public from being harmed by unqualified

persons, to assure the highest degree of professional care and conduct on the part of credentialed substance ~~abuse-use disorder~~ professionals, to provide for the establishment of standards for the education of credentialed substance ~~abuse-use disorder~~ professionals, and to ensure the availability of credentialed substance ~~abuse-use disorder~~ professional services of high quality to persons in need of these services. It is the purpose of this Article to provide for the regulation of Board-credentialed persons offering substance ~~abuse-use disorder~~ counseling services, substance ~~abuse-use disorder~~ prevention services, or any other substance ~~abuse-use disorder~~ services for which the Board may grant registration, certification, or licensure."

**SECTION 8.(c)** G.S. 90-113.31A reads as rewritten:

**"§ 90-113.31A. Definitions.**

The following definitions shall apply in this Article:

- (1) Applicant. – A person who has initiated a process to become a substance ~~abuse~~ use disorder professional pursuant to this Article.
- (2) Applicant supervisor. – A person who provides supervision as required by the Board to persons applying for registration, certification, or licensure as a substance ~~abuse-use disorder~~ professional pursuant to this Article.
- (3) Board. – The North Carolina ~~Substance Abuse Addictions Specialist~~ Professional Practice Board.
- ...
- (5) Certified criminal justice addictions professional. – A person certified by the Board to practice as a criminal justice addictions professional who, under supervision, provides direct services to clients or offenders exhibiting substance ~~abuse-use~~ disorders and works in a program determined by the Board to be involved in a criminal justice setting.
- (6) Certified ~~substance abuse alcohol and drug~~ counselor. – A person certified by the Board to practice under the supervision of a practice supervisor as a ~~substance abuse alcohol and drug~~ counselor in accordance with the provisions of this Article.
- (7) Certified ~~substance abuse prevention consultant specialist~~. – A person certified by the Board to practice substance ~~abuse-use disorder~~ prevention in accordance with the provisions of this Article.
- ...
- (14) Criminal history. – A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice substance ~~abuse-use disorder~~ professional services. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article

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

...

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

...

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

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

...

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

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

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

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

**"§ 90-113.31B. Scope of practice.**

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

(1) The practice of a certified ~~substance abuse~~-alcohol and drug counselor consists of the Twelve Core Functions, including screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, report and record keeping, consultation with



other professionals in regard to client treatment and services, and referral to treat addictive disorder or disease and help prevent relapse.

- (2) The practice of a certified ~~substance abuse prevention consultant specialist~~ is based on knowledge in the performance domains to prevent or reduce the conditions that place individuals at increased risk of developing addictive disorder or disease and help prevent relapse.
- (3) The practice of a certified clinical supervisor is based on knowledge in the performance domains to supervise substance ~~abuse-use disorder~~ professionals who work to treat, prevent, or reduce the conditions that place individuals at risk of developing addictive disorder or disease and help prevent relapse.

...."

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

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

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

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

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

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

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

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

"(b) Renewal of licensure is subject to completion of at least 40 hours of the continuing education requirements established by the Board. Renewal of ~~substance abuse alcohol and drug counselor or substance abuse prevention consultant specialist~~ certification is subject to completion of at least 60 hours of the continuing education requirements established by the Board. A certified ~~substance abuse alcohol and drug~~ counselor shall submit a Board-approved supervision contract signed by the applicant and a practice supervisor documenting ongoing

supervision at a ratio of one hour of supervision to every 40 hours of practice after certification is granted by the Board on a form provided by the Board. Any person certified by the Board as a certified alcoholism counselor or certified ~~drug abuse alcohol and drug~~ counselor shall become a certified ~~substance abuse alcohol and drug~~ counselor.

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

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

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

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

...

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

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

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

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

...

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

...

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

...

(3) Has 4,000 hours experience as a substance ~~abuse~~-use disorder clinical supervisor as documented by his or her certified clinical supervisor.

(4) Has 30 hours of substance ~~abuse~~-use disorder clinical supervision specific education or training. These hours shall be reflective of the Twelve Core Functions in the applicant's clinical application and practice and may also be counted toward the applicant's renewal as a ~~substance abuse an alcohol and drug~~ counselor or a clinical addictions specialist.

...

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

(1) Criteria A. – The applicant:

...

b. Has two years postgraduate supervised substance ~~abuse~~use disorder counseling experience.

c. Submits three letters of reference from licensed clinical addictions specialists or certified ~~substance abuse~~alcohol and drug counselors who have obtained master's degrees.

...

e. Has attained 180 hours of substance ~~abuse~~use disorder specific training from either a regionally accredited college or university, which may include unlimited independent study, or from training events of which no more than fifty percent (50%) shall be in independent study. All hours shall be credited according to the standards set forth in G.S. 90-113.41A.

...

(2) Criteria B. – The applicant:

...

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

(3) Criteria C. – The applicant:

a. Has a minimum of a master's degree in a human services field with both a clinical application and a substance ~~abuse~~use disorder specialty from a regionally accredited college or university that includes 180 hours of substance ~~abuse~~use disorder specific education and training pursuant to G.S. 90-113.41A.

b. Has one year of postgraduate supervised substance ~~abuse~~use disorder counseling experience.

...

d. Submits three letters of reference from licensed clinical addictions specialists or certified ~~substance abuse~~alcohol and drug counselors who have obtained master's degrees.

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

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

~~(1) Has been credentialed as a substance abuse counselor or a clinical addictions specialist.~~

~~(2) Has 50 hours of Board approved academic or didactic management specific training or a combination thereof. Independent study may compose up to fifty percent (50%) of the total number of hours required for initial credentialing.~~

~~(3) Submits letters of reference from the applicant's current supervisor and a colleague or coworker.~~

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

...

- (3) Has provided documentation of supervised work experience providing direct service to clients or offenders involved in one of the three branches of the criminal justice system, which include law enforcement, the judiciary, and corrections. The applicant must meet one of the following criteria:

...

- e. Criteria E. – In addition to having at least a masters degree in a human services field with a specialty from a regionally accredited college or university that includes 180 hours of substance ~~abuse~~-use disorder specific education or training, the applicant has a minimum of 2,000 hours of postgraduate supervised substance ~~abuse~~-use disorder counseling experience.

...

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

**SECTION 8.(j)** G.S. 90-113.40B reads as rewritten:

**"§ 90-113.40B. Applicant supervision.**

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

...

- (2) A certified clinical supervisor or a clinical supervisor intern shall supervise a ~~substance abuse residential facility director applicant,~~ a clinical addictions specialist applicant, or a ~~substance abuse~~-an alcohol and drug counselor applicant.

...

- (4) A certified ~~substance abuse~~-prevention consultant-specialist with a minimum of three years of professional experience, a certified clinical supervisor, or a clinical supervisor intern shall supervise a registrant applying for certification as a prevention ~~consultant~~-specialist.

...."

**SECTION 8.(k)** G.S. 90-113.41A reads as rewritten:

**"§ 90-113.41A. Deemed status.**

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

- (1) Each person to whom the credentialing body awards credentials following the effective date of this act meets and maintains minimum requirements in substance ~~abuse~~-use disorder specific content areas. Each person also has a minimum of a master's degree with a clinical application in a human services field.

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

...

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

...."

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

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

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

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

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

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

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

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

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

- (1) Offer substance ~~abuse~~-use disorder professional services, practice, attempt to practice, or supervise while holding himself or herself out to be a certified ~~substance abuse alcohol and drug counselor~~, certified ~~substance abuse prevention consultant, specialist~~, certified clinical supervisor, licensed clinical addictions specialist, licensed clinical addictions specialist associate, certified substance abuse residential facility director, certified criminal justice addictions professional, clinical supervisor intern, substance abuse alcohol and drug counselor intern, or registrant without first having obtained a notification of registration, certification, or licensure from the Board.
- (2) Use in connection with any name any letters, words, numerical codes, or insignia indicating or implying that this person is a registrant, certified ~~substance abuse alcohol and drug counselor~~, certified ~~substance abuse prevention consultant, specialist~~, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, substance abuse alcohol and drug counselor intern, certified criminal justice addictions professional, or licensed clinical addictions specialist associate, unless this person is registered, certified, or licensed pursuant to this Article.
- (3) Practice or attempt to practice as a certified ~~substance abuse alcohol and drug counselor~~, certified ~~substance abuse prevention consultant, specialist~~, certified clinical supervisor, licensed clinical addictions specialist, certified criminal justice addictions professional, substance abuse alcohol and drug counselor intern, licensed clinical addictions specialist associate, clinical supervisor intern, certified substance abuse residential facility director or registrant with a revoked, lapsed, or suspended certification or license.
- (4) Aid, abet, or assist any person to practice as a certified ~~substance abuse alcohol and drug counselor~~, certified ~~substance abuse prevention consultant, specialist~~, certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse

residential facility director, registrant, ~~substance abuse alcohol and drug~~ counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern in violation of this Article.

- (5) Knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a registrant, certified ~~substance abuse alcohol and drug~~ counselor, certified ~~substance abuse prevention consultant, specialist,~~ certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, certified substance abuse residential facility director, ~~substance abuse alcohol and drug~~ counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern unless that person is registered, certified, or licensed under this Article.

...."

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

**"§ 90-113.44. Grounds for disciplinary action.**

- (a) Grounds for disciplinary action for an applicant or credentialed professional include:
- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain licensure, certification, or registration or renewal of licensure, certification, or registration.
  - (2) The use of drugs or alcoholic beverages to the extent that professional competency is affected.
  - (2a) The use of drugs or alcoholic beverages to the extent that a substance ~~abuse~~ use disorder professional suffers impairment.
  - (3) Conviction of an offense under any municipal, State, or federal law other than traffic laws as prescribed by Chapter 20 of the General Statutes.
  - (4) Conviction of a felony or other public offense involving moral turpitude. Conviction of a Class A-E felony shall result in an immediate suspension of licensure, certification, or registration for a minimum of one year.
  - (5) An adjudication of insanity or incompetency, until proof of recovery from this condition can be established by a licensed psychologist or psychiatrist.
  - (6) Engaging in any act or practice in violation of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a violation.
  - (7) The commission of an act of malpractice, gross negligence, or incompetence while serving as a substance ~~abuse-use disorder~~ professional, intern, or registrant.
  - (8) Repealed by Session Laws 2005-431, s. 1, effective September 22, 2005.
  - (9) Engaging in conduct that could result in harm or injury to the public.
  - (10) Entering into a dual relationship that impairs professional judgment or increases the risk of exploitation with a client or supervisee.
  - (11) Practicing as a credentialed substance ~~abuse-use disorder~~ professional outside of his or her scope of practice pursuant to G.S. 90-113.31B.

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

body's decision to the Board. The Board shall, however, have the discretionary authority to hear the initial disciplinary action involving a credentialed professional."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Offer substance use disorder professional services, practice, attempt to practice, or supervise while holding himself or herself out to be a certified alcohol and drug counselor, certified prevention specialist, certified clinical supervisor, licensed clinical addictions specialist, licensed clinical addictions specialist associate, ~~certified substance abuse residential facility director~~, certified criminal justice addictions professional, clinical supervisor intern,

- alcohol and drug counselor intern, or registrant without first having obtained a notification of registration, certification, or licensure from the Board.
- (2) Use in connection with any name any letters, words, numerical codes, or insignia indicating or implying that this person is a registrant, certified alcohol and drug counselor, certified prevention specialist, certified clinical supervisor, licensed clinical addictions specialist, ~~certified substance abuse residential facility director, substance abuse alcohol and drug counselor intern,~~ certified criminal justice addictions professional, or licensed clinical addictions specialist associate, unless this person is registered, certified, or licensed pursuant to this Article.
  - (3) Practice or attempt to practice as a certified alcohol and drug counselor, certified prevention specialist, certified clinical supervisor, licensed clinical addictions specialist, certified criminal justice addictions professional, alcohol and drug counselor intern, licensed clinical addictions specialist associate, clinical supervisor intern, ~~certified substance abuse residential facility director~~ or registrant with a revoked, lapsed, or suspended certification or license.
  - (4) Aid, abet, or assist any person to practice as a certified alcohol and drug counselor, certified prevention specialist, certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, ~~certified substance abuse residential facility director,~~ registrant, alcohol and drug counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern in violation of this Article.
  - (5) Knowingly serve in a position required by State law or rule or federal law or regulation to be filled by a registrant, certified alcohol and drug counselor, certified prevention specialist, certified criminal justice addictions professional, certified clinical supervisor, licensed clinical addictions specialist, ~~certified substance abuse residential facility director,~~ alcohol and drug counselor intern, licensed clinical addictions specialist associate, or clinical supervisor intern unless that person is registered, certified, or licensed under this Article.

...."

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

## **PART II-I. AMEND SOCIAL WORKER PRACTICE ACT**

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

### **"Chapter 90B.**

#### **"Social Worker Certification and Licensure Act.**

" ...

#### **"§ 90B-2. Purpose.**

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

#### **"§ 90B-3. Definitions.**

The following definitions apply in this Chapter:



- (1) Applicant. – An individual who has made application to the Board for the issuance, renewal, or reinstatement of any credential which the Board is authorized by law to issue.
- ~~(1)~~(1a) Board. – The North Carolina Social Work Certification and Licensure Board.
- (2) Repealed by Session Laws 2013-410, s. 8, effective August 23, 2013.
- (3) ~~Certified Master Social Worker.~~ master social worker. – A person who is certified under this Chapter to practice social work as a master social worker and is engaged in the practice of social work.
- (4) ~~Certified Social Work Manager.~~ social work manager. – A person who is certified under this Chapter to practice social work as a social work manager and is engaged in the practice of social work.
- (5) ~~Certified Social Worker.~~ social worker. – A person who is certified under this Chapter to practice social work as a social worker and is engaged in the practice of social work.
- (6) ~~Clinical Social Work Practice.~~ social work practice. – The professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. Clinical social work practice shall not include the provision of supportive daily living services to persons with severe and persistent mental illness as defined in G.S. 122C-3(33a).
- (6a) ~~Licensed Clinical Social Worker.~~ clinical social worker. – A person who is competent to function independently, who holds himself or herself out to the public as a social worker, and who offers or provides clinical social work services or supervises others engaging in clinical social work practice.
- (6b) ~~Licensed Clinical Social Worker Associate.~~ clinical social worker associate. – A person issued an associate license to provide clinical social work services pursuant to G.S. 90B-7(f).
- (7) ~~Practice of Social Work.~~ social work. – To perform or offer to perform services, by whatever means of communications, for other people that involve the application of social work values, principles, and techniques in areas such as social work services, consultation and administration, and social work planning and research.
- (7a) Social work continuing education. – Training that, in accordance with the requirements established by the Board pursuant to G.S. 90B-6(g), (i) fosters the enhancement of generalized or specialized social work practice, values, skills, or knowledge, and (ii) includes an element addressing how the knowledge and skills may be applied to the practice of social work.
- (8) ~~Social Worker.~~ worker. – A person certified, licensed, or associate licensed by this Chapter or otherwise exempt under ~~G.S. 90B-10.~~ G.S. 90B-10, or a person who has earned a bachelors, masters, or doctoral degree in social work from a social work program accredited by or in candidacy for accreditation by the Council on Social Work Education.
- (9) Supervision. – The professional relationship between a supervisee and the supervisor in which a supervisor provides guidance, oversight, direction, and evaluation of the services provided by the supervisee in the professional application of social work practice as defined by law. Supervision is designed to promote responsibility, competency, and accountability, and to teach the skills and techniques associated with social work practice.

**"§ 90B-4. Prohibitions.**

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

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

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

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

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

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

- (1) ~~At least two members~~ one member of the Board shall be ~~Certified Social Workers or Certified Master Social Workers, three~~ a certified social worker, a certified master social worker, or a certified social work manager, four members shall be ~~Licensed Clinical Social Workers,~~ licensed clinical social workers, and two members shall be appointed from the public at large. Composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State of North Carolina.

...

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

...

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for certification, licensure, and renewal of certification and licensure, including the power to adopt or use examination materials and accreditation standards of the Council on Social Work Education or other recognized accrediting agency and the power to establish reasonable standards for continuing social work education; ~~provided that education, except that the Board shall not require an examination for certificate and license renewal no examination shall be required; provided further, that~~ of a certificate or license, and the Board shall not have the power to withhold approval of social work study or training courses offered by

a college or university having a social work program approved by the Council on Social Work Education.

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

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

...

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

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

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

- (1) Has a bachelors degree in ~~a social work program~~ from a college or university ~~having a social work program accredited~~ approved, accredited, or admitted to candidacy for accreditation by the Council on Social Work Education for undergraduate curricula.
- (2) Has passed the ~~Board examination for the certification of persons in this classification.~~ Board-approved qualifying examination.

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

- (1) Has a masters or doctoral degree in ~~a social work program~~ from a college or university ~~having a social work program approved~~ approved, accredited, or admitted to candidacy for accreditation by the Council on Social Work Education.
- (2) Has passed the ~~Board examination for the certification of persons in this classification.~~ Board-approved qualifying examination.

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

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

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

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

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

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

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

(b) The Board may issue a temporary license to a nonresident clinical social worker who is either certified, registered, or licensed in another jurisdiction whose standards, in the opinion of the Board, at the time of the person's certification, registration, or licensure were substantially equivalent to or higher than the requirements of this Chapter. Nothing in this Chapter shall be construed as prohibiting a nonresident clinical social worker certified, registered, or licensed in another state from rendering professional clinical social work services in this State for a period of not more than five days in any calendar year. All persons granted a temporary clinical social worker license shall comply with the supervision requirements established by the ~~Board.~~ Board and shall fulfill all requirements for licensure prior to the expiration of the temporary license.

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

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

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

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

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

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

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

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

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

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

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

- (1) Repealed by Session Laws 2007-379, s. 4, effective August 19, 2007.
- (2) A student completing a clinical requirement for graduation while pursuing a course of study in social work in an institution accredited by or in candidacy status with the Council on Social Work Education.
- (3) Repealed by Session Laws 2007-379, s. 4, effective August 19, 2007.

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

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

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

- (1) Conviction of ~~a misdemeanor~~ or the entering of a plea of guilty or nolo contendere to ~~a any misdemeanor under this Chapter involving moral turpitude, misrepresentation or fraud in dealing with the public, conduct otherwise relevant to fitness to practice social work, or any misdemeanor reflecting inability to practice social work with due regard to the health and safety of clients or patients.~~
- (2) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony under the laws of the United States or of any state of the United States.
- (3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of social work.
- (4) Procuring or attempting to procure a certificate or license by fraud, deceit, or misrepresentation.
- (5) Any fraudulent or dishonest conduct in social work.
- (6) Inability of the person to perform the functions for which he or she is certified or licensed, or substantial impairment of abilities by reason of physical or mental disability.
- (7) Violations of any of the provisions of this Chapter or of rules of the Board.

...

(d) In considering whether an applicant, certificate holder, or licensee is mentally or physically capable of practicing social work with reasonable skill and safety, the Board may require an applicant, certificate holder, or licensee to submit to any of the following, at his or her own expense: (i) a criminal history record check, including fingerprints, (ii) a mental examination and substance abuse assessment by a licensed clinical social worker or other licensed mental health professional designated by the ~~Board~~ Board, and ~~to (iii) a physical examination~~ by a physician or other licensed health professional designated by the Board. The examination may be ordered by the Board before or after charges are presented against the applicant, certificate holder, or licensee and the results of the examination shall be reported directly to the Board and shall be admissible in evidence in a hearing before the Board.

...

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

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

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

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

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

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

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

...

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

- (1) The medical assistance beneficiary has the burden of proving by clear and convincing evidence that the portion of the beneficiary's gross recovery that represents compensation for the Medicaid claim is less than the portion presumed under subsection (a1) of this section.
- (2) The presumption arising under subsection (a1) of this section is not rebutted solely by the fact that the medical assistance beneficiary was not able to recover the full amount of all claims.
- (3) If the beneficiary meets its burden of rebutting the presumption arising under subsection (a1) of this section, then the court shall determine the portion of the recovery that represents compensation for the Medicaid claim and shall order the beneficiary to pay the amount so determined to the Department in accordance with subsection (a5) of this section. In making this determination, the court may consider any factors that it deems just and reasonable.
- (4) If the beneficiary fails to rebut the presumption arising under subsection (a1) of this section, then the court shall order the beneficiary to pay the amount presumed pursuant to subsection (a1) of this section to the Department in accordance with subsection (a5) of this section.

...

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

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

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

### **PART III-B. SOCIAL SERVICES REFORM**

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

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

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

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

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

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

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

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

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

- (1) Board of social services. – The governing body responsible for oversight of the department of social services, ~~including~~ includes a county social services board, a regional board of social services, a consolidated human services board, or a board of county commissioners that has assumed the powers and duties of a social services governing board pursuant to G.S. 153A-77(a), whichever applies.
- (2) Child welfare services or program. – ~~Protective, Child protective services~~, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (3) Department of social services. – The department responsible for administration of the social services and programs of public assistance in a county. It includes a county department of social services, a consolidated human services agency, or a regional social services department, whichever applies.
- (4) Director of social services. – The person responsible for managing and administering the department of social services, including a county social services director, a regional social services director, or a human services director, whichever applies.



- (5) Social services programs other than medical assistance. – Social services and public assistance programs established in this Chapter other than the medical assistance program (Chapter 108A, Article 2, Part 6). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Chapter 110, Article 9.

(a1) Repealed by Session Laws 2017-41, s. 3.2(a), effective March 1, 2020.

(a2) The Secretary shall require all counties and regional social services departments to enter into a written agreement each year that specifies mandated performance requirements and administrative responsibilities with regard to all social services programs other than medical assistance, [subject to the following:]

- (1) The mandated performance requirements shall be based upon standardized metrics utilizing data and outcome measures derived from the Social Services System Transparency and Wellness Dashboard and other reliable data sources.
- (2) The administrative responsibilities shall address, at a minimum, staff training, data submission to the Department, and communication with the Department.
- (3) The written agreement may be standardized or may be tailored to address issues in specific jurisdictions.
- (4) The written agreement shall authorize the Department to withhold State or federal funds in the event the department fails to satisfy mandated performance requirements or comply with the terms of the agreement or applicable law.

(a3) If a department of social services fails to comply with the terms of the written ~~agreement~~ agreement, the mandated performance measures, or other applicable law for three consecutive months or for five months within any consecutive 12-month period, period for those terms or mandated performance measures that are measured less than annually, or fails to comply for two consecutive 12-month periods for those terms or mandated performance measures that are measured on an annual basis, the Secretary and the department of social services shall enter into a joint corrective action plan within 60 working days. The Secretary may also require a corrective action plan more quickly in urgent circumstances, regardless of whether the circumstances are directly related to a mandated performance requirement specified in the written agreement. The board of social services and the county manager shall be notified of any joint corrective action plan.

(a4) The corrective action plan shall include each of the following components:

- (1) The duration of the joint corrective action plan, not to exceed 12 months. If the Secretary determines that the department of social services has not shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may summarily conclude that the department of social services has failed to successfully complete the joint corrective plan and may proceed with steps necessary to temporarily assume administrative responsibilities of the department of social services. If the Secretary determines the department of social services has shown measurable progress within six months, or at the half-way point if the duration of the plan is less than 12 months, the Secretary may extend the joint corrective action plan by six months, but in no case shall a joint corrective action plan exceed 18 months.
- (2) The performance requirements for the department of social services that constitute successful completion of the joint corrective action plan.

- (3) A schedule and plan for providing updates to the ~~social services board of social services and county manager~~ regarding the department's progress implementing the corrective action plan.
- (4) An acknowledgement that failure to successfully complete the joint corrective action plan shall result in temporary assumption of all or part of the department of social services administration.

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

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

- (1) The Secretary, through the ~~appropriate regional office,~~ Division of Social Services shall administer all or part of the social services program in a county or region. Administration by the Secretary may include direct operation by the Department, including supervision of program staff or contracts for operation, to the extent permitted by federal law.
- (2) The department of social services shall be divested of administrative authority for any component of the program the Secretary assumes.
- (3) The director of social services shall be divested of all service delivery powers conferred upon the director by G.S. 108A-14 and other applicable State law as it pertains to the programs or services to be assumed. The Secretary may assign any of the powers and duties of the director of social services to an employee of the Department or a contractor, as the Secretary deems necessary and appropriate to continue the provision of services in the county. If the local director of social services has delegated any authority to staff pursuant to G.S. 108A-14(b), delegated authority shall remain in effect until the Secretary, or the Secretary's designee, specifically revokes the delegation.
- (4) The Secretary shall direct and oversee the expenditure of all funding for the administration of the components of the program assumed by the Secretary.
- (5) The ~~department of social services county~~ shall not withdraw funds previously obligated or appropriated for program administration and services. The ~~department of social services county~~ shall continue to pay the county's or region's nonfederal share for the program services and administration.
- (6) The Secretary shall work with the county and the department of social services to develop a plan for the department to resume program administration.
- (7) The Secretary shall inform the appropriate board or boards of county commissioners, the county manager or managers, the director of social services, and the board of social services of key activities and ongoing concerns during the temporary assumption of social services program administration.

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

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

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

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

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

(k) Upon the Secretary taking action pursuant to subsection (h) of this section, county funding of the services in question shall continue and at no time during the period of time that the Secretary is taking action shall a county withdraw funds previously obligated or appropriated for the services. Upon the Secretary's assumption of the control of service delivery, the county shall also pay the nonfederal share of any additional cost that may be incurred to operate the services in question at the level necessary to comply fully with State law and Social Services Commission rules.

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

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

### **PART III-C. CHILD SUPPORT ENFORCEMENT PROGRAM COMPLIANCE**

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

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

...

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

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

...."

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

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

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

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

...."

**PART III-F. REPEAL EMPLOYEE ASSISTANCE PROFESSIONALS ARTICLE**

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

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

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

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

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

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

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

- (1) ~~Age and date of birth, nationality,~~ Nationality, race, or ethnicity, and any religious preference;
- (2) Marital and family status and history, including the presence of any children born to or adopted by the individual and any other children in the household;
- (3) ~~Physical~~ Date of birth and physical and mental health, including any addiction to alcohol or drugs;

...

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

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

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

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

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

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

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

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

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

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

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

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

The director of each State facility may appoint as special police officers the number of employees of their respective facilities they consider necessary. Within the grounds of the State facility the employees appointed as special police officers have all the powers of police officers of cities. They have ~~The Secretary, or the Secretary's designee, may assign these special police officers to other State-operated facilities on a temporary basis to carry out the powers allowed under this section and as otherwise provided by laws relating to the specific joint security force to which they are assigned. Upon this temporary assignment, the special police officer will take~~

the oath in G.S. 122C-184 for that specific facility. Following the oath, the police officer has the right to arrest without warrant individuals committing violations of the State law or the ordinances or rules of that facility in their presence and to bring the offenders before a magistrate who shall proceed as in other criminal cases."

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

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

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

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

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

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

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

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

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

(a) The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Broughton Hospital, ~~North Carolina School for the Deaf at Morganton (K-12),~~ Western Regional Vocational Rehabilitation Facility, J. Iverson Riddle Developmental Center, and the surrounding grounds and land adjacent to Broughton Hospital allocated to the Department of Agriculture and Consumer Services, all in Burke County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named facilities. These special police officers may arrest persons outside the territory of the named institutions but within the confines of Burke

County when the person arrested has committed a criminal offense within that territory for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **PART III-J. SECURITY RECORDINGS**

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

**"§ 122C-3. Definitions.**

The following definitions apply in this Chapter:

...

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

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

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

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

...."

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

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

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

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

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

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

### **PART III-K. NC REACH PROGRAM/GUARDIANSHIP**

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



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

### PART III-L. TRAUMATIC BRAIN INJURY

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

"§ 122C-3. Definitions.

The following definitions apply in this Chapter:

...

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

- a. ~~Is attributable to a mental or physical impairment or combination of mental and physical impairments to one or more impairments.~~
- b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age 22, brain injury, in which case the disability may be manifested after attaining age 22.
- c. Is likely to continue indefinitely.
- d. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning, mobility, self-direction, and economic self-sufficiency.
- e. Reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services ~~which~~ that are of a lifelong or extended duration and are individually planned and ~~eordinated-coordinated~~; or when applied to children from birth through age four, may be evidenced as a developmental delay.
- f. ~~When applied to children from birth through four years of age, a developmental disability may be evidenced as a developmental delay.~~

...

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

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

...."

### PART III-M. ADD CONTINUING CARE RETIREMENT COMMUNITY (CCRC) REPRESENTATIVE TO MEDICAL CARE COMMISSION

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

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

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

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

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

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

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

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

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

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

**SECTION 24.(a)** The Department of Health and Human Services, Division of Social Services, shall postpone deployment of the North Carolina Families Accessing Services through Technology (NC FAST) system as it relates to case-management functionality for the child

welfare system and aging and adult services' programs. The Division shall not deploy the child welfare case-management component of the NC FAST system statewide prior to July 1, 2020, but shall instead continue to develop and improve case-management functionality for the child welfare component of NC FAST only in those counties that participated in the initial pilot program prior to January 1, 2019.

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

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

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

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

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

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

"Article 8.

"Miscellaneous.

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

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

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

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

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

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
- (7) The subsequent commission by the person of a relevant offense.

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

(e) Relevant Offense. – As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

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

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

- (1) The child care institution shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in

subsection (b) of this section or the completed fingerprint cards as required in G.S. 143B-972.

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

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

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

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

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

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

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

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

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

The Department of Public Safety shall provide to the Department of Health and Human Services, Criminal Records Check Unit, in accordance with G.S. 108A-133, the criminal history of any current or prospective employee or volunteer in a child care institution as defined by Title IV-E of the Social Security Act, including individuals working with a contract agency in a child care institution. The Department of Health and Human Services, Criminal Records Check Unit, shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the Department of Health and Human Services, Criminal Records Check Unit, shall be kept confidential in accordance with G.S. 108A-133. The Department of Public Safety may charge a reasonable fee to conduct a criminal record check under this section."

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

**PART IV. INVOLUNTARY COMMITMENT CHANGES**

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

**"§ 122C-3. Definitions.**

The following definitions apply in this Chapter:

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

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

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

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

(b) Except as otherwise provided by law, whenever in this Chapter the phrase "client or the legally responsible person" is used, and the client is an incapable ~~adult who has not been adjudicated incompetent under Chapter 35A of the General Statutes;~~ adult, the duty or right involved shall be exercised ~~not by the client but~~ by a health care agent named pursuant to a valid health care power of attorney, if one exists, or by the client as expressed in a valid advance instruction for mental health treatment, if one exists. If no health care power of attorney or advance instruction for mental health treatment exists, the legally responsible person for an incapable adult who has not been adjudicated incompetent under Chapter 35A of the General Statutes shall be one of the persons listed in subdivisions (3) through (7) of subsection (c) of G.S. 90-21.13, to be selected based on the priority order indicated in said subdivisions (3) through (7)."

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

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

...

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

review, precertification and preauthorization of services, concurrent and retrospective review of services, and appeals related to utilization management and review.

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

...."

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

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

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

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

...

#### **ADMISSION TO AND RETENTION IN FACILITY**

...

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

\_\_\_\_\_ I consent to being admitted to a health care facility for mental health treatment.

My facility preference is \_\_\_\_\_

\_\_\_\_\_ I do not consent to being admitted to a health care facility for mental health treatment.

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

Conditions or limitations \_\_\_\_\_

...."

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

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

(a) An individual in need of treatment for mental illness and who is incapable, as defined in G.S. 122C-3 and G.S. 122C-72, may be admitted to and treated in a facility pursuant to an advance instruction for mental health treatment executed in accordance with Part 2 of Article 3 of this Chapter or pursuant to the authority of a health care agent named in a valid health care power of attorney executed in accordance with Article 3 of Chapter 32A of the General Statutes.

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

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

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

(e) A 24-hour facility may not hold an individual under a voluntary admission who is determined to be incapable at the time of admission and who is admitted pursuant to an advance

instruction for mental health treatment for more than 15 days, except as provided in G.S. 122C-211(b); provided, however, that an individual who regains sufficient understanding and capacity to make and communicate mental health treatment decisions may elect to continue his or her admission and treatment pursuant to the individual's informed consent in accordance with G.S. 122C-211. A 24-hour facility may file a petition for involuntary commitment pursuant to Article 5 of this Chapter if an individual meets applicable criteria at the conclusion of this 15-day period.

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

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

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

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

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

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

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

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



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

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

- (1) The Secretary has received a request:
  - a. To certify a licensed clinical social worker, a master's or higher level degree nurse practitioner, a licensed professional ~~counselor,~~ counselor, or a ~~physician's~~ physician assistant to conduct the first examinations described in G.S. 122C-263(c) and G.S. 122C-283(c).
  - b. To certify a master's level licensed clinical addictions specialist to conduct the first examination described in G.S. 122C-283(c).
- (2) The Secretary shall review the request and may approve it upon finding all of the following:
  - a. The request meets the requirements of this section.
  - b., c. Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
  - d. The Department determines that the applicant possesses the professional licensure, registration, or certification to qualify the applicant as a professional whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment.
  - e. The applicant for certification has successfully completed the Department's standardized training program for involuntary commitment and has successfully passed the examination for that program.
- (3) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
- (4) A certification granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the certified individual has failed to meet the requirements of this section. Certification may be renewed every three years upon completion of a refresher training program approved by the Department.
- (5) In no event shall the certification of a licensed clinical social worker, master's or higher level degree nurse practitioner, licensed professional ~~counselor,~~ counselor, physician assistant, or master's level certified clinical addictions specialist under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level nurse practitioner, licensed professional ~~counselor,~~ counselor, physician assistant, or the master's level certified clinical addictions specialist.
- (6) The Department shall require that individuals certified to perform initial examinations under this section have successfully completed the Department's standardized involuntary commitment training program and examination. The Department shall maintain a list of these individuals on its Internet Web site.
- (7) Repealed by Session Laws 2018-33, s. 25, effective October 1, 2019.
- (7a) No less than annually, the Department shall submit a list of certified first commitment examiners to the Chief District Court Judge of each judicial

district in North Carolina and maintain a current list of certified first commitment examiners on its Internet Web site.

(8) A master's level licensed clinical addiction specialist shall only be authorized to conduct the initial examination of individuals meeting the criteria of G.S. 122C-281(a).

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

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

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

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

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

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

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

## **PART V. RURAL HEALTH CARE STABILIZATION**

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

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

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

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

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

"(3) State-supported financing arrangement. – Any financing arrangement that requires payments that are payable, whether directly or indirectly, and whether or not subject to the appropriation of funds for payment, by payments from the General Fund, the Highway Fund, the Highway Trust Fund, or other funds and accounts of the State that are funded from the general revenues and other taxes and fees of the State or State entities. A State-supported financing arrangement does not include a financing arrangement where bonds or other obligations are issued or incurred to carry out a financing program authorized by the General Assembly under which the bonds or other obligations are payable from moneys derived from specified, limited, nontax sources, such as (i) loan payments made by a non-State entity receiving the benefit of financing by a State entity (including an "obligor" or "participating institution" within the meaning of Chapter 159D of the General Statutes, a "public agency" or a "nonprofit agency" within the meaning of Article 1 of Chapter 131A of the General Statutes, and similar entities); (ii) revenues of a revenue-producing enterprise or activity (such as "revenues" within the meaning of Part 4 of Article 1 of Chapter 116 of the General Statutes and "obligated resources"

within the meaning of Article 3 of Chapter 116D of the General Statutes); and (iii) loan payments received, loans owned, and other assets of a State entity that are pledged to secure bonds under programs to finance that type of assets and the associated activities (such as mortgage loans under Chapter 122A of the General Statutes and student loans under Article 23 of Chapter 116 of the General Statutes)."

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

"Article 2.

"Rural Health Care Stabilization Program.

**"§ 131A-30. Definitions.**

The following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

(c) Disapproval of Application. – If UNC Health Care disapproves a loan application, the applicant may engage a disinterested and qualified third party approved by the Commission to

evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located. The applicant may seek Commission approval of the loan based on the written evaluation of its Plan by the third party.

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

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

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

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

- (1) Current and historical financial information.
- (2) Whether the undertaking is necessary or expedient.
- (3) Its debt management procedures and policies.
- (4) Whether it is in default in any of its debt service obligations.
- (5) Any other information the Commission may believe to have a bearing on whether the loan should be approved.

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

- (1) That the loan is necessary or expedient.
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the loan.
- (3) That the Plan demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located.
- (4) That the applicant's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will be repaid.

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

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

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

- (1) Interest rate. – The interest rate for a loan may not exceed the interest rate obtained by the State on its most recent general obligation bond offering.
- (2) Maturity. – The maturity for a loan may not exceed 20 years.

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

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

(a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health Care Stabilization Fund. The report shall be published by November 1 of each year and cover the preceding fiscal year. UNC Health Care shall make the report available to the public and shall

give a copy of the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

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

- (1) The beginning and ending balance of the Fund for the fiscal year.
- (2) The amount of revenue credited to the Fund during the fiscal year, by source.
- (3) The total amount of loans awarded from the Fund.
- (4) For each loan awarded, the recipient of the award, the amount of the award, the amount of the award that was disbursed, and the amount of the award remaining to be disbursed in a subsequent fiscal year, if applicable."

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

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

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

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

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

## **PART VI. EFFECTIVE DATE**

**SECTION 28.** Except as otherwise provided, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 31<sup>st</sup> day of October, 2019.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

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Roy Cooper  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2019