HOUSE BILL 681
Senate Health Care Committee Substitute Adopted 5/22/24

Short Title: Healthcare Flexibility Act. (Public)

Sponsors:

Referred to:

April 19, 2023

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN INTERSTATE COMPACT FOR THE LICENSURE OF THE PRACTICE OF MEDICINE, TO PROVIDE PRACTICE AUTHORITY FOR NURSE PRACTITIONERS, TO ENSURE FLEXIBILITY FOR ANESTHESIA SERVICE, TO REQUIRE NOTIFICATION FOR OUT-OF-NETWORK BILLING AT IN-NETWORK FACILITIES, AND TO LIMIT FACILITY FEES.

The General Assembly of North Carolina enacts:

PART I. INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 1.(a) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1M.

"Interstate Medical Licensure Compact.

"**§ 90-21.140. Short title.**

This Article shall be known as the "Interstate Medical Licensure Compact."

"**§ 90-21.141. Purpose.**

(a) The purpose of this Article is to strengthen access to health care, and, in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact (Compact) have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and to provide a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients.

(b) The Interstate Medical Licensure Compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act or provisions. The Compact adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter and, therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures of the Compact.

"**§ 90-21.142. Definitions.**

The following definitions apply in this Article:

(1) Bylaws. – Bylaws established by the Interstate Commission pursuant to G.S. 90-21.151.

(2) Commissioner. – The voting representative appointed by each member board pursuant to G.S. 90-21.151.

(3) Conviction. – A finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilty or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by a court shall be considered final for purposes of disciplinary action by a member board.

(4) Expedited license. – A full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(5) Interstate Commission. – The Interstate Medical Licensure Compact Commission created pursuant to G.S. 90-21.151.

(6) License. – The authorization by a member state for a physician to engage in the practice of medicine, which would be unlawful without authorization.

(7) Medical practice act. – Laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(8) Member board. – A state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(9) Member state. – A state that has enacted the Compact.

(10) Offense. – A felony, gross misdemeanor, or crime of moral turpitude.

(11) Physician. – Any person who meets all of the following qualifications:

a. Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent.

b. Has passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMPLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes.

c. Has successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

d. Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

e. Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.

f. Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

g. Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

h. Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

i. Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(12) Practice of medicine. – Clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(13) Rule – A written statement by the Interstate Commission promulgated pursuant to G.S. 90-21.152 that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(14) State. – Any state, commonwealth, district, or territory of the United States.

(15) State of principal license. – A member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

"**§ 90-21.143. Eligibility.**

(a) A physician must meet the eligibility requirements as defined in G.S. 90-21.142(11) to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of G.S. 90-21.142(11) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

"**§ 90-21.144. Designation of state of principal license.**

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and that state meets any one of the following qualifications:

(1) The state is the principal residence for the physician.

(2) The physician conducts at least twenty-five percent (25%) of their practice of medicine in the state.

(3) The state is the location of the physician's employer.

If no state qualifies under subdivision (1), (2), or (3) of this subsection, then the physician may designate the state of residence for the purpose of federal income tax as their state of principal license.

(b) A physician may redesignate a member state as a state of principal license at any time, as long as the state meets the requirements of subsection (a) of this section.

(c) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

"**§ 90-21.145. Application and issuance of expedited licensure.**

(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

(c) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(d) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks in compliance with

the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202.

(e) Appeal on the determination of eligibility to the member state shall be made to the member state where the application was filed and shall be subject to the laws of that state.

(f) Upon verification of eligibility in subsection (b) of this section, physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a) of this section, including the payment of any applicable fees.

(g) After receiving verification of eligibility under subsection (b) of this section and any fees under subsection (f) of this section, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(h) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(i) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a nondisciplinary reason, without redesignation of a new state of principal licensure.

(j) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

"**§ 90-21.146. Fees for expedited licensure.**

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

"**§ 90-21.147. Renewal and continued participation.**

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician meets all of the following qualifications:

(1) Maintains a full and unrestricted license in a state of principal license.

(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected under subsection (c) of this section, a member board shall renew the physician's license.

(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

"**§ 90-21.148. Coordinated information system.**

(a) The Interstate Commission shall establish a database of all physicians who are licensed, or who have applied for licensure, under G.S. 90-21.145.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by subsection (c) of this section to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

"**§ 90-21.149. Joint investigations.**

(a) Licensure and disciplinary records are deemed investigative.

(b) In addition to authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

"**§ 90-21.150. Disciplinary actions.**

(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided and take one of the following actions:

(1) Impose the same or lesser sanctions against the physician consistent with the medical practice act of that state.

(2) Pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then any licenses issued to the physician by any other member boards shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical

practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

"**§ 90-21.151. Interstate Medical Licensure Compact Commission.**

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all of the responsibilities, powers, and duties set forth in the Compact, and additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall meet one of the following qualifications:

(1) An allopathic or osteopathic physician appointed to a member board.

(2) An executive director, executive secretary, or similar executive member of a member board.

(3) A member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address matters that come properly before the Commission and for the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws adopted by the Interstate Commission. A Commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d) of this section.

(h) The Interstate Commission shall provide public notice of all meetings, and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the Commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practice and procedures of the Interstate Commission.

(2) Discuss matters specifically exempted from disclosure by federal statute.

(3) Discuss trade secrets, commercial, or financial information that is privileged or confidential.

(4) Involve accusing a person of a crime, or formally censuring a person.

(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Discuss investigative records compiled for law enforcement purposes.

(7) Specifically relate to the participation in a civil action or other legal proceeding.

(i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available for public inspection.

(k) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(*l*) The Interstate Commission shall establish other committees for governance and administration of the Compact.

"**§ 90-21.152. Powers and duties of the Interstate Commission.**

The Interstate Commission has the following powers and duties:

(1) Oversee and maintain the administration of the Compact.

(2) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact.

(3) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions.

(4) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of the judicial process.

(5) Establish and appoint committees, including, but not limited to, an executive committee as required by G.S. 90-21.151, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.

(6) Pay or provide payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission.

(7) Establish and maintain one or more offices.

(8) Borrow, accept, hire, or contract for services of personnel.

(9) Purchase and maintain insurance and bonds.

(10) Employ an executive director who shall have such powers to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation.

(11) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

(12) Accept donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission.

(13) Lease, purchase, accept contributions or donations of, or otherwise to hold, own, improve, or use any property, real, personal, or mixed.

(14) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(15) Establish a budget and make expenditures.

(16) Adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(17) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding

year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission.

(18) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation.

(19) Maintain records in accordance with the bylaws.

(20) Seek and obtain trademarks, copyrights, and patents.

(21) Perform such functions as may be necessary or appropriate to achieve the purpose of the Compact.

"**§ 90-21.153. Finance powers.**

(a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed accountant, and the report of the audit shall be included in the annual report of the Interstate Commission.

"**§ 90-21.154. Organization and operation of the Interstate Commission.**

(a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within 12 months of the first Interstate Commission meeting.

(b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability the vice-chairperson, shall preside at all meetings of the Interstate Commission.

(c) Officers selected in subsection (b) of this section shall serve without remuneration for the Interstate Commission.

(d) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(e) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purpose of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(f) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member

state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(g) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorneys' fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

"**§ 90-21.155. Rulemaking functions of the Interstate Commission.**

(a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Revised Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

"**§ 90-21.156. Oversight of Interstate Compact.**

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities, or action of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all services of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

"**§ 90-21.157. Enforcement of Interstate Compact.**

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to

enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or regulation of a profession.

"**§ 90-21.158. Default procedures.**

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall do all of the following:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

(2) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners, and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination, including obligations, the performance of which extends beyond the effective date of termination.

(g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

"**§ 90-21.159. Dispute resolution.**

(a) The Interstate Commission shall attempt to resolve disputes upon the request of a member state, which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

"**§ 90-21.160. Member states; effective date; amendment.**

(a) Any state is eligible to become a member of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law in that state.

(c) The governors of nonmember states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

"**§ 90-21.161. Withdrawal.**

(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the Compact by specifically repealing the statutes which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c) of this section.

(e) The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing date reenacting the Compact or upon such later date as determined by the Interstate Commission.

(g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

"**§ 90-21.162. Dissolution.**

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership of the Compact to one member state.

(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded, and surplus funds shall be distributed in accordance with the bylaws.

"**§ 90-21.163. Severability and construction.**

The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable. The provisions of the Compact shall be liberally construed to effectuate its purposes. Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the member states are members.

"**§ 90-21.164. Binding effect of Compact and other laws.**

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

(d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

SECTION 1.(b) G.S. 90-5.1 reads as rewritten:

"**§ 90-5.1. Powers and duties of the Board.**

(a) The Board shall have the following powers and duties:

…

(11) Appoint two Commissioners to serve on the Interstate Medical Licensure Compact Commission. Commissioners must meet one of the following requirements: be (i) a current physician Board member, (ii) an executive director or similar executive member, or (iii) a current public Board member.

…."

SECTION 1.(c) G.S. 90-11(b) reads as rewritten:

"(b) The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a license through the ~~Board.~~ Board and for purposes of G.S. 90-21.145. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant'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 the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection. The Board has the authority to collect this fee from each applicant and remit it to the Department of Public Safety."

SECTION 1.(d) G.S. 90-13.1 reads as rewritten:

"**§ 90-13.1. License fees.**

…

(g) Each applicant for a license issued or renewed through the Interstate Medical Licensure Compact in accordance with Article 1M of Chapter 90 of the General Statutes shall be subject to any additional fees or assessments as determined by the Board or the Interstate Medical Licensure Compact Commission to cover any costs incurred by the Board for the participation in the Interstate Medical Licensure Compact."

SECTION 1.(e) G.S. 90-13.2 reads as rewritten:

"**§ 90-13.2. Registration every year with Board.**

(a) ~~Every~~ Except as provided for in Article 1M of Chapter 90 of the General Statutes, every licensee shall register annually with the Board no later than 30 days after the person's birthday.

…

(g) Upon payment of all accumulated fees and penalties, the license of the licensee may be reinstated, subject to the Board requiring the licensee to appear before the Board for an interview and to comply with other licensing requirements. ~~The~~ Except as provided in G.S. 90-21.146, the penalty may not exceed the applicable maximum fee for a license under G.S. 90-13.1.

…."

SECTION 1.(f) G.S. 90-14 reads as rewritten:

"**§ 90-14. Disciplinary Authority.**

(a) The Board shall have the power to place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, mandate free medical services, require satisfactory completion of treatment programs or remedial or educational training, fine, deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

…

(18) A violation of Article 1M of Chapter 90 of the General Statutes, consistent with the provisions of that Article for qualifying licensees.

…."

SECTION 1.(g) G.S. 90-14.2 reads as rewritten:

"**§ 90-14.2. Hearing before disciplinary action.**

(a) ~~Before~~ Except as provided in G.S. 90-21.150, before the Board shall take disciplinary action against any license granted by it, the licensee shall be given a written notice indicating the charges made against the licensee and stating that the licensee will be given an opportunity to be heard concerning the charges at a time and place stated in the notice, or at a time and place to be thereafter designated by the Board, and the Board shall hold a public hearing not less than 30 days from the date of the service of notice upon the licensee, at which the licensee may appear personally and through counsel, may cross examine witnesses and present evidence in the licensee's own behalf. A licensee who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the licensee resides. The licensee may file written answers to the charges within 30 days after the service of the notice, which answer shall become a part of the record but shall not constitute evidence in the case.

…."

SECTION 1.(h) This Part is effective when it becomes law.

PART II. PRACTICE AUTHORITY FOR NURSE PRACTITIONERS

SECTION 2.(a) G.S. 90-18 reads as rewritten:

"**§ 90-18. Practicing without license; penalties.**

…

(c) The following shall not constitute practicing medicine or surgery as defined in this Article:

…

(14) The practice of nursing by a ~~registered~~ licensed advanced practice registered nurse engaged in the practice of advanced practice nursing ~~and the performance of acts otherwise constituting medical practice by a registered nurse~~ when performed in accordance with rules and regulations developed by ~~a joint subcommittee of the North Carolina Medical Board and~~ the Board of ~~Nursing and adopted by both boards.~~Nursing. The Board of Nursing shall develop these rules with input from the Nurse Practitioner Advisory Committee.

…."

SECTION 2.(b) G.S. 90-18.2 reads as rewritten:

"**§ 90-18.2. Limitations on nurse practitioners.**

(a) Any nurse approved under the provisions of G.S. 90-18(c)(14) to perform ~~medical acts, tasks~~ advanced nursing practice or functions may use the title "nurse practitioner." Any

other person who uses the title in any form or holds out to be a nurse practitioner or to be so approved, shall be deemed to be in violation of this Article.

(a1) The Nurse Practitioner Advisory Committee (NPAC) is created. The membership of the NPAC shall consist of three nurse practitioners licensed under Article 9A of this Chapter and two physicians licensed under this Article. The NPAC shall assist the Board of Nursing in proposing regulations for nurse practitioner practice pursuant to this Chapter and shall comply with all open meeting requirements.

(a2) Any nurse practitioner with 4,000 hours of practice as a nurse practitioner who has not been disciplined by the Board of Nursing in the preceding five years shall have independent authority to engage in advanced practice nursing.

(a3) A nurse practitioner with less than 4,000 hours of practice as a nurse practitioner shall practice with a collaborating provider.

(b) Nurse practitioners are authorized to write prescriptions for drugs under all of the following conditions:

(1) The ~~North Carolina Medical Board and~~ Board of Nursing ~~have~~ has adopted rules and regulations ~~developed by a joint subcommittee~~ governing the approval of individual nurse practitioners to write prescriptions with such limitations as the ~~boards~~ Board of Nursing may determine to be in the best interest of patient health and safety.

(2) The nurse practitioner has a current ~~approval from the boards.~~advanced practice registered nurse license issued by the Board of Nursing.

(3) Repealed by Session Laws 2019-191, s. 36, effective October 1, 2019.

(4) ~~The supervising physician has provided to~~ If the nurse practitioner is required to have a collaborating provider pursuant to a collaborative provider agreement, the collaborating provider has provided to the nurse practitioner written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the ~~physician~~ collaborating provider of the drugs prescribed.

(5) ~~A~~ If the nurse practitioner is required to have a collaborating provider, the nurse practitioner shall personally consult with the ~~supervising physician~~ collaborating provider prior to prescribing a targeted controlled substance as defined in Article 5 of this Chapter when all of the following conditions apply:

a. The patient is being treated by a facility that primarily engages in the treatment of pain by prescribing narcotic medications.

b. The therapeutic use of the targeted controlled substance will or is expected to exceed a period of 30 days.

When a targeted controlled substance prescribed in accordance with this subdivision is continuously prescribed to the same patient, the nurse practitioner required to have a collaborating provider shall consult with the ~~supervising physician~~ collaborating provider at least once every 90 days to verify that the prescription remains medically appropriate for the patient.

(c) Nurse practitioners are authorized to compound and dispense drugs under the following conditions:

(1) The function is performed under the supervision of a licensed pharmacist; and

(2) Rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.

(d) Nurse practitioners are authorized to order medications, tests and treatments in hospitals, clinics, nursing ~~homes~~ homes, home health, and other health facilities under all of the following conditions:

(1) The ~~North Carolina Medical Board and~~ Board of Nursing ~~have~~ has adopted rules and regulations ~~developed by a joint subcommittee~~ governing the

~~approval~~ licensure of individual nurse practitioners ~~to order medications, tests and~~ for diagnosing, treating, and facilitating patients' management, including prescribing pharmacologic and nonpharmacologic interventions or treatments with such limitations as the ~~boards~~ Board of Nursing may determine to be in the best interest of patient health and safety.

(2) The nurse practitioner has a current ~~approval~~ APRN license from the ~~boards.~~Board of Nursing.

(3) ~~The supervising physician~~ If the nurse practitioner is required to be supervised by a collaborating provider, the collaborating provider has provided to the nurse practitioner written instructions about ordering medications, tests and treatments, and when appropriate, specific oral or written instructions for an individual patient, with provision for review by the ~~physician~~ collaborating provider of the order within a reasonable time, as determined by the ~~Board,~~ Board of Nursing after the medication, test or treatment is ordered.

(4) The hospital or other health facility has adopted a written ~~policy, approved by the medical staff after consultation with the nursing administration,~~ policy about ordering medications, tests and treatments, including procedures for verification of the nurse practitioners' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a nurse practitioner required to have a collaborating provider or order given by a nurse practitioner required to have a collaborating provider for medications, tests or treatments shall be deemed to have been authorized by the ~~physician approved by the boards as the supervisor of the nurse practitioner and such supervising physician~~ collaborating provider, who shall be responsible for authorizing such prescription or order. Nurse practitioners who are not required to have a collaborating provider shall be responsible for their own authorization of prescriptions or orders.

(e1) Any medical certification completed by a nurse practitioner required to have a collaborating provider for a death certificate shall be deemed to have been authorized by the ~~physician~~ collaborating provider approved by the ~~boards as the supervisor of the nurse practitioner,~~ Board of Nursing, and the ~~supervising physician~~ collaborating provider shall be responsible for authorizing the completion of the medical certification. Nurse practitioners who are not required to have a collaborating provider shall be responsible for their own authorization and completion of a death certificate.

(f) Any registered nurse or licensed practical nurse who receives an order from a nurse practitioner for medications, tests or treatments is authorized to perform that ~~order in the same manner as if it were received from a licensed physician.~~order.

(g) Definitions. – For purposes of this section, the following definitions apply:

(1) Advanced nursing practice. – The nursing services provided by an individual licensed as a registered nurse who has completed graduate-level education, passed a national certification examination, and has maintained competency to assume responsibility and accountability for health promotion, complex decision making, maintenance, assessment, diagnosis, and management of patient problems, including the prescribing of pharmacologic and non-pharmacologic interventions.

(2) Advanced Practice Registered Nurse (APRN). – A certified nurse midwife, certified registered nurse anesthetist, clinical nurse specialist, or nurse practitioner licensed by the Board of Nursing who has completed an advanced graduate-level education program in a specialty category of nursing and has passed a national certification examination for that specialty. The Board of Nursing shall issue an Advanced Practice Registered Nurse license to any

individual who meets the criteria in this subdivision and applies to the Board of Nursing for an Advanced Practice Registered Nurse license in a manner the Board shall establish by rule.

(3) Collaborating provider. – A physician licensed under this Article with at least 8,000 hours of practice experience, or a nurse practitioner licensed under Article 9A of this Chapter with at least 8,000 hours of practice experience. Collaborating providers must be in good standing with their licensing boards and not have received any professional discipline in the preceding five years.

(4) Collaborative provider agreement. – The arrangement between a nurse practitioner and collaborating provider that provides for the continuous availability to each other for ongoing supervision, consultation, collaboration, referral, and evaluation of care provided by the nurse practitioner."

SECTION 2.(c) G.S. 90-171.27(b) reads as rewritten:

"**§ 90-171.27. Expenses payable from fees collected by Board.**

…

(b) The schedule of fees shall not exceed the following rates:

Application for license as advanced practice registered nurse	$100.00
Renewal of license to practice as advanced practice registered nurse (two-year period)	100.00
Reinstatement of lapsed license to practice as advanced practice registered nurse and renewal fee	180.00
Application for examination leading to ~~certificate and~~ license as registered nurse	~~$75.00~~75.00
Application for ~~certificate and~~ license as registered nurse by endorsement	150.00
Application for each re-examination leading to ~~certificate and~~ license as registered nurse	75.00
Renewal of license to practice as registered nurse (two-year period)	100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	180.00
Application for examination leading to ~~certificate and~~ license as licensed practical nurse by examination	75.00
Application for ~~certificate and~~ license as licensed practical nurse by endorsement	150.00
Application for each re-examination leading to ~~certificate and~~ license as licensed practical nurse	75.00
Renewal of license to practice as a licensed practical nurse (two-year period)	100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee	180.00
Application fee for retired registered nurse status or retired licensed practical nurse status	50.00
Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period)	100.00
Reasonable charge for duplication services and materials.	

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%)."

SECTION 2.(d) No later than January 1, 2025, the Board of Nursing shall adopt rules to implement the provisions of this Part.

SECTION 2.(e) Sections 2(a), 2(b), and 2(c) of this Part are effective January 1, 2025. The remainder of this Part is effective when it becomes law.

PART III. ANESTHESIA SERVICE FLEXIBILITY

SECTION 3.(a) Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-18.9. Anesthesiologist TEFRA compliance.**

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

(1) Anesthesia care. – The performance of activities by a certified registered nurse anesthetist under 21 NCAC 36 .0226.

(2) Anesthesiologist. – A licensed physician who has successfully completed an anesthesiology training program approved by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association or who is credentialed to practice anesthesiology by a hospital or an ambulatory surgical facility.

(3) Certified registered nurse anesthetist. – A licensed registered nurse who completes a program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs, is credentialed as a certified registered nurse anesthetist by the Council on Certification of Nurse Anesthetists, and who maintains recertification through the Council on Recertification of Nurse Anesthetists and performs nurse anesthesia activities in collaboration with a physician, dentist, podiatrist, or other lawfully qualified health care provider. Nurse anesthesia activities do not constitute the practice of medicine.

(4) Medical direction. – The direction of anesthesia care by an anesthesiologist to up to four certified registered nurse anesthetists performing concurrent cases.

(5) TEFRA. – The Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248.

(b) Compliance. – Consistent with TEFRA, an anesthesiologist providing medical direction to a certified registered nurse anesthetist performing anesthesia care must comply with all of the following requirements in order to bill any third-party payor for medical direction services:

(1) Perform a pre-anesthetic examination and evaluation and document it in the medical record.

(2) Prescribe the anesthesia plan.

(3) Personally participate in and document the most demanding procedures in the anesthesia plan, including induction and emergence, if applicable.

(4) Ensure that any procedures in the anesthesia plan that the anesthesiologist does not perform are performed by a certified nurse anesthetist or anesthesiologist assistant, as appropriate.

(5) Monitor the course of anesthesia administration at frequent intervals and document that they were present during some portion of the anesthesia monitoring.

(6) Remain physically present and available for immediate diagnosis and treatment of emergencies."

SECTION 3.(b) Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-3-301. Medical direction of nurse anesthetists.**

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

(1) Anesthesia care. – The performance of activities by a certified registered nurse anesthetist under 21 NCAC 36 .0226.

(2) Anesthesiologist. – A licensed physician who has successfully completed an anesthesiology training program approved by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association or who is credentialed to practice anesthesiology by a hospital or an ambulatory surgical facility.

(3) Certified registered nurse anesthetist. – A licensed registered nurse who completes a program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs, is credentialed as a certified registered nurse anesthetist by the Council on Certification of Nurse Anesthetists, and who maintains recertification through the Council on Recertification of Nurse Anesthetists and performs nurse anesthesia activities in collaboration with a physician, dentist, podiatrist, or other lawfully qualified health care provider. Nurse anesthesia activities do not constitute the practice of medicine.

(4) Medical direction. – The direction of anesthesia care by an anesthesiologist to up to four certified registered nurse anesthetists performing concurrent cases.

(5) TEFRA. – The Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248.

(b) An insurer offering a health benefit plan in this State shall reimburse claims for medical direction of a nurse anesthetist at fifty percent (50%) of the rate of reimbursement the anesthesiologist would have received for services if the services had been performed without the nurse anesthetist.

(c) Consistent with TEFRA, an insurer offering a health benefit plan in this State shall require that any anesthesiologist providing medical direction to a certified registered nurse anesthetist performing anesthesia care comply with all of the following requirements in order for a claim for medical direction services to be payable under that health benefit plan:

(1) Perform a pre-anesthetic examination and evaluation and document it in the medical record.

(2) Prescribe the anesthesia plan.

(3) Personally participate in and document the most demanding procedures in the anesthesia plan, including induction and emergence, if applicable.

(4) Ensure that any procedures in the anesthesia plan that the anesthesiologist does not perform are performed by a certified nurse anesthetist or anesthesiologist assistant, as appropriate.

(5) Monitor the course of anesthesia administration at frequent intervals and document that they were present during some portion of the anesthesia monitoring.

(6) Remain physically present and available for immediate diagnosis and treatment of emergencies.

(7) Provide indicated post-anesthesia care."

SECTION 3.(c) G.S. 135-48.51 reads as rewritten:

"**§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General Statutes.**

The following provisions of Chapter 58 of the General Statutes apply to the State Health Plan:

…

(11a) G.S. 58-3-301, Medical direction of nurse anesthetists.

…."

SECTION 3.(d) G.S. 58-93-120 reads as rewritten:

"**§ 58-93-120. Other laws applicable to PHPs.**

The following provisions of this Chapter are applicable to PHPs in the manner in which they are applicable to insurers:

…

(14a) G.S. 58-3-301, Medical direction of nurse anesthetists.

…."

SECTION 3.(e) The Department of Health and Human Services, Division of Health Benefits (DHB), shall review the Medicaid State Plan and all applicable Medicaid clinical coverage policies to ensure that the Medicaid program is paying anesthesiologists for medical direction of nurse anesthetists at fifty percent (50%) of the reimbursement the anesthesiologists would receive if they performed the work alone. DHB shall further ensure that all requirements for reimbursement of anesthesiologist medical direction services are in compliance with the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248 (TEFRA). This includes verification that all prepaid health plans and local management entities/managed care organizations are also in compliance.

SECTION 3.(f) Section 3(a) of this Part is effective October 1, 2024, and applies to services rendered on or after that date. Sections 3(b) and 3(c) of this Part are effective October 1, 2024, and apply to insurance contracts issued, renewed, or amended on or after that date. The remainder of this Part is effective when it becomes law.

PART IV. OUT-OF-NETWORK BILLING NOTIFICATION

SECTION 4.(a) Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-3-295. Contract requirements for limitations on billing by in-network health service facilities.**

(a) The following definitions apply in this section:

(1) Health service facility. – As defined in G.S. 131E-176(9b) and including any office location of the facility.

(2) Healthcare provider. – Any individual licensed, registered, or certified under Chapter 90 of the General Statutes, or under the laws of another state, to provide healthcare services in the ordinary care of business or practice, as a profession, or in an approved education or training program in any of the following:

a. Anesthesia or anesthesiology.

b. Emergency services, as defined under G.S. 58-3-190(g).

c. Pathology.

d. Radiology.

e. Rendering assistance to a physician performing any of the services listed in this subdivision.

(3) Out-of-network provider. – A healthcare provider that has not entered into a contract or agreement with an insurer to participate in one or more of the insurer's provider networks for the provision of healthcare services at a pre-negotiated rate.

(b) All contracts or agreements for participation as an in-network health service facility between an insurer offering at least one health benefit plan in this State and a health service facility at which there are out-of-network providers who may be part of the provision of covered services to an insured while receiving care at the health service facility shall require that an in-network health service facility give written notification to an insured that has scheduled an appointment at that health service facility and receive signed confirmation from an insured that the written notice has been received.

(c) The written notice described in subsection (b) of this section shall include all of the following:

(1) All of the healthcare providers that will be rendering services to the insured and that are not participating as in-network healthcare providers in the applicable insurer's network.

(2) The estimated cost to the insured of the covered healthcare services being rendered by the out-of-network providers identified in subdivision (1) of this subsection.

(d) The written notice required under subsection (b) of this section shall be given at least 72 hours prior to the rendering of healthcare services at the in-network health service facility. If there are not at least 72 hours between the time that the appointment for healthcare services is made and the scheduled appointment, then the in-network health service facility shall give the required written notice to the insured on the day the appointment is scheduled, unless the healthcare services provided are emergency services, as defined in G.S. 58-3-190(g). If the healthcare services provided are emergency services, then the in-network health service facility shall give written notice to the insured as soon as reasonably possible.

(e) The signed proof of receipt of written notice required under subsection (b) of this section shall be obtained by the in-network prior to the healthcare services being provided, unless the healthcare services provided are emergency services, as defined in G.S. 58-3-190(g). If the healthcare services provided are emergency services, the signed proof of receipt of written notice shall be obtained as soon as reasonably possible.

(f) If any provision of this section conflicts with the federal Consolidated Appropriations Act, 2021, P.L. 116-260, and any amendments to that act or regulations promulgated pursuant to that act, then the provisions of P.L. 116-260 will be applied."

SECTION 4.(b) This Part is effective October 1, 2024, and applies to contracts entered into, amended, or renewed on or after that date.

PART V. FACILITY FEES

SECTION 5.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"**§ 131E-274. Facility fees.**

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

(1) Campus. – The main building of a hospital, the physical area immediately adjacent to a hospital's main building, other structures not contiguous to the main building of a hospital that are within 250 yards of the main building, or any other area that has been determined to be part of a hospital's campus by the Centers for Medicare and Medicaid Services.

(2) Facility fee. – Any fee charged or billed by a health care provider for outpatient services provided in a hospital-based facility that is (i) intended to compensate the health care provider for the operational expenses of the health care provider, (ii) separate and distinct from a professional fee, and (iii) charged regardless of the modality through which the health care services were provided.

(3) Health care provider. – As defined in G.S. 90-410.

(4) Health systems. – A parent corporation of one or more hospitals and any entity affiliated with that parent corporation through ownership, governance, membership, or other means, or a hospital and any entity affiliated with that hospital through ownership, governance, membership, or other means.

(5) Hospital. – As defined in G.S. 131E-76.

(6) Hospital-based facility. – A facility that is owned or operated, in whole or in part, by a hospital where hospital or professional medical services are provided.

(7) Professional fee. – Any fee charged or billed by a provider for professional medical services provided in a hospital-based facility.

(8) Remote location of a hospital. – A hospital-based facility that is created by a hospital for the purpose of furnishing services under the name, ownership, and

financial and administrative control of the hospital. This does not include any healthcare organization or facility that was acquired or purchased by a hospital.

(b) Limits on Facility Fees. – The following limitations are applicable to facility fees:

(1) No health care provider shall charge, bill, or collect a facility fee unless the services are provided on a hospital's main campus, at a remote location of a hospital, or at a facility that includes an emergency department.

(2) Regardless of where the services are provided, no health care provider shall charge, bill, or collect a facility fee to outpatient evaluation and management services, or any other outpatient, diagnostic, or imaging services identified by the Department.

(c) Identification of Services. – The Department shall annually identify services subject to the limitations on facility fees provided in subdivision (2) of subsection (b) of this section that may reliably be provided safely and effectively in non-hospital settings.

(d) Reporting Requirements. – Each hospital and health system shall submit a report to the Department annually on July 1. The report shall be published on the Department's website and shall contain the following:

(1) The name and full address of each facility owned or operated by the hospital or health system that provides services for which a facility fee is charged or billed.

(2) The number of patient visits at each such hospital-based facility for which a facility fee was charged or billed.

(3) The number, total amount, and range of allowable facility fees paid at each facility by Medicare, Medicaid, and private insurance.

(4) For each hospital-based facility and for the hospital or health system as a whole, the total amount billed and the total revenue received from facility fees.

(5) The top 10 procedures or services, identified by current procedural terminology (CPT) category I codes, provided by the hospital or health system that generated the greatest amount of facility fee gross revenue; the number of each of these 10 procedures or services provided; the gross and net revenue totals for each such procedure or service; and, the total net amount of revenue received by the hospital or health system derived from facility fees for each procedure or service.

(6) Any other information the Department may require.

(e) Enforcement. – This section shall be enforced as follows:

(1) Any violation of any provision of this section shall be considered an unfair and deceptive trade practice and shall be subject to the provisions of Article 1 of Chapter 75 of the General Statutes.

(2) In addition to the remedies described in subdivision (1) of this subsection, any health care provider who violates any provision of this section shall be subject to an administrative penalty of not more than one thousand dollars ($1,000) per occurrence."

SECTION 5.(b) No later than January 1, 2025, the Department of Health and Human Services shall adopt rules necessary to implement the provisions of this section.

SECTION 5.(c) Section 5(a) of this Part is effective January 1, 2025. The remainder of this Part is effective when it becomes law.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.