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(Public)

Sponsors:

Referred to:

March 28, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR VARIOUS ADMINISTRATIVE REFORMS OF THE HEALTH AND SAFETY LAWS BY UPDATING OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, BY STUDYING HEALTH AND SAFETY MATTERS OF CONCERN TO NORTH CAROLINA CITIZENS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

AUTISM HEALTH INSURANCE COVERAGE

SECTION 1.(a) Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-192. Coverage for autism spectrum disorders.

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

- (1) Applied behavior analysis. – The design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
- (2) Autism spectrum disorder. – Any of the pervasive developmental disorders or autism spectrum disorders, as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the most recent edition of the International Statistical Classification of Diseases and Related Health Problems.
- (3) Behavioral health treatment. – Counseling and treatment programs, including applied behavior analysis, that are both of the following:
 - a. 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. Provided or supervised by (i) a Board Certified Behavior Analyst or (ii) a licensed psychologist or licensed psychological associate, so



- 1 long as the services performed are commensurate with the
2 psychologist's training and experience.
- 3 (4) Diagnosis of autism spectrum disorder. – Any medically necessary
4 assessments, evaluations, or tests to determine whether an individual has
5 autism spectrum disorder.
- 6 (5) Health benefit plan. – As defined in G.S. 58-3-167.
- 7 (6) Pharmacy care. – Medications prescribed by a licensed physician and any
8 health-related services deemed medically necessary to determine the need
9 for or effectiveness of the medications.
- 10 (7) Psychiatric care. – Direct or consultative services provided by a licensed
11 psychiatrist.
- 12 (8) Psychological care. – Direct or consultative services provided by a licensed
13 psychologist or licensed psychological associate.
- 14 (9) Therapeutic care. – Direct or consultative services provided by a licensed
15 speech therapist, licensed occupational therapist, licensed physical therapist,
16 licensed clinical social worker, or licensed professional counselor.
- 17 (10) Treatment for autism spectrum disorders. – Any of the following care for an
18 individual diagnosed with autism spectrum disorder, or equipment related to
19 that care, ordered by a licensed physician or a licensed psychologist who
20 determines the care to be medically necessary:
- 21 a. Behavioral health treatment.
- 22 b. Pharmacy care.
- 23 c. Psychiatric care.
- 24 d. Psychological care.
- 25 e. Therapeutic care.
- 26 (b) Every health benefit plan shall provide coverage for the screening, diagnosis, and
27 treatment of autism spectrum disorder for individuals 23 years of age or younger. No insurer
28 shall terminate coverage or refuse to issue, amend, or renew coverage to an individual solely
29 because the individual is diagnosed with autism spectrum disorder or has received treatment for
30 autism spectrum disorder. Individuals must have received a diagnosis of autism spectrum
31 disorder prior to the age of eight to qualify for required coverage under this section.
- 32 (c) Coverage under this section may not be subject to any limits on the number of visits
33 an individual may have for treatment of autism spectrum disorder.
- 34 (d) Coverage under this section may not be denied on the basis that the treatments are
35 habilitative or educational in nature.
- 36 (e) Coverage under this section may be subject to co-payment, deductible, and
37 coinsurance provisions of a health benefit plan that are not less favorable than the co-payment,
38 deductible, and coinsurance provisions that apply to substantially all medical services covered
39 by the health benefit plan.
- 40 (f) This section shall not be construed as limiting benefits that are otherwise available
41 to an individual under a health benefit plan.
- 42 (g) Coverage for behavioral health treatment under this section may be subject to a
43 maximum benefit of up to thirty-six thousand dollars (\$36,000) per year.
- 44 (h) Except for inpatient services, if an individual is receiving treatment for autism
45 spectrum disorder, an insurer shall have the right to request a review of that treatment not more
46 than once annually, unless the insurer and the individual's licensed physician or the individual's
47 licensed psychologist agree that a more frequent review is necessary. Any such agreement
48 regarding the right to review a treatment plan more frequently shall apply only to a particular
49 insured being treated for an autism spectrum disorder and shall not apply to all individuals
50 being treated for autism spectrum disorder by a physician or psychologist. The cost of
51 obtaining any review shall be borne by the insurer.

1 (i) Nothing in this section shall apply to non-grandfathered health plans in the
2 individual and small group markets that are subject to the requirement to cover the essential
3 health benefit package under 45 C.F.R. § 147.150(a). For purposes of this subsection,
4 "non-grandfathered health plan" is a health benefit plan not included in the plans defined under
5 G.S. 58-50-110(10a).

6 (j) This section shall not be construed as affecting any obligation to provide services to
7 an individual under an individualized family service plan, an individualized education program,
8 or an individualized service plan.

9 (k) The Commissioner of Insurance shall grant a health benefit plan issuer a waiver
10 from the provisions of this section for a health benefit plan if the issuer demonstrates to the
11 Commissioner, by actual claims experience over any consecutive 12-month period, that
12 compliance with this section has increased the cost of the health benefit plan by an amount of
13 one percent (1%) or greater in the premium rate charged under the health benefit plan over the
14 most recent calendar year."

15 **SECTION 1.(b)** Article 3 of Chapter 58 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 58-3-305. Report on mandated coverage requirements.**

18 (a) Each health insurance issuer that issues, sells, offers, or renews a health benefit plan
19 in this State shall submit a biennial report, on or before the first day of May of each
20 odd-numbered year, to the Commissioner with the following information:

21 (1) The cost and utilization information for each of the mandated coverage
22 requirements per number of covered lives per month.

23 (2) The number of members covered by the health insurance issuer.

24 (3) Any additional information specified in rules adopted by the Commissioner.

25 (b) The report required under subsection (a) of this section shall be in detail and form as
26 required by the Commissioner. Information provided in any report required under subsection
27 (a) of this section shall be held confidential by the Commissioner and shall not be considered a
28 public record.

29 (c) The Commissioner shall consolidate the information contained in the reports
30 received under subsection (a) of this section and report to the General Assembly, not later than
31 the first day of October of each odd-numbered year, the following information:

32 (1) The mandated coverage requirements contained in the report.

33 (2) The average costs of the mandated coverage requirements per number of
34 covered lives per month and the effect of those costs on premium pricing.

35 (3) The average utilization of services that are mandated coverage requirements.

36 (4) Other such information that the Commissioner deems appropriate.

37 (d) As used in this section, the following definitions apply:

38 (1) Health benefit plan. – As defined in G.S. 58-3-167.

39 (2) Mandated coverage requirements. – Benefits specific to care, treatment, and
40 services that an insurer is required to offer, as well as benefits relating to
41 coverage of provider types, cost-sharing, or reimbursement methods."

42 **SECTION 1.(c)** The Commissioner shall adopt rules implementing Section 1(b) of
43 this section and may adopt temporary rules as necessary to ensure that the reports required by
44 G.S. 58-3-305(a) are received by May 1, 2015.

45 **SECTION 1.(d)** Section 1(a) of this section becomes effective October 1, 2014,
46 and applies to insurance contracts issued, renewed, or amended on or after that date.

47
48 **BEHAVIOR ANALYST LICENSURE**

49 **SECTION 2.(a)** Chapter 90 of the General Statutes is amended by adding a new
50 Article to read:

51 "Article 43.

"Behavior Analyst Licensure.**"§ 90-726.1. Declaration of purpose.**

The practice of behavior analysis in North Carolina is hereby declared to affect the public health, safety, and welfare of citizens of North Carolina and to be subject to regulation to protect the public from (i) the practice of behavior analysis by unqualified persons and (ii) unprofessional, unethical, or harmful conduct by individuals licensed to practice behavior analysis.

"§ 90-726.2. Definitions.

The following definitions apply in this Article:

- (1) Board. – The North Carolina Behavior Analyst Board.
- (2) Certifying entity. – The nationally accredited Behavior Analyst Certification Board, Inc., or its successor.
- (3) Licensed assistant behavior analyst. – An individual who is certified by the certifying entity as a Board Certified Assistant Behavior Analyst and to whom a license has been issued pursuant to this Article, if the license is in force and not suspended or revoked, and whose license permits the individual to engage in the practice of behavior analysis under the supervision of a licensed behavior analyst.
- (4) Licensed behavior analyst. – An individual who is certified by the certifying entity as a Board Certified Behavior Analyst and to whom a license has been issued pursuant to this Article, if the license is in force and not suspended or revoked.
- (5) Practice of behavior analysis. – The design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Behavior analysis interventions are based on scientific research and the direct observation and measurement of behavior and the environment. In the practice of behavior analysis, behavior analysts utilize contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions. The practice of behavior analysis expressly excludes psychological testing, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.
- (6) Registered Behavior Technician. – An individual who is credentialed by the certifying entity as a Registered Behavior Technician and who acts under the extended authority or direction of a licensed behavior analyst or a licensed assistant behavior analyst.

"§ 90-726.3. North Carolina Behavior Analysis Board.

(a) Establishment. – The North Carolina Behavior Analysis Board is created. The Board shall consist of seven members who shall serve staggered terms. The initial Board shall be selected on or before August 1, 2014, as follows:

- (1) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint the following three members:
 - a. One behavior analyst, who is certified by the certifying entity as a Board Certified Behavior Analyst, to serve a one-year term.

1 b. One behavior analyst, who is certified by the certifying entity
2 as a Board Certified Behavior Analyst, to serve a two-year
3 term.

4 c. One assistant behavior analyst, who is certified by the
5 certifying entity as a Board Certified Assistant Behavior
6 Analyst, to serve a three-year term.

7 (2) The General Assembly, upon the recommendation of the President Pro
8 Tempore of the Senate, shall appoint the following three members:

9 a. One assistant behavior analyst, who is certified by the
10 certifying entity as a Board Certified Assistant Behavior
11 Analyst, to serve a one-year term.

12 b. One behavior analyst, who is certified by the certifying entity
13 as a Board Certified Behavior Analyst, to serve a two-year
14 term.

15 c. One behavior analyst, who is certified by the certifying entity
16 as a Board Certified Behavior Analyst, to serve a three-year
17 term.

18 (3) The Governor shall appoint one public member to serve a two-year term.

19 Upon the expiration of the terms of the initial Board members, each member shall be
20 appointed by the appointing authorities designated in subdivisions (1) through (3) of this
21 subsection for a three-year term, shall be required to be licensed under this Article, and shall
22 serve until a successor is appointed and qualified. No member may serve more than two
23 consecutive full terms.

24 (b) Vacancies. – In the event that a member of the Board cannot complete a term of
25 office, the vacancy shall be filled in the same manner as the original appointment, for the
26 remainder of the unexpired term. No Board member shall participate in any matter before the
27 Board in which the member has a pecuniary interest or similar conflict of interest.

28 (c) Removal. – The Board may remove any of its members for neglect of duty,
29 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall
30 be disqualified from participating in Board business until the charges have been resolved.

31 (d) Meetings. – The Board shall elect annually a chair and other officers as it deems
32 necessary to carry out the purposes of this Article. The Board may hold additional meetings
33 upon the call of the chairperson or any two board members. A majority of the Board shall
34 constitute a quorum.

35 (e) Per Diem. – Each member of the Board may receive per diem and reimbursement
36 for travel and subsistence set forth in G.S. 93B-5.

37 **"§ 90-726.4. Powers and duties of Board.**

38 The Board shall have the following powers and duties:

39 (1) Administer, coordinate, and enforce the provisions of this Article.

40 (2) Adopt, amend, or repeal rules to administer and enforce this Article.

41 (3) Establish and determine qualification and fitness of applicants for licensure
42 under this Article.

43 (4) Issue, renew, and deny, suspend, revoke, or refuse to issue or renew any
44 license under this Article.

45 (5) Establish fees for applications, initial and renewal licenses, and other
46 services provided by the Board.

47 (6) Discipline persons licensed under this Article.

48 **"§ 90-726.5. License application.**

49 (a) Each individual desiring to obtain a license under this Article shall apply to the
50 Board upon the form and in the manner prescribed by the Board. Each applicant shall furnish
51 evidence satisfactory to the Board that the applicant meets all of the following criteria:

- 1 (1) The individual is of good moral character and conducts his or her
2 professional activities in accordance with accepted professional and ethical
3 standards.
- 4 (2) The individual has not engaged in or is not engaged in any practice that
5 would be a ground for denial, revocation, or suspension of a license under
6 G.S. 90-726.11.
- 7 (3) The individual has submitted the required criminal history record, as
8 required by G.S. 90-726.13.
- 9 (4) The individual is qualified for licensure pursuant to the requirements of this
10 Article.

11 (b) A license obtained through fraud or by any false representation is void.

12 **"§ 90-726.6. Requirements for licensure as a behavior analyst.**

13 Each applicant shall be issued a license by the Board to engage in the practice of behavior
14 analysis as a licensed behavior analyst if the applicant meets the qualifications set forth in
15 G.S. 90-726.5(a) and provides satisfactory evidence to the Board of all the following criteria:

- 16 (1) The applicant has passed the certifying entity's Board Certified Behavior
17 Analyst examination.
- 18 (2) The applicant has an active status with the certifying entity as a Board
19 Certified Behavior Analyst.

20 **"§ 90-726.7. Requirement of licensure as an assistant behavior analyst.**

21 Each applicant shall be issued a license by the Board to engage in the practice of behavior
22 analysis as a licensed assistant behavior analyst if the applicant meets the qualifications set
23 forth in G.S. 90-726.5(a) and provides satisfactory evidence to the Board of all the following
24 criteria:

- 25 (1) The applicant has passed the certifying entity's Board Certified Assistant
26 Behavior Analyst examination.
- 27 (2) The applicant has an active status with the certifying entity as a Board
28 Certified Assistant Behavior Analyst.
- 29 (3) The applicant has an ongoing arrangement for supervision by a licensed
30 behavior analyst in a manner consistent with the certifying entity's
31 requirements for supervision of Board Certified Assistant Behavior
32 Analysts.

33 **"§ 90-726.8. Renewal of license.**

34 (a) A license shall be granted under this Article for the period of two years.

35 (b) The Board shall renew a license granted under this Article upon completion of the
36 following:

- 37 (1) Proof of completion of any continuing education required by the certifying
38 entity.
- 39 (2) Payment of the renewal fee.
- 40 (3) Evidence of active certification by certifying entity.
- 41 (4) For assistant behavior analysts, evidence of the ongoing arrangement for
42 supervision by a licensed behavior analyst, as required by G.S. 90-726.7.

43 **"§ 90-726.9. Temporary licensure.**

44 (a) An individual residing and practicing behavior analysis in another state and who is
45 certified as Board Certified Behavior Analyst by the certifying entity may apply to the Board
46 for a temporary license to practice behavior analysis in North Carolina.

47 (b) An individual residing and practicing behavior analysis in another state who is
48 actively licensed in another state as a behavior analyst may apply to the Board for a temporary
49 license to practice behavior analysis in North Carolina.

50 (c) A temporary license is available only if the behavior analysis services are to be
51 delivered during a limited and defined period of service approved by the Board.

"§ 90-726.10. Reciprocity.

(a) The Board shall issue a license to an individual who is actively licensed as a behavior analyst or assistant behavior analyst in another state that currently imposes comparable licensure requirements as those imposed by this Article and that offers reciprocity to individuals licensed under this Article.

(b) Applicants for licensure by reciprocity shall submit the following items:

(1) Proof of ethical compliance.

(2) Proof of current licensure.

(3) Proof of current certification by the certifying entity.

(4) A criminal history record check as required by G.S. 90-726.13.

(5) Any other eligibility requirement as deemed appropriate by the Board.

"§ 90-726.11. Sanction of licensee status.

(a) The Board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions on a license upon demonstration of ineligibility for licensure under this Article, failure to maintain active certification by the certifying entity, falsification of documentation submitted for licensure, or other reasons as specified in rules adopted by the Board.

(b) The denial, refusal to renew, suspension, revocation, or imposition of a probationary condition upon a license may be ordered by the Board after a hearing is held in accordance with Chapter 150B of the General Statutes and rules adopted by the Board.

"§ 90-726.12. Fees.

The Board may collect fees established by its rules, but those fees shall not exceed the amounts listed below:

(1) Application fee for licensure \$250.00

(2) License renewal \$200.00

(3) Late renewal fee \$50.00

(4) Reciprocal license application \$250.00

(5) Temporary license application \$100.00

"§ 90-726.13. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be borne by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of 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.

1 (6) The applicant's prison, jail, probation, parole, rehabilitation, and
2 employment records since the date the crime was committed.

3 If, after reviewing the factors, the Board determines that any of the grounds to deny
4 licensure exist, the Board may deny licensure of the applicant. The Board may disclose to the
5 applicant information contained in the criminal history record that is relevant to the denial if
6 disclosure of the information is permitted by applicable State and federal law. The Board shall
7 not provide a copy of the criminal history to the applicant. The applicant shall have the right to
8 appear before the Board to appeal the Board's decision. An appearance before the full Board
9 shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of
10 the General Statutes.

11 (d) The Board, its officers, and employees, acting in good faith and in compliance with
12 this section, shall be immune from civil liability for denying licensure to an applicant based on
13 information provided in the applicant's criminal history record."

14 **SECTION 2.(b)** Article 43 of Chapter 90 of the General Statutes is amended by
15 adding the following new sections to read:

16 **"§ 90-726.14. Prohibited acts and penalties.**

17 (a) Except as permitted in G.S. 90-726.16, it shall be a violation of this Article for any
18 person not licensed in accordance with the provisions of this Article to practice behavior
19 analysis or to hold himself or herself out to the public as a person practicing behavior analysis.

20 (b) Any person not licensed in accordance with the provisions of this Article practicing
21 behavior analysis or holding himself or herself out to the public as a person practicing behavior
22 analysis in violation of this Article is guilty of a Class 2 misdemeanor. Each violation shall
23 count as a separate offense.

24 **"§ 90-726.15. Injunction.**

25 The Board may apply to the superior court for an injunction to prevent violations of this
26 Article or any rules enacted pursuant thereto. The court is empowered to grant such injunctions
27 regardless of whether criminal prosecution or other action has been or may be instituted as a
28 result of such violation.

29 **"§ 90-726.16. Exemptions from licensure.**

30 (a) A person is exempt from the requirements of this Article if any of the following
31 conditions are met:

32 (1) The person is a duly licensed psychologist or psychological associate in this
33 State, or a person providing ancillary services pursuant to G.S. 90-270.21.

34 (2) The person is a Registered Behavior Technician and is acting under the
35 extended authority or direction of a licensed behavior analyst or a licensed
36 assistant behavior analyst.

37 (3) The person is a family member, guardian, or other caretaker implementing a
38 behavior analysis treatment plan under the direction of a licensed behavior
39 analyst or a licensed assistant behavior analyst.

40 (4) The person engages in the practice of behavior analysis with nonhuman
41 subjects. This includes, but is not limited to, persons who are animal
42 behaviorists and animal trainers.

43 (5) The person provides general behavior analysis services to organizations, so
44 long as the services are for the benefit of the organizations and do not
45 involve direct services to individuals.

46 (6) The person is a professional licensed under this Chapter or Chapter 90B of
47 the General Statutes, so long as the licensed professional does not represent
48 that he or she is a licensed behavior analyst or licensed assistant behavior
49 analyst and the services of the licensed professional are within the scope of
50 practice of the license possessed by that professional and the services

1 performed are commensurate with the licensed professional's education,
2 training, and experience.

3 (7) The activities are part of a defined college or university course program of
4 study, practicum, or intensive practicum, so long as that person is under
5 direct supervision of (i) a licensed behavior analyst, (ii) an instructor in a
6 course sequence approved by the certifying entity, or (iii) a qualified faculty
7 member.

8 (8) The person is pursuing experience in behavior analysis consistent with the
9 certifying entity's experience requirements, so long as the person's activities
10 are supervised by a licensed behavior analyst.

11 (9) The behavior analysis services are performed with a student while the person
12 is employed by a local board of education as part of the person's position or
13 regular duties of office. Any person exempted from this Article under this
14 subdivision who does not possess a license under this Article shall not
15 provide or offer to provide behavior analysis services to any persons other
16 than students and shall not accept remuneration for providing behavior
17 analysis services other than the remuneration received from the local board
18 of education."

19 **SECTION 2.(c)** G.S. 90-270.4 is amended by adding a new subsection to read:

20 "(f1) Nothing in this Article shall be construed to prevent a behavior analyst or an
21 assistant behavior analyst licensed under Article 43 of Chapter 90 of the General Statutes from
22 offering services within the scope of practice authorized by the North Carolina Behavior
23 Analysis Board."

24 **SECTION 2.(d)** The North Carolina Behavior Analysis Board shall adopt
25 temporary rules to implement this section no later than November 1, 2014. The temporary rules
26 shall remain in effect until permanent rules that replace the temporary rules become effective.

27 **SECTION 2.(e)** Section 2(b) and Section 2(c) of this section become effective
28 January 1, 2015.

30 PHARMACY BENEFITS MANAGEMENT REGULATION

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

33 "Article 56A.

34 "Pharmacy Benefits Management.

35 **"§ 58-56A-1. Definitions.**

36 The following definitions apply in this Article:

37 (1) Health benefit plan. – As defined in G.S. 58-50-110(11). This definition
38 specifically excludes the State Health Plan for Teachers and State
39 Employees.

40 (2) Insurer. – Any entity that provides or offers a health benefit plan.

41 (3) Maximum allowable cost price. – The maximum per unit reimbursement for
42 multiple source prescription drugs, medical products, or devices.

43 (4) Pharmacy. – A pharmacy registered with the North Carolina Board of
44 Pharmacy.

45 (5) Pharmacy benefits manager. – An entity who contracts with a pharmacy on
46 behalf of an insurer or third-party administrator to administer or manage
47 prescription drug benefits.

48 (6) Third-party administrator. – As defined in G.S. 58-56-2.

49 **"§ 58-56A-3. Maximum allowable cost price.**

1 (a) In order to place a prescription drug on the maximum allowable cost price list, the
2 drug must be available for purchase by pharmacies in North Carolina from national or regional
3 wholesalers, must not be obsolete, and must meet one of the following conditions:

- 4 (1) The drug is listed as "A" or "B" rated in the most recent version of the
5 United States Food and Drug Administration's Approved Drug Products with
6 Therapeutic Equivalence Evaluations, also known as the Orange Book.
7 (2) The drug has a "NR" or "NA" rating, or a similar rating, by a nationally
8 recognized reference.

9 (b) A pharmacy benefits manager shall adjust or remove the maximum allowable cost
10 price for a prescription drug to remain consistent with changes in the national marketplace for
11 prescription drugs. A review of the maximum allowable cost prices for removal or modification
12 shall be completed by the pharmacy benefits manager at least once every seven business days,
13 and any removal or modification shall occur within seven business days of the review. A
14 pharmacy benefits manager shall provide a means by which the contracted pharmacies may
15 promptly review current prices in an electronic, print, or telephonic format within one business
16 day of the removal or modification."

17 **SECTION 3.(b)** The Department of Insurance, in collaboration with the
18 Department of Commerce and the North Carolina Board of Pharmacy, shall study the issue of
19 pharmacy benefits management company regulation. Specifically, the study shall include: (i)
20 frequency of disclosure of and methodology for calculating maximum allowable cost prices by
21 the pharmacy benefits management companies; (ii) appeals procedures for pharmacies relating
22 to maximum allowable cost pricing; (iii) consumer protections and the disclosure of consumer
23 health information by pharmacy benefits managers; (iv) regulation of the various forms of
24 incentives offered to a consumer by pharmacy benefits managers and its effects on choice of
25 pharmacy; and (v) any further industry regulation deemed necessary to study. The Department
26 of Insurance shall report the collective findings and recommendations, including any proposed
27 legislation, to the 2015 General Assembly on or before January 20, 2015.

28 **SECTION 3.(c)** Section 3(a) of this section becomes effective January 1, 2015, and
29 applies to contracts entered into, renewed, or amended on or after that date.
30

31 **LIMITED FOOD SERVICES AT LODGING FACILITIES**

32 **SECTION 4.(a)** G.S. 130A-247(7) reads as rewritten:

33 (7) "Limited food services establishment" means an establishment as described
34 in G.S. 130A-248(a4), with food handling operations that are restricted by
35 rules adopted by the Commission pursuant to G.S. 130A-248(a4) and that
36 prepares or serves food only in conjunction with amateur athletic events.
37 Limited food service establishment also includes lodging facilities that serve
38 only reheated food that has already been pre-cooked."

39 **SECTION 4.(b)** G.S. 130A-148(a4) reads as rewritten:

40 (a4) For the protection of the public health, the Commission shall adopt rules governing
41 the sanitation of limited food service establishments. In adopting the rules, the Commission
42 shall not limit the number of days that limited food service establishments may operate.
43 Limited food service establishment permits shall be issued only to the following:

- 44 (1) ~~political~~ Political subdivisions of the ~~State,~~ State.
45 (2) ~~establishments~~ Establishments operated by volunteers that prepare or serve
46 food in conjunction with amateur athletic ~~events,~~ events.
47 (3) Lodging facilities that serve only reheated food that has already been
48 pre-cooked.
49 (4) ~~or for establishments~~ Establishments operated by organizations that are
50 exempt from federal income tax under section 501(c)(3) or section 501(c)(4)
51 of the Internal Revenue Code."

1 **SECTION 4.(c)** The Commission for Public Health shall adopt rules to conform to
2 the provisions of this section.

3 4 **YOUTH SKIN CANCER PREVENTION**

5 **SECTION 5.(a)** G.S. 104E-9.1(a) reads as rewritten:

6 "(a) Operators of tanning equipment and owners of tanning facilities subject to rules
7 adopted pursuant to this Chapter shall comply with or ensure compliance with the following:

8 (1) The operator shall provide to each consumer a warning statement that
9 defines the potential hazards and consequences of exposure to ultraviolet
10 radiation. Before allowing the consumer's initial use of the tanning
11 equipment, the operator shall obtain the signature of the consumer on the
12 warning statement acknowledging receipt of the warning.

13 (2) The operator shall not allow a person ~~13 years and younger under 18 years~~
14 of age to use tanning equipment without a written prescription from the
15 person's medical physician specifying the nature of the medical condition
16 requiring the treatment, the number of visits, and the time of exposure for
17 each visit equipment.

18 (3) Neither an operator nor an owner shall claim or distribute promotional
19 materials that claim that using tanning equipment is safe or free from risk or
20 that using tanning equipment will result in medical or health benefits."

21 **SECTION 5.(b)** This section becomes effective October 1, 2014.

22 23 **NURSING HOME ADMINISTRATOR ACT REVISION**

24 **SECTION 6.** G.S. 90-280(a) reads as rewritten:

25 "(a) Each applicant for an examination ~~administered by the Board~~ and each applicant for
26 an administrator-in-training program and reciprocity endorsement shall pay a processing fee set
27 by the Board not to exceed five hundred dollars (\$500.00) plus the actual cost of the exam."

28 29 **REPORT ON SEEK**

30 **SECTION 7.** The Division of Child Development and Early Education shall report
31 to the Joint Legislative Oversight Committee on Health and Human Services and the 2015
32 General Assembly prior to statewide implementation of the Subsidized Early Education for
33 Kids (SEEK) system. The report shall be due no later than March 15, 2015, and shall include (i)
34 outcomes of the SEEK system pilot implementation that has been ongoing since 2011 and the
35 current system pilot, (ii) barriers to full implementation, and (iii) plans to ensure effective and
36 efficient statewide implementation.

37 38 **HOSPITAL AUTHORITY CONFLICT OF INTEREST PROVISIONS CONSISTENT** 39 **WITH THOSE FOR PUBLIC HOSPITALS**

40 **SECTION 8.** G.S. 131E-21 is amended by adding a new subsection to read:

41 "(c1) Subsection (a) of this section shall not apply if the commissioner or employee is not
42 involved in making or administering the contract. A commissioner or employee is involved in
43 administering the contract if the commissioner or employee oversees the performance of or
44 interprets the contract. A commissioner or employee is involved in making a contract if the
45 commissioner or employee participates in the development of specifications or terms or in the
46 preparation or award of the contract. A commissioner or employee is not involved in making or
47 administering the contract solely because of the performance of ministerial duties related to the
48 contract. A commissioner is also involved in making a contract if the hospital authority takes
49 action on the contract, whether or not the commissioner actually participates in that action,
50 unless the contract is approved under an exception to this section under which the
51 commissioner is allowed to benefit and is prohibited from voting."

1
2 **REPORT ON MULTIPLICATIVE AUDITING AND MONITORING OF CERTAIN**
3 **SERVICE PROVIDERS**

4 **SECTION 9.** No later than December 1, 2014, the Deputy Secretary of Behavioral
5 Health and Developmental Disabilities Services of the Department of Health and Human
6 Services shall report to the Joint Legislative Oversight Committee on Health and Human
7 Services on the status of multiplicative auditing and monitoring of all provider agencies under
8 the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services who
9 have been nationally accredited through a recognized national accrediting body. The report
10 shall include all group home facilities licensed under Chapter 122C of the General Statutes.
11 The report shall include a complete list of all auditing and monitoring and shall provide
12 recommendations to remove all unnecessary regulatory duplication and to enhance efficiency.
13

14 **END SUNSET FOR FACILITIES THAT USE ALTERNATIVE ELECTRONIC**
15 **MONITORING SYSTEMS**

16 **SECTION 10.** Section 4 of S.L. 2009-490, as amended by S.L. 2012-15, reads as
17 rewritten:

18 "SECTION 4. The Department of Health and Human Services, Division of Health Service
19 Regulation shall establish a pilot program to study the use of electronic supervision devices as
20 an alternative means of supervision during sleep hours at facilities for children and adolescents
21 who have a primary diagnosis of mental illness and/or emotional disturbance. The pilot
22 program shall be implemented at a facility currently authorized to waive the requirement set
23 forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or regulation by the
24 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services
25 setting minimum overnight staffing requirements. The waiver shall remain in ~~effect until~~
26 ~~December 31, 2015; effect~~; however, the Division reserves the right to rescind the waiver if, at
27 the time of the facility's license renewal, there are outstanding deficiencies that have remained
28 uncorrected upon follow-up survey, that are related to electronic supervision."
29

30 **STATE MEDICAID RECREDENTIALING PERIOD**

31 **SECTION 11.(a)** Section 12H.7 of S.L. 2013-360 is codified as G.S. 108C-9(e).

32 **SECTION 11.(b)** Effective July 1, 2017, and applying to all recREDENTIALINGS due
33 on or after that date, G.S. 108C-9(e), as codified by subsection (a) of this section, reads as
34 rewritten:

35 "(e) The Department of Health and Human Services, Division of Medical Assistance,
36 shall charge an application fee of one hundred dollars (\$100.00), and the amount federally
37 required, to each provider enrolling in the Medicaid Program for the first time. The fee shall be
38 charged to all providers at recREDENTIALING every ~~three~~-five years."
39

40 **USE OF NATURAL SPRING WATER AT CO-LOCATED RESTAURANTS**

41 **SECTION 12.(a)** Until the effective date of the revised permanent rule that the
42 Commission for Public Health is required to adopt pursuant to Section 12(c) of this section, the
43 Commission and the Department of Health and Human Services shall implement 15A NCAC
44 18A .1723 (Springs), as provided in Section 12(b) of this section.

45 **SECTION 12.(b)** Notwithstanding the provisions of 15A NCAC 18A .1723
46 (Springs), or any other applicable rule, a spring which transverses a property on which a
47 restaurant is located may be used for the purpose of water service to restaurant patrons, and for
48 employees of the restaurant, for consumption purposes without a requirement that it be
49 equipped with a continuous disinfection device, nor shall the owner of the restaurant be
50 required to submit a certification to the Department of Public Health concerning the spring, nor

1 be subject to any other requirements under law with respect to water service from the spring,
2 except as may be required by the federal Safe Drinking Water Act.

3 **SECTION 12.(c)** The Commission for Public Health shall adopt rules to amend
4 15A NCAC 18A .1723 consistent with Section 12(b) of this section. Notwithstanding
5 G.S. 150B-19(4), the rule adopted by the Commission pursuant to Section 12(c) of this section
6 shall be substantively identical to the provisions of Section 12(b) of this section. Rules adopted
7 pursuant to Section 12(c) of this section are not subject to Part 3 of Article 2A of Chapter 150B
8 of the General Statutes. Rules adopted pursuant to Section 12(c) of this section shall become
9 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
10 received, as provided by G.S. 150B-21.3(b2).

11 **SECTION 12.(d)** Article 10 of Chapter 130A of the General Statutes is amended
12 by adding a new section to read:

13 **"§ 130A-330. Restaurants served by natural springs.**

14 Notwithstanding any requirement of this Article, or other any other provision of law, a
15 spring which transverses a property on which a restaurant is located may be used for the
16 purpose of water service to restaurant patrons, and for employees of the restaurant, and shall be
17 exempt from any requirements for disinfection of the spring water, and other requirements that
18 may be applicable to a public water system. This provision shall only apply to the extent not
19 preempted by requirements of the federal Safe Drinking Water Act."

20 **SECTION 12.(e)** Section 12(b) of this section expires on the date that rules
21 adopted pursuant to Section 12(c) of this act become effective.

22
23 **ANIMAL EUTHANASIA REQUIREMENTS**

24 **SECTION 13.(a)** G.S. 19A-24 is amended by adding the following new
25 subsections to read:

26 **"§ 19A-24. Powers of Board of Agriculture.**

27 ...

28 (e) A certified euthanasia technician shall correctly calculate chemical agent dosage
29 based upon the species, age, weight, and condition of the animal and record the identification
30 number of the animal, its species, sex, weight, breed description, and date, dosages for drugs
31 that are administered, and amounts for drugs wasted.

32 (f) When a certified euthanasia technician uses any chemical agent having instructions
33 that direct the amount of the dosage be determined, in whole or in part, upon the animal's
34 weight, the certified euthanasia technician shall weigh the animal to be euthanized using a
35 mechanical or digital scale accurate to plus or minus one pound or plus or minus one half
36 kilogram. If the certified euthanasia technician increases or decreases the dose of the chemical
37 agent from the amount recommended for an animal of a given weight, the technician shall
38 record the amount of chemical agent administered and the reason for administering an amount
39 different from that recommended for an animal of that weight."

40 **SECTION 13.(b)** This section becomes effective July 1, 2015.

41
42 **INTERSTATE CONNECTIVITY OF THE CONTROLLED SUBSTANCES**
43 **REPORTING SYSTEM**

44 **SECTION 14.** The Department of Health and Human Services shall execute a
45 memorandum of understanding with the National Association of Boards of Pharmacy to
46 participate in PMP InterConnect.

47
48 **NORTH CAROLINA CANCER TREATMENT FAIRNESS ACT**

49 **SECTION 14.1.(a)** Article 3 of Chapter 58 of the General Statutes is amended by
50 adding a new section to read as follows:

51 **"§ 58-3-282. Coverage for orally administered anticancer drugs.**

1 (a) Every health benefit plan offered by an insurer, as defined in G.S. 58-3-167(a), that
2 provides coverage for prescribed, orally administered anticancer drugs that are used to kill or
3 slow the growth of cancerous cells and that provides coverage for intravenously administered
4 or injected anticancer drugs shall provide coverage for prescribed, orally administered
5 anticancer drugs on a basis no less favorable than the coverage the policy, contract, or plan
6 provides for the intravenously administered or injected anticancer drugs.

7 (b) Coverage for orally administered anticancer drugs shall not be subject to any prior
8 authorization, dollar limit, co-payment, coinsurance, or deductible provision or to any other
9 out-of-pocket expense that does not apply to intravenously administered or injected anticancer
10 drugs.

11 (c) A policy, contract, or plan provider shall not achieve compliance with this section
12 by reclassifying anticancer drugs or by increasing patient cost-sharing, including any
13 coinsurance, co-payment, deductible, or other out-of-pocket expenses imposed on anticancer
14 drugs. Any policy, contract, or plan change that otherwise increases an out-of-pocket expense
15 applied to anticancer drugs must also be applied to the majority of comparable medical or
16 pharmaceutical benefits covered by the policy, contract, or plan.

17 (d) An insurer that limits the total amount paid by a covered person through all
18 in-network, cost-sharing requirements to no more than one hundred dollars (\$100.00) per filled
19 prescription for any orally administered anticancer drug shall be considered in compliance with
20 this section. For purposes of this subsection, "cost-sharing requirements" shall include
21 co-payments, coinsurance, and deductibles, except in regard to a high deductible health plan or
22 policy that is qualified to be used in conjunction with a health savings account, a medical
23 savings account, or other similar program authorized by 26 U.S.C. § 220, et seq."

24 **SECTION 14.1.(b)** This section becomes effective January 1, 2015, and applies to
25 insurance contracts or policies issued, renewed, or amended on or after that date, but the section
26 shall not become effective if the section is determined by the federal government to create a
27 state-required benefit that is in excess of the essential health benefits pursuant to 45 C.F.R. §
28 155.170(a)(3).

30 **MORATORIUM ON SPECIAL CARE UNIT LICENSES**

31 **SECTION 14.2.** Section 12G.1(a) of S.L. 2013-360 reads as rewritten:

32 **"SECTION 12G.1(a)** For the period beginning July 31, 2013, and ending ~~July 1,~~
33 ~~2016,~~ July 1, 2015, the Department of Health and Human Services, Division of Health Service
34 Regulation (Department), shall not issue any licenses for special care units as defined in
35 G.S. 131D-4.6 and G.S. 131E-114. This prohibition shall not restrict the Department from
36 doing any of the following:

- 37 (1) Issuing a license to a facility that is acquiring an existing special care unit.
- 38 (2) Issuing a license for a special care unit in any area of the State upon a
39 determination by the Secretary of the Department of Health and Human
40 Services that increased access to this type of care is necessary in that area
41 during the ~~three-year~~ two-year moratorium imposed by this section.
- 42 (3) Processing all completed applications for special care unit licenses received
43 by the Division of Health Service Regulation along with the applicable
44 license fee prior to June 1, 2013.
- 45 (4) Issuing a license to a facility that was in possession of a certificate of need as
46 of July 31, 2013, that included authorization to operate special care unit
47 beds."

49 **ADD LIMITED LIABILITY COMPANIES TO THE TYPES OF CORPORATIONS** 50 **THAT MAY LEASE OR PURCHASE HOSPITAL FACILITIES**

51 **SECTION 14.3.(a)** G.S. 131E-6(3) reads as rewritten:

1 "(3) "Corporation, foreign or domestic, authorized to do business in North
2 Carolina" ~~means~~ means any of the following:

3 a. A corporation for profit or having a capital stock which is created
4 and organized under Chapter 55 of the General Statutes or any other
5 general or special act of this State, or a State.

6 b. A foreign corporation which has procured a certificate of authority to
7 transact business in this State pursuant to Article 10 of Chapter 55 of
8 the General Statutes.

9 c. A limited liability company formed under Chapter 57D of the
10 General Statutes.

11 d. A foreign limited liability company that has procured a certificate of
12 authority to transact business in this State pursuant to Article 7 of
13 Chapter 57D of the General Statutes."

14 **SECTION 14.3.(b)** This section becomes effective October 1, 2014.

15 **SECTION 15.** If any section or provision of this act is declared unconstitutional or
16 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
17 the part declared to be unconstitutional or invalid.

18 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes
19 law.