

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-77
HOUSE BILL 734**

AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER MODIFICATIONS TO LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; PROTECTING NORTH CAROLINA CITIZENS FROM THE UNLICENSED OPERATION OF MENTAL HEALTH FACILITIES OR PROGRAMS PROVIDING SERVICES REQUIRING A LICENSE UNDER ARTICLE 2 OF CHAPTER 122C OF THE GENERAL STATUTES; AND MODIFYING THE CONSUMER AND FAMILY ADVISORY COMMITTEES.

The General Assembly of North Carolina enacts:

ALIGNMENT OF DEVELOPMENTAL DISABILITY DEFINITION WITH FEDERAL LAW

SECTION 1. G.S. 122C-3(12a) reads as rewritten:

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

- a. Is attributable to ~~one or more impairments~~ a mental or physical impairment or combination of mental and physical impairments.

...."

CONFORMING CHANGE TO PROCEDURE FOR APPEALING DECISIONS ON LICENSURE WAIVER REQUESTS

SECTION 2. G.S. 122C-23(f) reads as rewritten:

"(f) Upon written application and in accordance with rules of the Commission, the Secretary may for good cause waive any of the rules implementing this Article, provided those rules do not affect the health, safety, or welfare of the individuals within the licensable facility. Decisions made pursuant to this subsection may be appealed ~~to the Commission for a hearing in accordance with~~ by filing a contested case under Article 3 of Chapter 150B of the General Statutes."

COPAYMENT SCHEDULE FOR BEHAVIORAL HEALTH, INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER SERVICES

SECTION 3. G.S. 122C-112.1(a)(34) reads as rewritten:

"(34) ~~Adopt rules for the implementation of a co-payment graduated~~ adopt a copayment schedule ~~to~~ for behavioral health services, intellectual and developmental disabilities services, and substance use disorder services based on the Medicaid copayments for those services to be used by LMEs and by contractual provider agencies under G.S. 122C-146. The ~~co-payment graduated copayment~~ schedule shall be developed to adopted under this subdivision shall require a ~~co-payment~~ copayment for services identified by the Secretary. Families whose family income is three hundred percent (300%) or greater of the federal poverty level are eligible for services with the applicable ~~co-payment~~ copayment."



**STATE CONSUMER AND FAMILY ADVISORY COMMITTEE (CFAC)
APPOINTMENT CHANGES**

SECTION 4.(a) G.S. 122C-171 reads as rewritten:

"§ 122C-171. State Consumer and Family Advisory Committee.

(a) There is established the State Consumer and Family Advisory Committee (State CFAC). The State CFAC ~~shall be~~ shall be a self-governing and self-directed organization that advises the Department and the General Assembly on the planning and management of the State's public mental health, ~~developmental disabilities, and substance abuse services system.~~ intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services system.

(b) The State CFAC shall be composed of 21 members. The members shall be composed exclusively of adult consumers of mental health, ~~developmental disabilities, and substance abuse services;~~ intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services and family members of consumers of mental health, ~~developmental disabilities, and substance abuse services.~~ intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services. The terms of members shall be three years, and no member may serve more than two consecutive terms. Vacancies shall be filled by the appointing authority. The members shall be appointed as follows:

- (1) Nine members appointed by the Secretary. The Secretary's appointments shall reflect each of the disability groups. The terms shall be staggered so that terms of three of the appointees expire each year.
- (2) ~~Three~~ Four members appointed by the President Pro Tempore of the ~~Senate, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region).~~ Senate as follows:
 - a. One member from the eastern region of the State.
 - b. One member from the central region of the State.
 - c. Two members from the western region of the State.

The terms of the appointees shall be staggered so that the term of one appointee expires every year.

- (3) ~~Three~~ Four members appointed by the Speaker of the House of ~~Representatives, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region).~~ Representatives as follows:
 - a. One member from the eastern region of the State.
 - b. Two members from the central region of the State.
 - c. One member from the western region of the State.

The terms of the appointees shall be staggered so that the term of one appointee expires every year.

- (4) ~~Three~~ by the Council of Community Programs, one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region). The terms of the appointees shall be staggered so that the term of one appointee expires every year.
- (5) ~~Three~~ Four members appointed by the North Carolina Association of County Commissioners, ~~one each of whom shall come from the three State regions for institutional services (Eastern Region, Central Region, and Western Region).~~ Commissioners as follows:
 - a. Two members from the eastern region of the State.
 - b. One member from the central region of the State.
 - c. One member from the western region of the State.

The terms of the appointees shall be staggered so that the term of one appointee expires every year.

- (c) The State CFAC shall undertake all of the following:
- (1) Review, comment on, and monitor the implementation of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
 - (2) Identify service gaps and underserved populations.
 - (3) Make recommendations regarding the service array and monitor the development of additional services.
 - (4) Review and comment on the State budget for mental health, ~~developmental disabilities, and substance abuse services~~intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services.
 - (5) ~~Participate in all quality improvement measures and performance indicators.~~Review and comment on contract deliverables and the process and outcomes of prepaid health plans in meeting these contract deliverables.
 - (6) Receive the findings and recommendations by local CFACs regarding ways to improve the delivery of mental health, ~~developmental disabilities, and substance abuse services~~intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services, including Statewide issues.
 - (7) ~~Provide technical assistance to local CFACs in implementing their duties.~~Develop a collaborative and working relationship with the prepaid health plan member advisory committees to obtain input related to service delivery and system change issues.

...."

SECTION 4.(b) This section is effective when it becomes law and shall apply only to appointments to the Consumer and Family Advisory Committee made on or after that date.

COLLECTION OF INVOLUNTARY COMMITMENT TRANSPORTATION DATA

SECTION 5. G.S. 122C-255 reads as rewritten:

"§ 122C-255. Report required.

Each 24-hour facility that (i) falls under the category of nonhospital medical detoxification, facility-based crisis service, or inpatient hospital treatment, (ii) is not a State facility under the jurisdiction of the Secretary of Health and Human Services, and (iii) is designated by the Secretary of Health and Human Services as a facility for the custody and treatment of individuals under a petition of involuntary commitment pursuant to G.S. 122C-252 and 10A NCAC 26C.0101 shall submit a written report on involuntary commitments each January 1 and each July 1 to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall include all of the following:

- (1) The number and primary presenting conditions of individuals receiving treatment from the facility under a petition of involuntary commitment.
 - (1a) The transportation method utilized by individuals admitted under a petition of involuntary commitment to the 24-hour facility.
 - (1b) The number of individuals moved to voluntary status at any time between arrival at the 24-hour facility and completion of the required 24-hour examination.
- (2) The number of individuals for whom an involuntary commitment proceeding was initiated at the facility, who were referred to a different facility or program.

- (3) The reason for referring the individuals described in subdivision (2) of this section to a different facility or program, including the need for more intensive medical supervision."

PERMANENT AUTHORIZATION FOR THE USE OF TELEHEALTH TO CONDUCT REQUIRED EXAMINATIONS PRIOR TO INVOLUNTARY COMMITMENT DUE TO MENTAL ILLNESS OR SUBSTANCE USE DISORDER

SECTION 6.(a) G.S. 122C-263 reads as rewritten:

"§ 122C-263. Duties of law enforcement officer; first examination.

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation pursuant to G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening at the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via ~~telemedicine~~, telehealth, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location for health screening and first examination exists, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for individuals with mental illnesses. If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or a clinic, in a general hospital, or in a State facility for individuals with mental illnesses, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility or other location to which a respondent is transported under subsection (a) of this section shall provide a health screening of the respondent. The health screening shall be conducted by a commitment examiner or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The Department will work with commitment examiner professionals to develop a screening tool for this purpose. The respondent may either be in the physical face-to-face presence of the person conducting the screen or may be examined utilizing ~~telemedicine~~ telehealth equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general hospital, acute care hospital, or designated facility shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

...

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours after the respondent is presented for examination. When the examination set forth in subsection (a) of this section is performed by a commitment examiner, the respondent may either be in the physical face-to-face presence of the commitment examiner or may be examined utilizing ~~telemedicine~~ telehealth equipment and procedures. A commitment examiner who examines a respondent by means of ~~telemedicine~~ telehealth must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination

had been done in the physical presence of the commitment examiner. A commitment examiner who is not so satisfied must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this section, "~~telemedicine~~" is ~~the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations.~~ "telehealth" means the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other. A recipient is referred by one provider to receive the services of another provider via ~~telemedicine~~-telehealth.

The examination shall include an assessment of at least all of the following with respect to the respondent:

- (1) Current and previous mental illness and intellectual disability including, if available, previous treatment history.
- (2) Dangerousness to self, as defined in G.S. 122C-3(11)a. or others, as defined in G.S. 122C-3(11)b.
- (3) Ability to survive safely without inpatient commitment, including the availability of supervision from family, friends, or others.
- (4) Capacity to make an informed decision concerning treatment.

...."

SECTION 6.(b) G.S. 122C-266 is amended by adding a new subsection to read:

"(a1) The second examination of a respondent required by subsection (a) of this section to determine whether the respondent will be involuntarily committed due to mental illness may be conducted either in the physical face-to-face presence of a physician or utilizing telehealth equipment and procedures, provided that the physician who examines the respondent by means of telehealth is satisfied to a reasonable medical certainty that the determinations made in accordance with subdivisions (a)(1) through (a)(3) of this section would not be different if the examination had been done in the physical presence of the examining physician. An examining physician who is not so satisfied shall note that the examination was not satisfactorily accomplished, and the respondent shall be taken for a face-to-face examination in the physical presence of a physician. As used in this section, "telehealth" means the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other."

SECTION 6.(c) G.S. 122C-283 reads as rewritten:

"§ 122C-283. Duties of law enforcement officer; first examination by commitment examiner.

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation under G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, unless circumstances indicate the respondent appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via ~~telemedicine~~, telehealth, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for individuals with mental illnesses.

If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision, in the respondent's home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

...

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination performed by a commitment examiner pursuant to subsection (a) of this section may be performed either in the physical face-to-face presence of the commitment examiner or utilizing telehealth equipment and procedures. A commitment examiner who examines a respondent by means of telehealth must be satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (d) of this section would not be different if the examination had been conducted in the physical presence of the commitment examiner. A commitment examiner who is not so satisfied shall note that the examination was not satisfactorily accomplished, and the respondent shall be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under this section. As used in this section, "telehealth" is the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other. A recipient is referred by one provider to receive the services of another provider via telehealth. The examination shall include but is not limited to an assessment of all of the following:

- (1) The respondent's current and previous substance abuse including, if available, previous treatment history.
- (2) The respondent's dangerousness to self or others as defined in G.S. 122C-3(11).

...."

SECTION 6.(d) G.S. 122C-285 is amended by adding a new subsection to read:

"(a1) The second examination of a respondent required by subsection (a) of this section to determine whether the respondent will be involuntarily committed due to substance abuse may be conducted either in the physical face-to-face presence of a physician or utilizing telehealth equipment and procedures, provided that the physician who examines the respondent by means of telehealth is satisfied to a reasonable medical certainty that the determinations made in accordance with subsection (a) of this section would not be different if the examination had been done in the physical presence of the commitment examiner. An examining physician who is not so satisfied shall note that the examination was not satisfactorily accomplished, and the respondent shall be taken for a face-to-face examination in the physical presence of a qualified professional; provided, however, that if the initial commitment examination was performed by a qualified professional, then this face-to-face examination shall be in the presence of a physician. As used in this section, "telehealth" means the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other."

TECHNICAL CORRECTION TO STATUTE GOVERNING TRANSITIONAL PERMITS FOR FOOD ESTABLISHMENTS

SECTION 7. G.S. 130A-248 reads as rewritten:

"§ 130A-248. Regulation of food and lodging establishments.

...

(a5) The Department of Health and Human Services may grant a variance from rules adopted pursuant to this section in accordance with the United States Food and Drug Administration Food Code ~~2009-2017~~ if the Department determines that the issuance of the variance will not result in a health hazard or nuisance condition.

...

(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection ~~(e)~~ (a) of this section. For purposes of this subsection, "transitional permit" ~~shall mean~~ means a permit issued upon the transfer of ownership or lease of an existing food establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health.

...."

MICHELLE'S LAW

SECTION 7.1.(a) Article 2 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-28.1. Facilities in violation of this Article.

(a) If the Department has directed a facility not licensed under this Article that is providing services requiring a license under this Article to cease and desist from engaging in any act or practice in violation of this Article, then the Department shall conduct a follow-up visit to determine if the Secretary may issue a cease and desist order pursuant to G.S. 122C-27, unless a cease and desist order has already been issued.

(b) The district attorney's office with jurisdiction over the facility shall collect information on the total amount of fines collected pursuant to G.S. 122C-28 and report that information to the Department."

SECTION 7.1.(b) G.S. 122C-23(e1) reads as rewritten:

"(e1) Except as provided in subsection (e2) of this section, the Secretary shall not ~~(i) enroll any as a new provider for Medicaid Home or Community Based services or other Medicaid services, as defined in 42 C.F.R. 440.90, 42 C.F.R. 440.130(d), and 42 C.F.R. 440.180, in the North Carolina Medicaid or North Carolina Health Choice programs, (ii) revalidate as an enrolled provider in the Medicaid or NC Health Choice programs during the period of the license revocation or suspension, or (iii) issue a license for a new facility or a new service to any applicant meeting any of the following criteria:~~

- (1) The applicant was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its license revoked until 60 months after the date of the revocation.
- (2) The applicant is the owner, principal, or affiliate of a licensable facility that was assessed a penalty for a Type A or Type B violation under Article 3 of this Chapter, or any combination thereof, and any one of the following conditions exist:
 - a. A single violation has been assessed in the six months prior to the application.
 - b. Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - c. Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

- d. Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
- (3) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C 24.1(a) until 60 months after the date of reinstatement or restoration of the license.
- (4) The applicant is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Article 1A of Chapter 131D until 60 months after the date of reinstatement or restoration of the license."

SECTION 7.1.(c) G.S. 122C-27 reads as rewritten:

"§ 122C-27. Powers of the Secretary.

The Secretary ~~shall~~ shall have the power to do all of the following:

- (1) Administer and enforce the provisions, rules, and decisions pursuant to this ~~Article;~~Article.
- (2) Appoint hearing officers to conduct appeals under this ~~Article;~~Article.
- (3) Prescribe by rule the contents of the application for licensure and ~~renewal;~~renewal.
- (4) Inspect facilities and records of each facility to be licensed under this Article under the rules and decisions pursuant to this ~~Article;~~Article.
- (5) Issue a license upon a finding that the applicant and facility comply with the provisions of this Article and the rules of the Commission and the ~~Secretary;~~Secretary.
- (6) Define by rule procedures for submission of periodic reports by facilities licensed under this ~~Article;~~Article.
- (7) Grant, deny, suspend, or revoke a license under this ~~Article;~~Article.
- (8) Issue orders directing facilities not licensed under this Article that are providing services requiring a license under this Article to cease and desist from engaging in any act or practice in violation of the provisions of this Article.
- ~~(8)~~(9) In accordance with rules of the Commission, make final agency decisions for appeals from the denial, suspension, or revocation of a license in accordance with ~~G.S. 122C-24; and~~G.S. 122C-24.
- ~~(9)~~(10) In accordance with rules of the Commission, grant waiver for good cause of any rules implementing this Article that do not affect the health, safety, or welfare of individuals within a licensable facility."

SECTION 7.1.(d) This section is effective when it becomes law and shall apply to cease and desist letters sent by the Department of Health and Human Services on or after that date.

SECTION 7.2.(a) G.S. 122C-28 reads as rewritten:

"§ 122C-28. Penalties.

Operating a licensable facility without a license is a ~~Class 3 misdemeanor and is punishable only by a fine not to exceed fifty dollars (\$50.00), for the first offense and a fine, not to exceed five hundred dollars (\$500.00), for each subsequent offense. Each day's operation of a licensable facility without a license is a separate offense.~~Class H felony, including a fine of one thousand dollars (\$1,000) per day that the facility is in operation in violation of this Article."

SECTION 7.2.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

SECTION 7.3.(a) G.S. 122C-22 reads as rewritten:

"§ 122C-22. Exclusions from licensure; deemed status.

(a) All of the following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

- (1) Physicians and psychologists engaged in private office practice.
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for ~~the mentally ill, developmentally disabled, or substance abusers~~ patients with a mental health disorder diagnosis, one or more developmental disabilities, or a substance use disorder.

...

- (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other ~~drug addiction~~ substance use disorder through a 12-step, self-help, peer role modeling, and self-governance approach.

...

(b) The Commission may adopt rules establishing a procedure whereby a ~~licensable~~ facility that would otherwise require licensure under this Article that is certified by a nationally recognized agency, such as the Joint Commission on Accreditation of Hospitals, may be deemed licensed under this Article by the Secretary. Any facility licensed under the provisions of this subsection shall continue to be subject to inspection by the Secretary. The Secretary shall collaborate with relevant agencies to ensure that any facilities deemed licensed under this Article maintain the required certification."

SECTION 7.3.(b) The Department of Health and Human Services shall establish a database or expand upon a currently existing database that makes publicly available a searchable listing of all applicable facilities and programs with all of the following information:

- (1) The facility or program name.
- (2) The location, including street and mailing addresses, city, and county, for the facility or program.
- (3) The contact information for the owners, director, or other individual in charge of the facility or program.
- (4) The dates and types of visits conducted by the Division of Health Services Regulation.
- (5) A description of the findings, including whether a complaint was substantiated or unsubstantiated, and identification of the violation cited if substantiated.
- (6) Any action taken under G.S. 122C-28.1 by the Division of Health Services Regulation.

SECTION 7.3.(c) The Department of Health and Human Services shall coordinate with the Department of Insurance to establish a toll-free number or website for individuals, providers, and insurers to use in verifying the licensure status of a facility providing mental health, behavioral health, and substance use disorder services.

SECTION 7.3.(d) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), shall collaborate with community organizations, such as the National Alliance for Mental Illness (NAMI), for a public information campaign about the appropriate types of care for individuals with mental health disorders that, at a minimum, includes information on the importance of receiving care from a licensed facility or program with medical personnel licensed by the North Carolina Medical Board.

SECTION 7.3.(e) This section becomes effective January 1, 2022.

SECTION 7.4.(a) The title of Article 2 of Chapter 122C of the General Statutes reads as rewritten:

"Article 2.

"Licensure of Facilities for ~~the Mentally Ill, the Developmentally Disabled, Individuals With Mental Health Disorders, Developmental Disabilities, and Substance Abusers~~-Use Disorders."

SECTION 7.4.(b) G.S. 122C-21 reads as rewritten:

"§ 122C-21. Purpose.

The purpose of this Article is to provide for licensure of facilities for the ~~mentally ill, developmentally disabled, individuals with mental health disorders, developmental disabilities, and substance abusers-use disorders~~ by the development, establishment, and enforcement of basic rules ~~governing~~ governing both of the following:

- (1) The provision of services to individuals who receive services from licensable facilities as defined by this ~~Chapter, and Chapter.~~
- (2) The construction, maintenance, and operation of these licensable facilities that in the light of existing knowledge will ensure safe and adequate treatment of these individuals. The Department shall ensure that licensable facilities are inspected every two years to determine compliance with physical plant and life-safety requirements."

REGULATION OF TEMPORARY DISPLAY SPAS

SECTION 8.(a) G.S. 130A-280 reads as rewritten:

"§ 130A-280. Scope.

This Article provides for the regulation of public swimming pools in the State as they may affect the public health and safety. As used in this Article, the term "public swimming pool" means any structure, chamber, or tank containing an artificial body of water used by the public for swimming, diving, wading, recreation, or therapy, together with buildings, appurtenances, and equipment used in connection with the body of water, regardless of whether a fee is charged for its use. The term includes municipal, school, hotel, motel, apartment, boarding house, athletic club, or other membership facility pools and spas, spas operating for display at temporary events, and artificial swimming lagoons. As used in this Article, an "artificial swimming lagoon" means any body of water used for recreational purposes with more than 20,000 square feet of surface area, an artificial liner, and a method of disinfectant that results in a disinfectant residual in the swimming zone that is protective of the public health. This Article does not apply to a private pool serving a single family dwelling and used only by the residents of the dwelling and their guests. This Article also does not apply to therapeutic pools used in physical therapy programs operated by medical facilities licensed by the Department or operated by a licensed physical therapist, nor to therapeutic chambers drained, cleaned, and refilled after each individual use."

SECTION 8.(b) This section becomes effective July 1, 2022.

SECTION 8.1. G.S. 122C-170 reads as rewritten:

"§ 122C-170. Local Consumer and Family Advisory Committees.

(a) Area authorities ~~and county programs~~ shall establish committees made up of consumers and family members to be known as Consumer and Family Advisory Committees (CFACS). A local CFAC shall be a self-governing and a self-directed organization that advises the area authority ~~or county program~~ in its catchment area on the planning and management of the local public mental health, ~~developmental disabilities, substance abuse services and intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services~~ system.

Each CFAC shall adopt bylaws to govern the selection and appointment of its members, their terms of service, the number of members, and other procedural matters. At the request of either the CFAC or the governing board of the area ~~authority or county program,~~ authority, the CFAC and the governing board shall execute an agreement that identifies the roles and responsibilities of each party, channels of communication between the parties, and a process for resolving disputes between the parties.

(b) Each of the disability groups shall be equally represented on the CFAC, and the CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment area. The

terms of members shall be three years, and no member may serve more than three consecutive terms. The CFAC shall be composed exclusively of:

- (1) ~~Adult consumers of mental health, developmental disabilities, and substance abuse services.~~intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services.
 - (2) ~~Family members of consumers of mental health, developmental disabilities, and substance abuse services.~~intellectual and development disabilities, substance use disorder, and traumatic brain injury services.
- (c) The CFAC shall undertake all of the following:
- (1) ~~Review, comment on, and monitor the implementation of the local business plan contract deliverables between area authorities and the Department of Health and Human Services.~~
 - (2) Identify service gaps and underserved populations.
 - (3) Make recommendations regarding the service array and monitor the development of additional services.
 - (4) Review and comment on the area authority ~~or county program~~ budget.
 - (5) ~~Participate in all quality improvement measures and performance indicators.~~Develop a collaborative and working relationship with the area authorities member advisory committees to obtain input related to service delivery and system change issues.
 - (6) Submit to the State Consumer and Family Advisory Committee findings and recommendations regarding ways to improve the delivery of mental health, ~~developmental disabilities, and substance abuse services.~~intellectual and developmental disabilities, substance use disorder, and traumatic brain injury services, including Statewide issues.

(d) The director of the area authority ~~or county program~~ shall provide sufficient staff to assist the CFAC in implementing its duties under subsection (c) of this section. The assistance shall include data for the identification of service gaps and underserved populations, training to review and comment on ~~business plans contract deliverables~~ and budgets, procedures to allow participation in quality monitoring, and technical advice on rules of procedure and applicable laws."

EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of June, 2021.

s/ Mark Robinson
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 12:04 p.m. this 2nd day of July, 2021