

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

PLANNED PARENTHOOD SOUTH ATLANTIC;)
BEVERLY GRAY, M.D., on behalf of)
themselves and their patients seeking)
abortions,)

Plaintiffs,)

v.)

JOSHUA H. STEIN, Attorney General of)
North Carolina, in his official)
capacity; TODD M. WILLIAMS, District)
Attorney ("DA") for Prosecutorial)
District ("PD") 40, in his official)
capacity; JIM O'NEILL, DA for PD 31, in)
his official capacity; SPENCER B.)
MERRIWEATHER III, DA for PD 26, in his)
official capacity; AVERY CRUMP, DA for)
PD 24, in her official capacity; JEFF)
NIEMAN, DA for PD 18, in his official)
capacity; SATANA DEBERRY, DA for PD 16,)
in her official capacity; WILLIAM WEST,)
DA for PD 14, in his official capacity;)
LORRIN FREEMAN, DA for PD 10, in her)
official capacity; BENJAMIN R. DAVID, DA)
for PD 6, in his official capacity; KODY)
H. KINSLEY, M.P.P., Secretary of the)
North Carolina Department of Health and)
Human Services, in his official)
capacity; MICHAUX R. KILPATRICK, M.D.,)
PhD., President of the North Carolina)
Medical Board, in her official capacity,)
on behalf of herself, the board and its)
Members; RACQUEL INGRAM, PhD., R.N.,)
Chair of the North Carolina Board of)
Nursing, in her official capacity, on)
behalf of herself, the Board and its)
members; and their employees, agents,)
and successors,)

Defendants.)

Case No: 1:23-CV-480

**MEMORANDUM IN OPPOSITION
TO MOTION FOR TEMPORARY
RESTRAINING ORDER BY
PHILIP E. BERGER,
PRESIDENT PRO TEMPORE OF
THE NORTH CAROLINA
SENATE and TIMOTHY K.
MOORE, SPEAKER OF THE
NORTH CAROLINA HOUSE OF
REPRESENTATIVES**

INTRODUCTION

Intervenors, Philip E. Berger, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives (the "Legislative Leaders") offer this explanation as to why Plaintiffs' claims regarding the North Carolina Session Law 2023-14 (The "Act"), the subject of Plaintiffs' Motion, do not require immediate, emergency relief. The Legislative Leaders respectfully request that the Court deny the Motion for Temporary Restraining Order ("TRO"), and permit normal briefing on preliminary injunction issues, if any, that may remain.

The General Assembly is working to pass and enact, with or without the Governor's signature, a technical and conforming bill¹ to make changes to clarify and address most, if not all, aspects of Plaintiffs' claims about the Act.

Over the weekend, the Legislative Leaders offered to join the other represented Defendants in making the following

¹ See Laws Pertaining to the Department of Health and Human Services and to Make Technical and Conforming Changes to Session Law 2023-14, House Bill 190 ("T&C Bill"), pp 25-28, attached as Ex. 1.

stipulation: "the Legislative Leaders stipulate that any recent change in law dealing with a hospitalization for a victim of rape or incest seeking an abortion after 12 weeks (N.C. Gen. Stat. §§ 90-21.81B(3)) will not take effect until October 1, 2023." While, given the short time frame, all parties have not reached agreement on this proposed stipulation, the Legislative Leaders stipulate to this.

With the likely passage of the T&C Bill and the Legislative Leaders' stipulation about the law dealing with hospitalization for rape or incest victims up to 20 weeks not being an issue until October 1, the Legislative Leaders respectfully ask the Court to deny the Motion for TRO, with any issues that may remain to be briefed at a later date.

STATEMENT OF THE FACTS

The General Assembly passed the Act on May 4, 2023, and it became law when they overrode the Governor's veto on May 17, 2023. On June 16, 2023, Plaintiffs filed a Complaint seeking a declaration that the Act is unconstitutional for various reasons. See DE 1, Compl. ¶¶ 78, 80, 82, 83, 85, 87.

On June 21, 2023, Plaintiffs filed a Motion for TRO and Preliminary Injunction. The Court set a hearing date for the

TRO on June 28, 2023. On June 24, 2023, the Court granted the Legislative Leaders' Motion to Intervene for purposes of allowing them to appear and present arguments, including this Brief, at the TRO hearing on June 28.

On June 26, 2023, the North Carolina Senate passed the T&C Bill, by an overwhelming bipartisan vote of 45-2, and sent it to the North Carolina House of Representatives. The Legislative Leaders' current plan is to pass the T&C Bill and submit it to the Governor later today, June 27, 2023. If that happens, the T&C Bill will become law, or the Governor will veto it, within the next 10 days. If the Governor vetoes the T&C Bill, the Legislative Leaders plan to attempt to take up a veto override as soon as practicable, at least by July or early August. Thus, the fate of the T&C Bill, for purposes of consideration for the TRO, should be known by early August.

STATEMENT OF THE QUESTION PRESENTED

Should the Court deny Plaintiffs' Motion for TRO because there is no imminent or irreparable harm that Plaintiffs, or any patient or provider in North Carolina, face as a result of the Act until at least October 1, 2023?

ARGUMENT

The Court should deny Plaintiffs' Motion for TRO because there is no imminent or irreparable harm that Plaintiffs, or any patient or provider in North Carolina, could face from the Act until at least October 1, 2023. To the extent that there were questions about generally applicable constitutional issues or any impending July 1, 2023, deadlines that could cause an immediate harm to Plaintiffs, or any other patient or provider in North Carolina, the Legislative Leaders answered those in this Brief.

To the extent any such constitutional issues remain after the pending passage and enactment of the T&C Bill, the Legislative Leaders respectfully suggest that the Court can schedule further briefing, to conclude in August or September 2023, to address any such remaining issues at that time. This would allow the political process to play out and for appropriate discovery and briefing, but still occur before any October 1, 2023, deadlines arrive. Thus, the Legislative Leaders, respectfully, request that the Court deny Plaintiffs' Motion for TRO.

I. The Legislative Leaders addressed Plaintiffs' claims that the Act could cause them, or any other patient or provider in North Carolina, harm before October 1, 2023.

A. The T&C Bill addresses most of Plaintiffs' claims.

As described above, the General Assembly is in the process of passing, and sending for the Governor's signature, the T&C Bill to clarify several points in the Act that Plaintiffs included in their claims. See Ex. 1, pp 25-28. The Legislative Leaders fully expect that the T&C Bill will be presented to the Governor today, June 27, 2023. Here is a list of those items from the T&C Bill showing how each addresses Plaintiffs' claims from the Complaint and Motion:

- **Section 14.1. (a):** N.C. Gen. Stat. § 14-23.7 is amended to clarify that a legally performed abortion is an exception to the fetal homicide statute including a cross reference to the new law in the Act, "Article II of Chapter 90 of the General Statutes", instead of the old law that the Act repealed, "~~N.C. Gen. Stat. § 14-45.1~~". See DE 1, ¶¶ 3, 43-44; DE 12, p 6.
- **Section 14.1. (b) & (c):** N.C. Gen. Stat. §§ 90-21.81A and 90-21.81B are amended to remove the word "advise" and add that they deal only with an abortion "in the State of North Carolina." See DE 1, ¶¶ 8, 69-70; DE 12, p 8-9.
- **Section 14.1. (d) & (e):** N.C. Gen. Stat. §§ 90-21.82(b)(1a)(a) and 90-21.83A(b)(2)(a) are amended to add that the consent forms for surgical and medical abortions shall include "specific information for the physician's hospital admitting

privileges, and whether the physician accepts the pregnant woman's insurance." See DE 1, ¶¶ 6, 62-65; DE 12, p 7-8.

- **Section 14.1.(f)**: N.C. Gen. Stat. § 90-21.83B(a)(6) & (7) are amended to remove the provisions requiring verification that the unborn "~~child is no more than 70 days~~" old, and to remove the need to document in the chart the intrauterine "~~location of the pregnancy~~", which are changed to instead require that the doctor verify the probable gestational age of the unborn child and the "existence of an" intrauterine pregnancy. See DE 1, ¶¶ 4, 49; DE 12, p 6-7.
- **Section 14.1.(g)**: N.C. Gen. Stat. § 90-21.83C is repealed so there is no longer any issue related to restarting a 72-hour waiting period if under the emergency exception or if certain information like the physician's name changed. See DE 1, ¶¶ 6, 62-65; DE 12, p 7-8.
- **Section 14.1.(j)**: N.C. Gen. Stat. § 90-21.93 is amended to change the date for reporting to DHHS information about an abortion performed on a minor from "3" days to "30" days. See DE 1, ¶¶ 7, 68; DE 12, p 8.
- **Section 14.1.(k)**: makes all of the changes in the sections listed above, Sections 14.1(a)-(j), effective as of July 1, 2023.

As Plaintiffs acknowledge in the DE 25 Notice, passage of the T&C Bill moots most, if not all, of Plaintiffs' claims for TRO. If it passes, the Court need not decide these moot issues, certainly not on an emergency basis in a TRO.

B. Stipulation resolves issue about the hospitalization of a rape or incest victim until October 1, 2023.

To the extent that Plaintiffs raised concerns about whether, starting on July 1, 2023, the Act requires that a rape or incest victim must be hospitalized to undergo a surgical abortion between the 12th and 20th week of pregnancy, that concern no longer exists. While the Act already makes that point, to avoid any doubt, the Legislative Leaders stipulate that "any recent change in law dealing with a hospitalization for a victim of rape or incest seeking an abortion after 12 weeks (N.C. Gen. Stat. §§ 90-21.81B(3)) will not take effect until October 1, 2023."

Thus, no immediate concern exists such that the Court needs to address this issue before July 1, 2023. The Court need not decide this issue on an emergency basis in a TRO.

II. Items not at issue until at least October 1.

In light of the T&C Bill and the stipulation, the following issues or claims in Plaintiffs' Motion for TRO are no longer immediately, if ever, at issue for potentially violating any North Carolina citizen's constitutional rights before October 1, 2023:

1. **"Application of the fetal homicide statute to a lawful abortion is unconstitutionally vague."** See DE 12, p 14. This is addressed by Section 14.1.(a) of the T&C Bill, and no argument for unconstitutional vagueness will exist once that becomes law.

2. **"Ten-week verification and pregnancy location requirements are unconstitutionally vague."** See DE 12, p 15. This is addressed by Section 14.1.(f) of the T&C Bill, and no argument for unconstitutional vagueness will exist once that becomes law.

3. **"Additional 72-hour mandate is unconstitutionally vague."** See DE 12, p 17. This is addressed by Section 14.1.(d), (e), and (g) of the T&C Bill, and no argument for unconstitutional vagueness will exist once that becomes law.

4. **"Reporting requirement and additional 72-hour mandate violate due process because they are impossible to comply with."** See DE 12, p 19. This is addressed by Section 14.1. (g) and (j) of the T&C Bill, and no argument for unconstitutional impossibility will exist once that becomes law.

5. **"Advising ban is unconstitutional."** See DE 12, p 20. This is addressed by Section 14.1.(b) and (c) of the T&C Bill, no argument for unconstitutional due process or first amendment violations will exist once that becomes law.

6. **"Hospitalization requirement is irrational."** See DE 12, p 23. This is addressed by the Legislative Leaders' stipulation, and will not be an issue until at least October 1, 2023. So, it does not present an imminent issue that could give rise to a TRO.

The Legislative Leaders forecast that they will oppose preliminary injunction on this issue, if Plaintiffs seek it. It is not unconstitutional for the State to regulate abortion and, historically, it has done so on this very topic. States have a long-exercised and historic power to regulate health and safety. *Hillsborough Cnty. v. Automated Med. Labs.*, 471 U.S. 707, 719 (1985). Within the past year, the Supreme Court held that a state law "regulating abortion, like other health and welfare laws, is entitled to a 'strong presumption of validity.'" It must be sustained if there is a rational basis on which the legislature could have thought that it would

serve legitimate state interests.” *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2284 (2022) (citation omitted).

A party seeking a TRO or preliminary injunction bears a high burden to prove the likelihood of success of the claim.

Temporary restraining orders are governed by Rule 65 of the Federal Rules of Civil Procedure, which provides that a temporary restraining order shall not issue in the absence of “specific facts [which] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party may be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). The United States Supreme Court has stated that to obtain a temporary restraining order or a preliminary injunction, a movant must establish: (1) that he is likely to succeed on the merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *The Real Truth About Obama, Inc. v. Federal Election Comm.*, 575 F.3d 342, 345 (4th Cir.2009), *vacated on other grounds*, 559 U.S. 1089 (2010). Injunctive relief, such as the issuance of a preliminary injunction, is an extraordinary remedy that may be awarded only upon a clear showing that the plaintiff is entitled to such relief. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997); *see also MicroStrategy Inc. v. Motorola, Inc.*, 245 F.3d 335, 339 (4th Cir. 2001) (a preliminary injunction is an “extraordinary remed[y] involving the exercise of very far-reaching power to be granted only sparingly and in limited circumstances.”).

Rogers v. Stanback, No. 1:13CV209, 2013 WL 6729864, at *1 (M.D.N.C. Dec. 19, 2013). Plaintiffs cannot show a likelihood of success on their hospitalization requirement claim.

Plaintiffs posit an unchallenged opinion that "the hospitalization requirement lacks any medical basis or common-sense justification, and it bears no plausible relationship to any legitimate government interest." The Legislative Leaders not only disagree, but under a normal briefing schedule, with discovery on the topic, intend to provide at least the very minimal amount, and actually much more, of a rational basis connection to support the law. The mere fact that certain factions dislike the law supported and passed by the majority of the members of the General Assembly elected by the public does not make the law irrational.

Plaintiffs suggest that there is some equal protection claim implicated by the Act, but this is unfounded. "Neither *Roe* nor *Casey* saw fit to invoke this [equal protection] theory, and it is squarely foreclosed by our precedents, which establish that a State's regulation of abortion is not a sex-based classification and is thus not subject to the "heightened scrutiny" that applies to such classifications..

as the Court has stated, the 'goal of preventing abortion' does not constitute 'invidiously discriminatory animus' against women." *Dobbs*, 142 S. Ct. at 2245-46, (internal citations omitted). There is no disparate class of people treated differently under the Act. Plaintiffs cannot sustain this allegation under existing law, or an extension of law.

To the extent Plaintiffs offered any evidence that may be admissible to support their opinion, they have not and cannot cross the high hurdle to overcome the *Dobbs* deference to the North Carolina law as enacted. Furthermore, Plaintiffs certainly have not done so with the even greater showing and confidence needed to support granting a TRO at this stage. Indeed, publicly available information supports North Carolina's current law as 20 states require hospitalization for abortions, and 14 (including North Carolina) do so in the second trimester. See <https://www.guttmacher.org/state-policy/explore/overview-abortion-laws> (last visited June 26, 2023).

Thus, Plaintiffs cannot show a likelihood of success on the merits on this argument, and, respectfully, the Court should deny their Motion for TRO.

7. **"Pregnancy location requirement is irrational."** See DE 12, p 27. This should be fully addressed by Section 14.1.(f) of the T&C Bill. Section 14.1.(f) changes the existing Act requiring documentation of the actual "intrauterine location of the pregnancy" before a physician can prescribe and administer a chemical abortion to instead just require the "existence of an intrauterine pregnancy." No argument for unconstitutional irrationality should exist once that becomes law.

To the extent that Plaintiffs desire to continue to pursue any preliminary injunctive relief related to this provision after the T&C Bill becomes law, the Legislative Leaders respectfully request that they be allowed to develop a record of facts related to this issue. For the same reasons as with the hospitalization requirement claim, the Legislative Leaders do not concede that the current arguments submitted, to include any opinions offered by Dr. Farris, are accurate or legally controlling. The Legislative Leaders intend to supplement the record to make further arguments on the topic if and when the Court issues a Scheduling Order

regarding any preliminary injunction briefings or proceedings.

Thus, to the extent that any issues remain after the passage of the T&C Bill, the Legislative Leaders respectfully request that the Court deny the pending Motion for TRO and permit the development of facts for a more complete record and additional briefing with a deadline in August or September.

CONCLUSION

For these reasons, the Legislative Leaders respectfully request that the Court deny Plaintiffs' Motion for TRO. If the Court determines it will consider Plaintiffs' Motion for Preliminary Injunction at a future date, the Legislative Leaders respectfully request that they be allowed to engage in specific discovery on any issues that remain and that the Court set a schedule for the parties to permit discovery and briefing in August or September.

RESPECTFULLY SUBMITTED THIS 27th day of June, 2023.

/s/ W. Ellis Boyle

W. Ellis Boyle

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**Email address to be used for all communications other than service.

CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of June, 2023, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ W. Ellis Boyle
W. Ellis Boyle
Attorney for Intervenors

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document complies with L.R. 7.3(d) and contains approximately 2,800 [# not to exceed 8,500] words. I also certify that this document uses 13-point Courier New Font and has a top margin of 1.25" on each page in compliance with L.R. 7.1(a).

/s/ W. Ellis Boyle
W. Ellis Boyle

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

5

HOUSE BILL 190
Committee Substitute Favorable 3/14/23
Committee Substitute #2 Favorable 3/28/23
Senate Health Care Committee Substitute Adopted 5/31/23
Fifth Edition Engrossed 6/26/23

Short Title: Dept. of Health and Human Services Revisions.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

1 A BILL TO BE ENTITLED
2 AN ACT MAKING TECHNICAL, CONFORMING, AND OTHER MODIFICATIONS TO
3 LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
4 AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO SESSION LAW
5 2023-14.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. LAWS PERTAINING TO THE DIVISION OF AGING AND ADULT**
9 **SERVICES**

10
11 **AUTHORIZATION FOR SECRETARY OF HEALTH AND HUMAN SERVICES TO**
12 **ADOPT AND ENFORCE RULES TO IMPLEMENT EMERGENCY SOLUTIONS**
13 **GRANT PROGRAM**

14 **SECTION 1.1.** Article 3 of Chapter 143B of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 143B-139.1A. Secretary of Health and Human Services; rules to implement the**
17 **Emergency Solutions Grant Program.**

18 The Secretary of Health and Human Services may adopt rules to implement the Emergency
19 Solutions Grant Program. The Department of Health and Human Services shall enforce any rules
20 adopted under this section."

21
22 **ALIGNMENT OF STATE-COUNTY SPECIAL ASSISTANCE PROGRAM WITH**
23 **FEDERAL REGULATIONS/REMOVAL OF PROPERTY TAX THRESHOLD WHEN**
24 **DETERMINING ELIGIBILITY**

25 **SECTION 1.2.** G.S. 108A-41 reads as rewritten:

26 "**§ 108A-41. Eligibility.**

27 ...

28 (c) When determining whether a person has insufficient resources to provide a reasonable
29 subsistence compatible with decency and health, there shall be excluded from consideration the
30 person's primary place of residence and the land on which it is situated, and in addition there
31 shall be excluded real property contiguous with the person's primary place of ~~residence in which~~
32 ~~the property tax value is less than twelve thousand dollars (\$12,000).~~residence.

33"



EXHIBIT 1

1
2 **EQUALIZATION OF STATE-COUNTY SPECIAL ASSISTANCE PAYMENTS FOR**
3 **RECIPIENTS RESIDING IN LICENSED FACILITIES APPROVED TO ACCEPT**
4 **STATE-COUNTY SPECIAL ASSISTANCE AND RECIPIENTS RESIDING IN**
5 **IN-HOME LIVING ARRANGEMENTS**

6 **SECTION 1.3.** G.S. 108A-47.1(a) reads as rewritten:

7 "(a) The Department of Health and Human Services ~~may~~shall use funds from the existing
8 State-County Special Assistance budget to provide Special Assistance payments to eligible
9 individuals 18 years of age or older in in-home living arrangements. The standard monthly
10 payment to individuals enrolled in the Special Assistance in-home program shall be one hundred
11 percent (100%) of the monthly payment the individual would receive if the individual resided in
12 an adult care home and qualified for Special Assistance, ~~except if a lesser payment amount is~~
13 ~~appropriate for the individual as determined by the local case manager.~~ Assistance. The
14 Department shall implement Special Assistance in-home eligibility policies and procedures to
15 assure that in-home program participants are those individuals who need and, but for the in-home
16 program, would seek placement in an adult care home facility. The Department's policies and
17 procedures shall include the use of ~~a functional~~an assessment."

18
19 **PART II. LAWS PERTAINING TO THE DIVISION OF CENTRAL MANAGEMENT**
20 **AND SUPPORT**

21
22 **CONTRACTING REFORM**

23 **SECTION 2.1.** Section 2 of S.L. 2022-52 reads as rewritten:

24 "**SECTION 2.(a)** Contract Time and Continuity. – In efforts to support the continuity of
25 services provided by ~~nonprofit grantees receiving state and federal funds, a nonprofit grantee~~
26 ~~receiving State or federal funds or any combination of State and federal funds through a financial~~
27 ~~assistance contract,~~ the Department of Health and Human Services (Department) shall enter into
28 a contract agreement for a minimum of a two year contract agreement two years with such
29 nonprofit grantees/recipients grantee if all of the following requirements are met:

- 30 (1) The nonprofit ~~grantee/recipient grantee~~ grantee is receiving nonrecurring ~~funding~~
31 funds for each year of a fiscal biennium.
32 (2) The nonprofit ~~grantee/recipient grantee~~ grantee is receiving recurring ~~funding funds~~
33 for each year of a fiscal biennium.
34 (3) The nonprofit grantee is receiving any combination of recurring and
35 nonrecurring funds for each year of a fiscal biennium.
36 ~~(3)~~(4) Multiyear contracts are not otherwise prohibited by the funding source.

37 "**SECTION 2.(a1)** ~~Nonprofit grantees/recipients~~ Option for Contract Extension. – A
38 nonprofit grantee receiving recurring federal grant funding shall have funds through a financial
39 assistance contract has the option to extend the contract for up to one additional year at the end
40 of the contract's initial term of the contract if all of the following requirements are met:

- 41 (1) The extension is mutually agreed upon by the Department and the nonprofit
42 grantee, through a written amendment as provided for in the ~~General Terms~~
43 ~~and Conditions.~~ terms and conditions of the contract.
44 (2) Funding for the contract remains available.

45 "**SECTION 2.(a2)** Automatic Contract Extension. – The Department shall allow any
46 nonprofit ~~grantee/recipient grantee~~ grantee receiving recurring or nonrecurring ~~state and/or State or~~
47 ~~federal funding funds,~~ or any combination of State and federal funds, through a financial
48 assistance contract for each year of a fiscal biennium to automatically activate a limited-time
49 extensions contract extension for a period of up to three months for to preserve continuity of
50 services when a formal contract extension or renewal process has not been completed within 10

1 business days ~~of after~~ the ~~subsequent~~ contract start date if all of ~~expiration~~ of the original contract;
2 provided, however, that all of the following requirements are met:

- 3 (1) The nonprofit ~~grantee/recipient~~ grantee is receiving recurring ~~funding funds~~,
4 or nonrecurring ~~state and/or federal funding~~ State or federal funds, or any
5 combination of nonrecurring State and federal funds, for each year of a fiscal
6 biennium.
- 7 (2) The nonprofit ~~grantee/recipient~~ grantee has received an unqualified audit
8 report on its most recent financial audit when an audit is required by
9 G.S. 159-34 or 09 NCAC 03M.
- 10 (3) The nonprofit ~~grantee/recipient~~ grantee has a track record of timely
11 performance and financial reporting to the Department as required by the
12 contract.
- 13 (4) The nonprofit ~~grantee/recipient~~ grantee has not been identified by the
14 Department as having a record of noncompliance with requirements of any
15 funding source used to support the contract and has not received an undisputed
16 notice of such noncompliance from the Department. For purposes of this
17 requirement, noncompliance does not include issues stemming from late
18 execution of a contract or mutually agreed upon changes to scope of work or
19 deliverables, and undisputed notice of noncompliance does not include notice
20 of noncompliance where the nonprofit grantee has provided written evidence
21 of actual compliance to the Department within 30 days ~~of after~~ receipt of a
22 notice of noncompliance.
- 23 (5) The nonprofit ~~grantee/recipient~~ grantee has been in operation for at least five
24 years.

25 In the event of an automatic contract extension pursuant to this subsection, the terms of the
26 expired contract shall govern the relationship and obligations of the party until the end of the
27 three-month contract extension period or until the execution of a formal contract extension or
28 renewal, whichever occurs first.

29 ...

30 **"SECTION 2.(c) Negotiated Overhead Rates.** – The negotiation, determination, or
31 settlement of the reimbursable amount of overhead under cost-reimbursement type contracts is
32 accomplished on an individual contract basis and is based upon the federally approved indirect
33 cost rate. ~~For vendors who~~ grantees, including nonprofit grantees, that (i) are receiving financial
34 assistance and do not have a federally approved indirect cost rate, rate from a federal agency or
35 (ii) have a previously negotiated but expired rate, the Department may allow the grantee, in
36 accordance with 2 C.F.R. § 200.332(a)(4) or 2 C.F.R. § 200.414(f), the de minimis rate of ten
37 percent (10%) of modified total direct costs shall apply. to use the de minimis rate or ten percent
38 (10%) of modified total direct costs. Alternatively, the grantee may negotiate or waive an indirect
39 cost rate with the Department. If State or federal law or regulations establish a limitation on the
40 amount of funds the grantee may use for administrative purposes, then that limitation controls,
41 in accordance with 2 C.F.R. § 200.414(c)(3)."

43 **PART III. LAWS PERTAINING TO THE DIVISION OF CHILD AND FAMILY** 44 **WELL-BEING**

46 **CONFORMING CHANGES RELATED TO ESTABLISHMENT OF NEW DIVISION**

47 **SECTION 3.1.** G.S. 7B-1402 reads as rewritten:

48 **"§ 7B-1402. Task Force – creation; membership; vacancies.**

49 (a) There is created the North Carolina Child Fatality Task Force within the Department
50 of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 36 members, 12 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. In making appointments or designating representatives, appointing authorities and ex officio members shall use best efforts to select members or representatives with sufficient knowledge and experience to effectively contribute to the issues examined by the Task Force and, to the extent possible, to reflect the geographical, political, gender, and racial diversity of this State. The members shall be as follows:

- (1) The Chief Medical Examiner.
- (2) The Attorney General.
- (3) The Director of the Division of Social ~~Services~~Services, Department of Health and Human Services.
- (4) The Director of the State Bureau of Investigation.
- (5) The Director of the ~~Maternal and Child Health Section of the~~Division of Public Health, Department of Health and Human Services.
- (6) The chair of the Council for Women and Youth Involvement.
- (7) The Superintendent of Public Instruction.
- (8) The Chairman of the State Board of Education.
- (9) The Director of the ~~Division of Mental Health, Developmental Disabilities, and Substance Abuse Services~~Division of Child and Family Well-Being, Department of Health and Human Services.

...."

SECTION 3.2. G.S. 7B-1404(b) reads as rewritten:

"(b) The State Team shall be composed of the following 11 members of whom nine members are ex officio and two are appointed:

- (1) The Chief Medical Examiner, who shall chair the State ~~Team~~Team.
- (2) The Attorney ~~General~~General.
- (3) The Director of the Division of Social Services, Department of Health and Human ~~Services~~Services.
- (4) The Director of the State Bureau of ~~Investigation~~Investigation.
- (5) The Director of the Division of ~~Maternal and Child Health of the~~Public Health, Department of Health and Human ServicesServices.
- (6) The Superintendent of Public ~~Instruction~~Instruction.
- (7) The Director of the Division of ~~Mental Health, Developmental Disabilities, and Substance Abuse Services~~, of Child and Family Well-Being, Department of Health and Human ServicesServices.
- (8) The Director of the Administrative Office of the ~~Courts~~Courts.
- (9) The pediatrician appointed pursuant to G.S. 7B-1402(b) to the Task ~~Force~~Force.
- (10) A public member, appointed by the ~~Governor~~and Governor.
- (11) The Team Coordinator.

The ex officio members other than the Chief Medical Examiner may designate a representative from their departments, divisions, or offices to represent them on the State Team."

SECTION 3.3. G.S. 122C-113(b1) reads as rewritten:

"(b1) The Secretary shall cooperate with the State Board of Education and the Division of Juvenile Justice of the Department of Public Safety in coordinating the responsibilities of the Department of Health and Human Services, the State Board of Education, the Division of Juvenile Justice of the Department of Public Safety, and the Department of Public Instruction for adolescent substance abuse programs. The Department of Health and Human Services, through

1 its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services,
2 Services and its Division of Child and Family Well-Being, in cooperation with the Division of
3 Juvenile Justice of the Department of Public Safety, shall be responsible for intervention and
4 treatment in non-school based programs. The State Board of Education and the Department of
5 Public Instruction, in consultation with the Division of Juvenile Justice of the Department of
6 Public Safety, shall have primary responsibility for in-school education, identification, and
7 intervention services, including student assistance programs."

8 **SECTION 3.4.** G.S. 122C-142.2(g) reads as rewritten:

9 "(g) The Rapid Response Team shall be comprised of representatives of the Department
10 of Health and Human Services from the Division of Social Services; the Division of Mental
11 Health, Developmental Disabilities, and Substance Abuse Services; the Division of Child and
12 Family Well-Being; and the Division of Health Benefits. Upon receipt of a notification from a
13 director, the Rapid Response Team shall evaluate the information provided and coordinate a
14 response to address the immediate needs of the juvenile, which may include any of the following:

- 15 (1) Identifying an appropriate level of care for the juvenile.
- 16 (2) Identifying appropriate providers or other placement for the juvenile.
- 17 (3) Making a referral to qualified services providers.
- 18 (4) Developing an action plan to ensure the needs of the juvenile are met.
- 19 (5) Developing a plan to ensure that relevant parties carry out any responsibilities
20 to the juvenile."

21 22 **PART IV. LAWS PERTAINING TO THE DIVISION OF HEALTH SERVICE** 23 **REGULATION**

24 25 **MEDICAL CARE COMMISSION CLARIFICATION OF POWERS AND DUTIES**

26 **SECTION 4.1.** G.S. 143B-165 reads as rewritten:

27 "**§ 143B-165. North Carolina Medical Care Commission – creation, powers and duties.**

28 There is hereby created the North Carolina Medical Care Commission of the Department of
29 Health and Human Services with the power and duty to ~~promulgate~~ adopt rules ~~and regulations~~
30 to be followed in the construction and maintenance of public and private hospitals, medical
31 centers, and ~~related facilities with the power and duty regulated under Chapters 131D and 131E~~
32 of the General Statutes; to adopt, amend and rescind rules ~~and regulations~~ under and not
33 inconsistent with the laws of the State as necessary to carry out the provisions and purposes of
34 this Article. Article; and to protect the health, safety, and welfare of the individuals served by
35 these facilities.

- 36 (1) The North Carolina Medical Care Commission ~~has the duty to~~ shall adopt
37 statewide plans for the construction and maintenance of hospitals, medical
38 centers, and ~~related facilities~~, facilities regulated under Chapters 131D and
39 131E of the General Statutes, or such other plans as may be found desirable
40 and necessary ~~in order~~ to meet the requirements and receive the benefits of
41 any applicable federal legislation with regard thereto. legislation.
- 42 (2) The Commission ~~is authorized to~~ may adopt such rules ~~and regulations~~ as may
43 be necessary to carry out the intent and purposes of Article ~~13-4~~ of Chapter
44 ~~131-131E~~ of the General Statutes of North Carolina. Statutes.
- 45 (3) ~~The Commission may adopt such reasonable and necessary standards with~~
46 ~~reference thereto as may be proper to cooperate fully with the Surgeon~~
47 ~~General or other agencies or departments of the United States and the use of~~
48 ~~funds provided by the federal government as contained and referenced in~~
49 ~~Article 13 of Chapter 131 of the General Statutes of North Carolina.~~
- 50 (4) The Commission ~~shall have~~ has the power and duty to approve projects in the
51 amounts of grants-in-aid from funds supplied by the federal and State

- 1 governments for the planning and construction of hospitals and other related
2 medical facilities ~~according to the provisions of Article 13 in accordance with~~
3 Articles 4 and 5 of Chapter 131-131E of the General Statutes of North
4 Carolina Statutes.
- 5 (5) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1388, s. 3.
- 6 (6) The Commission ~~has the duty to shall~~ adopt rules ~~and regulations and~~
7 ~~standards with respect to establishing standards for the licensure, inspection,~~
8 ~~and operation of, and the provision of care and services by, the different types~~
9 ~~of hospitals to be licensed under the provisions of Article 13A- Articles 2 and~~
10 ~~5 of Chapter 131-131E of the General Statutes of North Carolina Statutes.~~
- 11 (7) The Commission ~~is authorized and empowered to may~~ adopt such ~~rules and~~
12 ~~regulations, rules,~~ not inconsistent with the laws of this State, as may be
13 required by the federal government ~~for to secure federal grants-in-aid for~~
14 ~~medical facility services and licensure which may be made available to the~~
15 ~~State by the federal government. licensure.~~ This section ~~is to shall~~ be liberally
16 construed in order that the State and its citizens may benefit from such
17 grants-in-aid.
- 18 (8) The Commission shall adopt such ~~rules and regulations, rules,~~ consistent with
19 the provisions of this Chapter. All rules ~~and regulations not inconsistent with~~
20 ~~the provisions of this Chapter heretofore adopted by the North Carolina~~
21 ~~Medical Care Commission since the enactment of Chapter 131E of the~~
22 ~~General Statutes that are not inconsistent with the provisions of this Chapter~~
23 shall remain in full force and effect ~~unless and until~~ repealed or superseded by
24 action of the ~~North Carolina Medical Care Commission.~~ All rules ~~and~~
25 ~~regulations~~ adopted by the Commission shall be enforced by the Department
26 of Health and Human Services.
- 27 (9) The Commission ~~shall have the power and duty to may~~ adopt rules ~~and~~
28 ~~regulations with regard to concerning~~ emergency medical services in
29 accordance with the provisions of Article ~~26-7~~ of Chapter ~~130-131E~~ and
30 Article 56 of Chapter 143 of the General ~~Statutes of North Carolina Statutes.~~
- 31 (10) The Commission ~~shall have the power and duty to shall~~ adopt rules for the
32 operation of nursing homes, as defined by Article 6 of Chapter 131E of the
33 General Statutes.
- 34 (11) The Commission ~~is authorized to may~~ adopt such rules as ~~may be necessary~~
35 ~~to carry out the provisions of Part C of Article 6, and Article 10, establish~~
36 ~~standards for the licensure, inspection, and operation of, and the provision of~~
37 ~~care and services by, facilities licensed under Articles 6 and 10 of Chapter~~
38 ~~131E of the General Statutes of North Carolina Statutes.~~
- 39 (12) The Commission shall adopt rules, ~~including temporary rules pursuant to G.S.~~
40 ~~150B-13, rules~~ providing for the accreditation of facilities that perform
41 mammography procedures and for laboratories evaluating screening pap
42 smears. Mammography accreditation standards shall address, but are not
43 limited to, the quality of mammography equipment used and the skill levels
44 and other qualifications of personnel who administer mammographies and
45 personnel who interpret mammogram results. The Commission's standards
46 shall be no less stringent than those established by the United States
47 Department of Health and Human Services for Medicare/Medicaid coverage
48 of screening mammography. These rules shall also specify procedures for
49 waiver of these accreditation standards on an individual basis for any facility
50 providing screening mammography to a significant number of patients, but
51 only if there is no accredited facility located nearby. The Commission may

- 1 grant a waiver subject to any conditions it deems necessary to protect the
 2 health and safety of patients, including requiring the facility to submit a plan
 3 to meet accreditation standards.
- 4 (13) The Commission ~~shall have the power and duty to~~ shall adopt rules
 5 establishing standards for the inspection and licensure of licensure, inspection,
 6 and operation of, and the provision of care and services by, adult care homes
 7 ~~and operation of adult care homes,~~ as defined by Article 1 of Chapter 131D of
 8 the General Statutes, and for personnel requirements of staff employed in
 9 adult care homes, except ~~where~~ when rule-making authority is assigned by
 10 law to the Secretary.
- 11 (14) The Commission shall adopt rules establishing standards for the following
 12 with respect to facilities used as multiunit assisted housing with services, as
 13 defined by Article 1 of Chapter 131D of the General Statutes:
- 14 a. Registration and deregistration.
 15 b. Disclosure statements.
 16 c. Agreements for services.
 17 d. Personnel requirements.
 18 e. Resident admissions and discharges."

19
 20 **PART V. LAWS PERTAINING TO THE DIVISION OF MENTAL HEALTH,**
 21 **DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES**

22
 23 **TECHNICAL CHANGES/POPULATIONS COVERED BY LME/MCOS**

24 **SECTION 5.1.(a)** G.S. 122C-115 reads as rewritten:

25 "**§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and**
 26 **cities.**

27 ...

28 (e) ~~Beginning on the date that capitated contracts under Article 4 of Chapter 108D of the~~
 29 ~~General Statutes begin, July 1, 2021, LME/MCOs shall cease managing Medicaid services for~~
 30 ~~all Medicaid recipients other than recipients described in G.S. 108D-40(a)(1), (4), (5), (6), (7),~~
 31 ~~(10), (11), (12), and (13) who are enrolled in a standard benefit plan.~~

32 (e1) Until BH IDD tailored plans become operational, all of the following shall occur:

- 33 (1) LME/MCOs shall continue to manage the Medicaid services that are covered
 34 by the LME/MCOs under the combined 1915(b) and (c) waivers for Medicaid
 35 recipients ~~described in G.S. 108D-40(a)(1), (4), (5), (6), (7), (10), (11), (12),~~
 36 ~~and (13) who are covered by the those waivers and who are not enrolled in a~~
 37 standard benefit plan.
- 38 (2) The Division of Health Benefits shall negotiate actuarially sound capitation
 39 rates directly with the LME/MCOs based on the change in composition of the
 40 population being served by the LME/MCOs.
- 41 (3) Capitation payments under contracts between the Division of Health Benefits
 42 and the LME/MCOs shall be made directly to the LME/MCO by the Division
 43 of Health Benefits.

44 (f) ~~Entities LME/MCOs~~ operating the BH IDD tailored plans under G.S. 108D-60 may
 45 continue to manage the behavioral health, intellectual and developmental disability, and
 46 traumatic brain injury services for any Medicaid recipients ~~described in G.S. 108D-40(a)(4), (5),~~
 47 ~~(7), (10), (11), (12), and (13) under any contract with the Department in accordance with~~
 48 ~~G.S. 108D-60(b) who are not enrolled in a BH IDD tailored plan."~~

49 **SECTION 5.1.(b)** G.S. 108D-60(b) reads as rewritten:

50 "(b) The Department may contract with entities operating BH IDD tailored plans under a
 51 capitated or other arrangement for the management of behavioral health, intellectual and

1 developmental disability, and traumatic brain injury services for any recipients ~~excluded from~~
 2 ~~PHP coverage under G.S. 108D-40(a)(4), (5), (7), (10), (11), (12), and (13) who are not enrolled~~
 3 ~~in a BH IDD tailored plan."~~

4 **SECTION 5.1.(c)** G.S. 122C-3 reads as rewritten:

5 **"§ 122C-3. Definitions.**

6 The following definitions apply in this Chapter:

7 ...

8 (2b) ~~"Behavioral~~ Behavioral health and intellectual/developmental disabilities
 9 ~~tailored plan" plan or "BH-BH IDD tailored plan" has the same meaning as~~
 10 ~~plan. – As defined in G.S. 108D-1.~~

11 ...

12 (29b) ~~"Prepaid-Prepaid health plan" has the same meaning as plan. – As defined in~~
 13 ~~G.S. 108D-1.~~

14 ...

15 (35b) Specialty services. – Services that are provided to consumers from
 16 low-incidence populations.

17 (35e) ~~State or Local Consumer Advocate. — The individual carrying out the duties~~
 18 ~~of the State or Local Consumer Advocacy Program Office in accordance with~~
 19 ~~Article 1A of this Chapter.~~

20 (35d) Standard benefit plan. – As defined in G.S. 108D-1.

21 (35e) State Plan. – The State Plan for Mental Health, Developmental Disabilities,
 22 and Substance Abuse Services.

23 (35e)(35f) State resources. – State and federal funds and other receipts administered
 24 by the Division.

25"

26 **CHANGES TO EFFECTUATE RENAMING OF DIVISION**

27 **SECTION 5.2.(a)** G.S. 143B-138.1(a)(4) reads as rewritten:

28 "(4) Division of Mental Health, Developmental Disabilities, and Substance Abuse
 29 Use Services."

30 **SECTION 5.2.(b)** Throughout the General Statutes, the Revisor of Statutes shall
 31 replace the phrase "Division of Mental Health, Developmental Disabilities, and Substance Abuse
 32 Services" with the phrase "Division of Mental Health, Developmental Disabilities, and Substance
 33 Use Services."

34 **SECTION 5.2.(c)** Throughout the General Statutes, the Revisor of Statutes shall
 35 replace the phrase "MH/DD/SAS" with the phrase "MH/DD/SUS."

36 **PART VI. LAWS PERTAINING TO THE DIVISION OF PUBLIC HEALTH**

37 **EXPANSION OF PERMISSIBLE USES FOR NEWBORN SCREENING EQUIPMENT** 38 **REPLACEMENT AND ACQUISITION FUND**

39 **SECTION 6.1.** G.S. 130A-125(d) reads as rewritten:

40 "(d) The Newborn Screening Equipment Replacement and Acquisition Fund (Fund) is
 41 established as a nonreverting fund within the Department. Thirty-one dollars (\$31.00) of each
 42 fee collected pursuant to subsection (c) of this section shall be credited to this Fund and applied
 43 to the Newborn Screening Program to be used as directed in this subsection. The Department
 44 shall not use monies in this Fund for any purpose other than to ~~purchase or replace~~ purchase,
 45 replace, maintain, or support laboratory instruments, equipment, and information technology
 46 systems used in the Newborn Screening Program. The Department shall notify and consult with
 47 the Joint Legislative Commission on Governmental Operations whenever the balance in the Fund
 48 exceeds the following threshold: the sum of (i) the actual cost of new equipment necessary to
 49
 50
 51

1 incorporate conditions listed on the RUSP into the Newborn Screening Program and (ii) one
 2 hundred percent (100%) of the replacement value of existing equipment used in the Newborn
 3 Screening Program. Any monies in the Fund in excess of this threshold shall be available for
 4 expenditure only upon an act of appropriation by the General Assembly."

5
 6 **EXPANSION OF QUALIFIED PROFESSIONALS ELIGIBLE TO SERVE AS COUNTY**
 7 **MEDICAL EXAMINERS**

8 **SECTION 6.2.** G.S. 130A-382 reads as rewritten:

9 "**§ 130A-382. County medical examiners; appointment; term of office; vacancies; training**
 10 **requirements; revocation for cause.**

11 (a) The Chief Medical Examiner shall appoint two or more county medical examiners for
 12 each county for a three-year term. In appointing medical examiners for each county, the Chief
 13 Medical Examiner shall give preference to physicians licensed to practice medicine in this State
 14 but may also appoint ~~licensed~~ the following professionals:

- 15 (1) Dentists, physician assistants, nurse practitioners, nurses, or emergency
 16 physical therapists as long as the appointee is licensed to practice in this State.
 17 (2) Emergency medical technician-technicians or paramedics credentialed under
 18 G.S. 131E-159.
 19 (3) Pathologists' assistants certified by the American Society for Clinical
 20 Pathology.
 21 (4) Pathologists' assistants or medicolegal death investigators certified by a
 22 nationally recognized certifying body determined by the Chief Medical
 23 Examiner to have an appropriate certification process for pathologists'
 24 assistants or medicolegal death investigators to demonstrate readiness to serve
 25 as a county medical examiner.

26 A medical examiner may serve more than one county. The Chief Medical Examiner may take
 27 jurisdiction in any case or appoint another medical examiner to do so.

28 (a1) During a state of emergency declared by the Governor or by a resolution of the
 29 General Assembly pursuant to G.S. 166A-19.20, or by the governing body of a municipality or
 30 county pursuant to G.S. 166A-19.22, the Chief Medical Examiner may appoint temporary county
 31 medical examiners to serve until the expiration of the declared state of emergency. In appointing
 32 temporary county medical examiners pursuant to this subsection, the Chief Medical Examiner
 33 may appoint any individual determined by the Chief Medical Examiner to have the appropriate
 34 training, education, and experience to serve as a county medical examiner during a declared state
 35 of emergency.

36 "...."

37
 38 **PART VII. LAWS PERTAINING TO THE DIVISION OF SOCIAL SERVICES**

39
 40 **ALIGNMENT OF TIME LINE FOR COUNTY TANF PLAN SUBMISSIONS**

41 **SECTION 7.1.(a)** G.S. 108A-24(1e) reads as rewritten:

42 "(1e) "County Plan" is the ~~biennial-triennial~~ Work First Program plan prepared by
 43 each Electing County pursuant to this Article and submitted to the Department
 44 for incorporation into the State Plan that also includes the Standard Work First
 45 Program."

46 **SECTION 7.1.(b)** G.S. 108A-27.3(a)(12) reads as rewritten:

47 "(12) Develop, adopt, and submit to the Department a ~~biennial-triennial~~ County
 48 Plan;"

49 **SECTION 7.1.(c)** G.S. 108A-27.4(a) reads as rewritten:

1 "(a) Each Electing County shall submit to the Department, according to the schedule
2 established by the Department and in compliance with all federal and State laws, rules, and
3 regulations, a ~~biennial~~-triennial County Plan."
4

5 **AMENDMENT OF CHILD ABUSE AND NEGLECT SCHOOL POSTERS**

6 **SECTION 7.2.(a)** G.S. 115C-12(47) reads as rewritten:

7 "(47) Duty Regarding Child Abuse and Neglect. – The State Board of Education, in
8 consultation with the Superintendent of Public Instruction, shall adopt a rule
9 requiring information on child abuse and neglect, including age-appropriate
10 information on sexual abuse, to be provided by public school units to students
11 in grades six through 12. This rule shall also apply to high schools under the
12 control of The University of North Carolina. Information shall be provided in
13 the form of (i) a document provided to all students at the beginning of each
14 school year and (ii) a display posted in visible, high-traffic areas throughout
15 each public secondary school. The document and display shall include, at a
16 minimum, the following information:

- 17 a. Likely warning signs indicating that a child may be a victim of abuse
18 or neglect, including age-appropriate information on sexual abuse.
- 19 b. The telephone number used for reporting abuse and neglect to the
20 department of social services in the county in which the school is
21 located, in accordance with G.S. 7B-301.
- 22 c. A statement that information reported pursuant to sub-subdivision b.
23 of this subdivision shall be held in the strictest confidence, to the extent
24 permitted by law, pursuant to G.S. 7B-302(a1).
- 25 d. ~~Available resources developed pursuant to G.S. 115C-105.51,~~
26 ~~including the anonymous safety tip line application."~~

27 **SECTION 7.2.(b)** This section is effective when it becomes law and applies
28 beginning with the 2023-2024 school year.
29

30 **AUTHORIZATION FOR APPLICATION OF FEDERALLY MANDATED TOOLS TO** 31 **ENFORCE CHILD SUPPORT PAYMENTS**

32 **SECTION 7.3.(a)** G.S. 110-129 reads as rewritten:

33 **"§ 110-129. Definitions.**

34 As used in this Article:

35 ...

36 (6a) "Financial Management Services" (FMS) means the unit of the U.S.
37 Department of the Treasury, which, under federal law, offsets certain federal
38 payments to satisfy support arrears.

39 ...

40 (9a) "Internal Revenue Service" (IRS) means the unit of the U.S. Department of
41 the Treasury, which, under federal law, offsets income tax refunds against
42 certain support arrears.

43 ...

44 (12a) "Offset" means withholding by the IRS or FMS of all or part of an income tax
45 refund or certain federal payments due an obligor and remitting payments to
46 the federal Office of Child Support Enforcement for transmittal to the State.

47"

48 **SECTION 7.3.(b)** G.S. 110-129.1(a) reads as rewritten:

49 "(a) In addition to other powers and duties conferred upon the Department of Health and
50 Human Services, Child Support Enforcement Program, by this Chapter or other State law, the
51 Department shall have the following powers and duties:

- 1 ...
- 2 (10) Certify obligors to the federal Office of Child Support Enforcement for the
- 3 Passport Denial Program under G.S. 110-143.
- 4 (11) Certify to the federal Office of Child Support Enforcement determinations that
- 5 an obligor in a IV-D case owes support arrears in an amount equal to or greater
- 6 than the federally mandated thresholds for offset of federal income tax refunds
- 7 under 42 U.S.C. § 664(b)(2) if the arrears are assigned to the State and 45
- 8 C.F.R. § 303.72(a)(2) if the arrears are not assigned to the State.
- 9 (12) Certify obligors to the federal Office of Child Support Enforcement for the
- 10 Administrative Offset Program under G.S. 110-144."

11 **SECTION 7.3.(c)** Article 9 of Chapter 110 of the General Statutes is amended by

12 adding the following new sections to read:

13 **"§ 110-143. Passport Denial Program.**

14 (a) Participation. – The Department of Health and Human Services shall participate in

15 the federal Passport Denial Program for the denial, revocation, or limitation of an obligor's

16 passports under 42 U.S.C. § 654(31) and 42 U.S.C. § 652(k).

17 (b) Certification. – The Department shall annually certify to the federal Office of Child

18 Support Enforcement (OCSE) an obligor in a IV-D case whose support arrears exceed the

19 federally mandated threshold in 42 U.S.C. § 654(31). The OCSE shall transmit the certification

20 to the U.S. Department of State pursuant to the federal Passport Denial Program.

21 (c) Notice. – The Department shall send written notice of the certification to the obligor

22 at the obligor's last known address. The notice shall advise the obligor of all of the following:

23 (1) The amount of the arrears as of the date of the notice.

24 (2) The possibility that the obligor's passport may be denied, revoked, or

25 restricted by the U.S. Department of State.

26 (3) The procedure to contest the certification.

27 (d) Appeal. – Within 60 days of the date the notice is placed in the mail to the obligor,

28 the obligor may file a contested case petition with the North Carolina Office of Administrative

29 Hearings to contest the certification. The contested case shall be conducted in accordance with

30 Article 3 of Chapter 150B of the General Statutes. The obligor may contest the certification only

31 if one of the following applies:

32 (1) An arrearage does not exist.

33 (2) An arrearage does exist, but never exceeded the federally mandated threshold.

34 (3) There is a claim of mistaken identity.

35 (e) Withdrawal of Certification. – The Department shall notify the OCSE if the obligor's

36 support arrears are paid in full.

37 **"§ 110-144. Administrative Offset Program.**

38 (a) Participation. – The Department of Health and Human Services shall participate in

39 the federal Administrative Offset Program for the offset of certain federal payments under 31

40 C.F.R. § 285.1.

41 (b) Certification. – The Department shall annually certify to the federal Office of Child

42 Support Enforcement (OCSE) an obligor in a IV-D case whose support arrears are (i) equal to or

43 greater than one hundred fifty dollars (\$150.00) if the arrears are assigned to the State and (ii)

44 equal to or greater than five hundred dollars (\$500.00) if the arrears are not assigned to the State.

45 (c) Notice. – At least 30 days before certification, the Department shall send written

46 notice of the certification to the obligor at the obligor's last known address. The notice shall

47 advise the obligor of all of the following:

48 (1) The amount of the arrears as of the date of the notice.

49 (2) The possibility that the obligor may have certain federal payments offset by

50 FMS.

51 (3) The procedures to contest the certification.

1 Without further notice to the obligor, the Department shall provide OCSE with updates to
2 adjust the amount of arrears to reflect any payments or additional arrears that accrue after the
3 date of certification.

4 (d) Appeal. – Within 60 days of the date the notice is placed in the mail to the obligor,
5 the obligor may file a contested case petition with the North Carolina Office of Administrative
6 Hearings to contest the certification. The contested case shall be conducted in accordance with
7 Article 3 of Chapter 150B of the General Statutes. The obligor may contest the certification only
8 if either of the following applies:

9 (1) The amount of arrears stated in the notice is incorrect.

10 (2) There is a claim of mistaken identity."

11
12 **AUTHORIZATION FOR DSS TO GRANT EXCEPTIONS FOR EQUIVALENT CHILD**
13 **WELFARE TRAINING COMPLETED IN ANOTHER STATE**

14 **SECTION 7.4.** G.S. 131D-10.6A reads as rewritten:

15 **"§ 131D-10.6A. Training by the Division of Social Services required.**

16 ...

17 (b) The Division of Social Services shall establish minimum training requirements for
18 child welfare services staff. The minimum training requirements established by the Division are
19 as follows:

20 (1) Child welfare services workers shall complete a minimum of 72 hours of
21 preservice training before assuming direct client contact responsibilities. In
22 completing this requirement, the Division of Social Services shall ensure that
23 each child welfare worker receives training on family centered practices and
24 State and federal law regarding the basic rights of individuals relevant to the
25 provision of child welfare services, including the right to privacy, freedom
26 from duress and coercion to induce cooperation, and the right to parent.

27 (2) Child protective services workers shall complete a minimum of 18 hours of
28 additional training that the Division of Social Services determines is necessary
29 to adequately meet training needs.

30 (3) Foster care and adoption workers shall complete a minimum of 39 hours of
31 additional training that the Division of Social Services determines is necessary
32 to adequately meet training needs.

33 (4) Child welfare services supervisors shall complete a minimum of 72 hours of
34 preservice training before assuming supervisory responsibilities and a
35 minimum of 54 hours of additional training that the Division of Social
36 Services determines is necessary to adequately meet training needs.

37 (5) Child welfare services staff shall complete 24 hours of continuing education
38 annually. In completing this requirement, the Division of Social Services shall
39 provide each child welfare services staff member with annual update
40 information on family centered practices and State and federal law regarding
41 the basic rights of individuals relevant to the provision of child welfare
42 services, including the right to privacy, freedom from duress and coercion to
43 induce cooperation, and the right to parent.

44 (c) The Division of Social Services may grant an exception in whole or in part to the
45 requirement under subdivision ~~(1) of this subsection~~ (b)(1) of this section to child welfare
46 workers who ~~satisfactorily meet either of the following:~~

47 (1) Satisfactorily complete or are enrolled in a masters or bachelors program after
48 July 1, 1999, from a North Carolina social work program accredited pursuant
49 to the Council on Social Work Education. The program's curricula must cover
50 the specific preservice training requirements as established by the Division of
51 Social Services.

(2) Have child welfare work experience in another state and have completed child welfare training equivalent to training in this State.

(d) The Division of Social Services shall ensure that training opportunities are available for county departments of social services and consolidated human service agencies to meet the training requirements of ~~this subsection.~~ subsection (b) of this section."

CLARIFICATION OF WHO SETS MAXIMUM DAILY RATE FOR ADULT DAY CARE SERVICES

SECTION 7.5. G.S. 143B-153(2a)b.3. reads as rewritten:

"3. Maximum rates of payment for the provision of social services, except there shall be no maximum statewide reimbursement rate for adult day care services, adult day health services, and the associated transportation services, as these reimbursement rates shall be determined ~~at the local level~~ by the county department of social services or a designee of the board of county commissioners to allow flexibility in responding to local variables."

PART VIII. LAWS PERTAINING TO THE DIVISION OF VOCATIONAL REHABILITATION SERVICES

CHANGES TO EFFECTUATE RENAMING OF DIVISION

SECTION 8.1. G.S. 108A-26 reads as rewritten:

"§ 108A-26. Certain financial assistance and in-kind goods not considered in determining assistance paid under Chapters 108A and 111.

Financial assistance and in-kind goods or services received from a governmental agency, or from a civic or charitable organization, shall not be considered in determining the amount of assistance to be paid any person under Chapters 108A and 111 of the General Statutes provided that such financial assistance and in-kind goods and services are incorporated in the rehabilitation plan of such person being assisted by the Division of ~~Vocational Rehabilitation Services~~ Employment and Independence for People with Disabilities or the Division of Services for the Blind of the Department of Health and Human Services, except where such goods and services are required to be considered by federal law or regulations."

SECTION 8.2. G.S. 111-11.1 reads as rewritten:

"§ 111-11.1. Jurisdiction of certain Divisions within the Department of Health and Human Services.

For the purpose of providing rehabilitative services to people who are visually impaired, the Division of Services for the Blind and the Division of ~~Vocational Rehabilitation Services~~ Employment and Independence for People with Disabilities shall develop and enter into an agreement specifying which agency can most appropriately meet the specific needs of this client population. If the Divisions cannot reach an agreement, the Secretary of Health and Human Services shall determine which Division can most appropriately meet the specific needs of this client population."

SECTION 8.3. G.S. 122C-22(a)(7) reads as rewritten:

"(7) Persons subject to rules and regulations of the Division of ~~Vocational Rehabilitation Services~~ Employment and Independence for People with Disabilities."

SECTION 8.4. G.S. 131D-2.3 reads as rewritten:

"§ 131D-2.3. Exemptions from licensure.

The following are excluded from this Article and are not required to be registered or obtain licensure under this Article:

- 1 (1) Facilities licensed under Chapter 122C or Chapter 131E of the General
 2 ~~Statutes; Statutes.~~
 3 (2) Persons subject to rules of the Division of ~~Vocational Rehabilitation~~
 4 ~~Services; Employment and Independence for People with Disabilities.~~
 5 (3) Facilities that care for no more than four persons, all of whom are under the
 6 supervision of the United States Veterans ~~Administration; Administration.~~
 7 (4) Facilities that make no charges for housing, amenities, or personal care
 8 service, either directly or ~~indirectly; and indirectly.~~
 9 (5) Institutions that are maintained or operated by a unit of government and that
 10 were established, maintained, or operated by a unit of government and exempt
 11 from licensure by the Department on September 30, 1995."

12 **SECTION 8.5.** G.S. 143-545.1(a) reads as rewritten:

13 "(a) Policy. – Recognizing that disability is a natural part of human experience, the State
 14 establishes as its policy that individuals with physical and mental disabilities should be able to
 15 participate to the maximum extent of their abilities in the economic, educational, cultural, social,
 16 and political activities available to all citizens of the State. To implement this policy, the
 17 Department of Health and Human Services shall establish and operate comprehensive and
 18 accountable programs of vocational rehabilitation and independent living for persons with
 19 disabilities. These programs are to be administered by the Division of ~~Vocational Rehabilitation~~
 20 ~~Services; Employment and Independence for People with Disabilities~~ in collaboration with the
 21 Division of Services for the Blind, which conducts vocational rehabilitation and independent
 22 living programs for individuals who are blind or visually impaired, pursuant to Chapter 111 of
 23 the General Statutes and the rules of the Commission for the Blind adopted pursuant to
 24 G.S. 143B-157. The programs so provided shall be administered according to the following
 25 principles:

26 "...."

27 **SECTION 8.6.** G.S. 143-547 reads as rewritten:

28 "**§ 143-547. Subrogation rights; withholding of information a misdemeanor.**

29 ...

30 (b) In furnishing a person rehabilitation services, including medical case services under
 31 this Chapter, the Division of ~~Vocational Rehabilitation Services; Employment and Independence~~
 32 ~~for People with Disabilities~~ is subrogated to the person's right of recovery from:

- 33 (1) Personal insurance;
 34 (2) Worker's Compensation;
 35 (3) Any other person or personal injury caused by the other person's negligence
 36 or wrongdoing; or
 37 (4) Any other source.

38 (c) The Division of ~~Vocational Rehabilitation Services; Employment and Independence~~
 39 ~~for People with Disabilities'~~ right to subrogation is limited to the cost of the rehabilitation services
 40 provided by or through the Division for which a financial needs test is a condition of the service
 41 provisions. Those services that are provided without a financial needs test are excluded from
 42 these subrogation rights.

43 (d) The Division of ~~Vocational Rehabilitation Services; Employment and Independence~~
 44 ~~for People with Disabilities~~ may totally or partially waive subrogation rights when the Division
 45 finds that enforcement would tend to defeat the client's process of rehabilitation or when client
 46 assets can be used to offset additional Division costs.

47 (e) The Division of ~~Vocational Rehabilitation Services; Employment and Independence~~
 48 ~~for People with Disabilities~~ may adopt rules for the enforcement of its rights of subrogation.

49 (f) It is a Class 1 misdemeanor for a person seeking or having obtained assistance under
 50 this Part for himself or another to willfully fail to disclose to the Division of ~~Vocational~~
 51 ~~Rehabilitation Services; Employment and Independence for People with Disabilities~~ or its

1 attorney the identity of any person or organization against whom the recipient of assistance has
2 a right of recovery, contractual or otherwise."

3 **SECTION 8.7.** G.S. 143-548 reads as rewritten:

4 "**§ 143-548. Vocational State Rehabilitation Council.**

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

18 ...

19 (b1) Additional Qualifications. – In addition to ensuring the qualifications for membership
20 prescribed in subsection (a) of this section, the appointing authorities shall ensure that a majority
21 of Council members are individuals with disabilities and are not employed by the Division of
22 ~~Vocational Rehabilitation Services~~ Employment and Independence for People with Disabilities.

23"

24 **PART IX. MISCELLANEOUS**

25 **MODIFICATION OF EDUCATIONAL REQUIREMENTS FOR REGISTERED** 26 **ENVIRONMENTAL HEALTH SPECIALISTS**

27 **SECTION 9.1.(a)** G.S. 90A-53 reads as rewritten:

28 "**§ 90A-53. Qualifications and examination for registration as an environmental health**
29 **specialist or environmental health specialist intern.**

30 (a) The Board shall issue a certificate to a qualified person as a registered environmental
31 health specialist or a registered environmental health specialist intern. A certificate as a registered
32 environmental health specialist or a registered environmental health specialist intern shall be
33 issued to any person upon the Board's determination that the ~~person;~~ person satisfies all of the
34 following criteria:

- 35 (1) Has made application to the Board on a form prescribed by the Board and paid
36 a fee not to exceed one hundred dollars ~~(\$100.00);~~ (\$100.00).
37 (2) Is of good moral and ethical character and has signed an agreement to adhere
38 to the Code of Ethics adopted by the ~~Board;~~ Board.
39 (3) Meets any of the following combinations of education and practice experience
40 standards:
41 a. Graduated from a baccalaureate with a bachelor's degree or
42 postgraduate degree from a program that is accredited by the National
43 Environmental Health Science and Protection Accreditation Council
44 (EHAC) and has one or more years of experience in the field of
45 environmental health practice; or (EHAC).
46 b. Graduated from a baccalaureate or postgraduate degree program that
47 is accredited by an accrediting organization recognized by the United
48 States Department of Education, Council for Higher Education
49
50

- 1 Accreditation (CHEA) with a bachelor's degree or postgraduate degree
 2 and meets both of the following:
 3 1. ~~Earned~~ earned a minimum of 30 semester hours or its
 4 equivalent 45 quarter hours in the physical or biological
 5 sciences; and physical, biological, natural, life, or health
 6 sciences and has one
 7 2. ~~Has two~~ or more years of experience in the field of
 8 environmental health practice.
 9 c. ~~Graduated from a baccalaureate program rated as acceptable by the~~
 10 ~~Board and meets both of the following:~~ with a bachelor's degree or
 11 postgraduate degree in public health and has one or more years of
 12 experience in the field of environmental health practice.
 13 1. ~~Earned a minimum of 30 semester hours or its equivalent in the~~
 14 ~~physical or biological sciences; and~~
 15 2. ~~Has two or more years of experience in the field of~~
 16 ~~environmental health practice.~~
 17 (4) Has satisfactorily completed a course in specialized instruction and training
 18 approved by the Board in the practice of environmental ~~health;~~ health.
 19 (5) Repealed by Session Laws 2009-443, s. 4, effective August 7, 2009.
 20 (6) Has passed an examination administered by the Board designed to test for
 21 competence in the subject matters of environmental health sanitation. The
 22 examination shall be in a form prescribed by the Board and may be oral,
 23 written, or both. The examination for applicants shall be held annually or more
 24 frequently as the Board may by rule prescribe, at a time and place to be
 25 determined by the Board. A person shall not be registered if such person fails
 26 to meet the minimum grade requirements for examination specified by the
 27 Board. Failure to pass an examination shall not prohibit such person from
 28 being examined at subsequent times and places as specified by the ~~Board;~~
 29 ~~and Board.~~
 30 (7) Has paid a fee set by the Board not to exceed the cost of purchasing the
 31 examination and an administrative fee not to exceed one hundred fifty dollars
 32 (\$150.00).
 33 (b) The Board may issue a certificate to a person serving as a registered environmental
 34 health specialist intern without the person meeting the full requirements for experience of a
 35 registered environmental health specialist for a period not to exceed ~~three~~ two years from the date
 36 of initial registration as a registered environmental health specialist intern, provided, the person
 37 meets the educational requirements in G.S. 90A-53 and is in the field of environmental health
 38 practice."

39 **SECTION 9.1.(b)** This section becomes effective October 1, 2023.

40
 41 **EXTEND AUTHORIZATION TO ALIGN WITH FEDERAL LAW TO FACILITATE**
 42 **THE ADMINISTRATION OF COVID-19 VACCINATIONS, DIAGNOSTIC TESTS, OR**
 43 **OTHER TREATMENTS**

44 **SECTION 9.2.(a)** Section 9G.7(e) of S.L. 2022-74 reads as rewritten:

45 "SECTION 9G.7.(e) This section is effective when it becomes law and expires on December
 46 31, ~~2023-2024.~~"

47 **SECTION 9.2.(b)** This section is effective when it becomes law.

48
 49 **CORRECT STATUTORY REFERENCE**

50 **SECTION 9.3.(a)** G.S. 90-85.15B(a), as amended by Section 3(a) of S.L. 2023-15,
 51 reads as rewritten:

1 "§ 90-85.15B. Immunizing pharmacists.

2 (a) Except as provided in subsections ~~(b)~~, ~~(a1)~~, (b1), and (c) of this section, an
3 immunizing pharmacist may only administer vaccinations or immunizations to persons at least
4 18 years of age pursuant to a specific prescription order."

5 SECTION 9.3.(b) This section is effective when it becomes law.

6
7 **PART X. ALLOW OPIOID TREATMENT PROGRAM MEDICATION UNITS AND**
8 **MOBILE UNITS**

9 SECTION 10.1. G.S. 122C-3 reads as rewritten:

10 "§ 122C-3. Definitions.

11 The following definitions apply in this Chapter:

12 ...

13 (14) Facility. – Any person at one ~~location~~-location, or in the case of an opioid
14 treatment program facility licensed to operate an opioid treatment program
15 medication unit, an opioid treatment program mobile unit, or both, any person
16 at one or more locations, whose primary purpose is to provide services for the
17 care, treatment, habilitation, or rehabilitation of individuals with mental
18 illnesses or intellectual or other developmental disabilities or substance
19 abusers, and includes all of the following:

20 ...

21 i. An opioid treatment program facility licensed to operate an opioid
22 treatment program medication unit, an opioid treatment program
23 mobile unit, or both.

24 ...

25 (23b) Mobile unit. – A motor vehicle that operates with more than three wheels in
26 contact with the ground that may lawfully be used on the public streets, roads,
27 or highways and from which opioid treatment program mobile unit services are
28 provided at one or more locations.

29 ...

30 (25a) Opioid treatment program. – A facility with a current and valid registration
31 under 21 U.S.C. § 823(g)(1) that meets all of the following criteria:

32 a. Is engaged in dispensing and administering treatment medication
33 approved by the Food and Drug Administration for the treatment of
34 individuals with opioid use disorders.

35 b. Has been licensed as an opioid treatment program facility by the
36 Division of Health Service Regulation.

37 (25b) Opioid treatment program medication unit. – A unit established as part of an
38 opioid treatment program facility that meets all of the following criteria:

39 a. Operates at a geographically separate location from the opioid
40 treatment program facility.

41 b. Is a site at which treatment medication approved by the Food and Drug
42 Administration for the treatment of opioid use disorder is dispensed or
43 administered and samples are collected for drug testing or analysis.

44 c. Is a site where intake or initial psychosocial and appropriate medical
45 assessments may be conducted with a full physical examination to be
46 completed or provided within 14 days of admission and the site
47 provides appropriate privacy and adequate space for quality patient
48 care, where treatment with medication approved by the Food and Drug
49 Administration may be initiated after an appropriate medical
50 assessment has been performed, and where other opioid treatment
51 program services, such as counseling, may be provided directly, or

when permissible, through the use of telehealth services and the site provides appropriate privacy and adequate space for quality patient care.

(25c) Opioid treatment program mobile unit. – A mobile unit established as a mobile component of an opioid treatment program facility that meets all of the following criteria:

- a. Operates at one or more geographically separate, predetermined locations from the opioid treatment program facility.
- b. Is a site at which treatment medication approved by the Food and Drug Administration for treatment of opioid use disorder is dispensed or administered and samples are collected for drug testing or analysis.
- c. Is a site where intake or initial psychosocial and appropriate medical assessments may be conducted with a full physical examination to be completed or provided within 14 days of admission and the site provides appropriate privacy and adequate space for quality patient care, where treatment with medication approved by the Food and Drug Administration may be initiated after an appropriate medical assessment has been performed, and where other opioid treatment program services, such as counseling, may be provided directly or, when permissible, through the use of telehealth services and the site provides appropriate privacy and adequate space for quality patient care.

...."

SECTION 10.2. Article 2 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-35. Licensure of opioid treatment program medication units and opioid treatment program mobile units.

(a) Any licensed opioid treatment program facility that intends to establish, maintain, or operate an opioid treatment program medication unit or opioid treatment program mobile unit shall apply to the Division of Health Service Regulation on forms prescribed by the Department for certified services provided from an opioid treatment program medication unit or opioid treatment program mobile unit to be added to its license. The Commission shall adopt rules establishing the requirements for obtaining such licensure, which shall include a requirement that each opioid treatment program medication unit and each opioid treatment program mobile unit seeking to operate in this State must demonstrate satisfactory proof to the Secretary that it has (i) obtained approval from the State Opioid Treatment Authority and (ii) registered with the Department's Drug Control Unit and the federal Drug Enforcement Agency.

(b) An opioid treatment program facility shall not submit a license application to the Division of Health Service Regulation to provide certified services at an opioid treatment program facility medication unit or opioid treatment program mobile unit prior to receiving approval from the State Opioid Treatment Authority or prior to receiving confirmation of registration with the Department's Drug Control Unit and the federal Drug Enforcement Agency.

(c) The Department may issue a license to an opioid treatment program facility to provide certified services at an opioid treatment program medication unit or an opioid treatment program mobile unit if the Secretary finds that the program is in compliance with all rules adopted by the Commission regarding opioid treatment programs. The Secretary may approve or deny an application for a license to provide certified services based upon consideration of all of the following criteria:

- (1) The applicant's capacity, qualifications, and experience with regard to providing treatment and operating an opioid treatment program medication

1 unit in compliance with applicable federal and State laws, regulations, and
2 accepted clinical standards of practice.

3 (2) Any history of adverse regulatory actions involving the applicant in North
4 Carolina or another state.

5 (3) Any history of suspension or revocation of, or other adverse regulatory action
6 against, any professional licenses or narcotic licenses of persons proposed to
7 be employed in the opioid treatment program medication unit or opioid
8 treatment program mobile unit, in North Carolina or in another state, or any
9 adverse regulatory action against the license of the opioid treatment program
10 facility within the 12-month period preceding the application for licensure.

11 (4) Any additional criteria or standards established in rules adopted by the
12 Commission regarding opioid treatment programs.

13 (d) An opioid treatment program facility shall not establish, maintain, or operate an
14 opioid treatment program medication unit or opioid treatment program mobile unit without a
15 current license from the Secretary that includes and covers that specific medication unit or mobile
16 unit and without first obtaining certification from the Substance Abuse and Mental Health
17 Services Administration.

18 (e) An opioid treatment program mobile unit or opioid treatment program medication
19 unit added to an opioid treatment program facility license shall be deemed part of the opioid
20 treatment program facility license and may be subject to inspections the Department deems
21 necessary to validate compliance with the requirements set forth in this section, applicable rules
22 adopted by the Commission, and all applicable federal laws and regulations, including, without
23 limitation, Substance Abuse and Mental Health Services Administration regulations in Parts 8
24 and 21 of Title 42 of the Code of Federal Regulations governing opioid treatment programs, and
25 federal Drug Enforcement Agency regulations in Parts 1300, 1301, and 1304 of Title 21 of the
26 Code of Federal Regulations, including 21 C.F.R. § 1301.13(e), governing controlled substances,
27 dispensers of controlled substances, mobile narcotic treatment programs, and federal Drug
28 Enforcement Agency restraints. Substantial failure to comply with the requirements of this
29 section, applicable rules adopted by the Commission, and applicable federal laws and regulations
30 may result in an adverse action on a license under G.S. 122C-24 and administrative penalties
31 under G.S. 122C-24.1. Any required services not provided in an opioid treatment program mobile
32 unit or opioid treatment program medication unit must be conducted at the opioid treatment
33 program facility, including medical, counseling, vocational, educational, and other assessment
34 and treatment services.

35 (f) Each license issued under this section to an opioid treatment program facility to
36 provide certified services at an opioid treatment program mobile unit or an opioid treatment
37 program medication unit shall expire on December 31 of the year for which it was issued and
38 shall be renewed annually by filing with the Division of Health Service Regulation on or after
39 December 1 an application for license renewal on forms prescribed by the Department,
40 accompanied by the required fee. License renewal shall be contingent upon (i) the applicant
41 providing all information required by the Secretary for renewal and (ii) continued compliance
42 with this Article and any applicable rules adopted by the Commission regarding opioid treatment
43 programs. The Department shall charge an opioid treatment program facility a nonrefundable
44 annual license fee plus a nonrefundable annual per-unit fee of two hundred sixty-five dollars
45 (\$265.00) for each opioid treatment program medication unit or opioid treatment program mobile
46 unit.

47 (g) The opioid treatment program facility is responsible for ensuring that opioid treatment
48 program medication units and opioid treatment program mobile medication units adhere to all
49 State and federal requirements for opioid treatment programs.

50 (h) Notwithstanding G.S. 122C-25(a), an opioid treatment program facility with no
51 previous violations of State or federal requirements for opioid treatment programs may be subject

1 to inspection once every other year, excluding any complaint investigation. An opioid treatment
2 program facility with either an opioid treatment program medication unit or an opioid treatment
3 program mobile unit may be subject to annual inspections.

4 (i) The Commission shall adopt emergency, temporary, or permanent rules for the
5 licensure, inspection, and operation of opioid treatment program medication units and opioid
6 treatment program mobile units, including rules concerning any of the following:

- 7 (1) Compliance with all applicable Substance Abuse and Mental Health Services
8 Administration and federal Drug Enforcement Agency regulations governing
9 opioid treatment program mobile units and opioid treatment program
10 medication units.
- 11 (2) Identification of the location of opioid treatment program medication units
12 and opioid treatment program mobile units.
- 13 (3) Schedules for the days and hours of operation to meet client needs.
- 14 (4) Maintenance and location of records.
- 15 (5) Requisite clinical staff and staffing ratios to meet immediate client needs at
16 each opioid treatment program medication unit or opioid treatment program
17 mobile unit, including client needs for nursing, counseling, and medical care.
- 18 (6) Emergency staffing requirements to ensure service delivery.
- 19 (7) Criteria for policies and procedures for a clinical and individualized
20 assessment of individuals to receive services at an opioid treatment
21 medication unit or opioid treatment mobile unit that consider medical and
22 clinical appropriateness and accessibility to individuals served.
- 23 (8) Number of clients allowed per opioid treatment program medication unit and
24 opioid treatment program mobile unit, based on staffing ratios.
- 25 (9) Criteria to ensure the opioid treatment program facility is providing the
26 required counseling to individuals receiving services at an opioid treatment
27 program medication unit or opioid treatment program mobile unit.
- 28 (10) Criteria for the opioid treatment program facility to ensure that individuals
29 receiving services at an opioid treatment program medication unit or opioid
30 treatment program mobile unit receive medical interventions when
31 necessary."

32 **SECTION 10.3.** The Commission for Mental Health, Developmental Disabilities,
33 and Substance Use Services shall adopt, pursuant to G.S. 150B-21.1A, emergency rules for the
34 implementation of G.S. 122C-35, enacted by Section 10.2 of this act, without prior notice or
35 hearing or upon any abbreviated notice or hearing that the agency finds practical because
36 adherence to the notice and hearing requirements would be contrary to the public interest and
37 that the immediate adoption of the rule is required by a serious and unforeseen threat to the public
38 health or safety. The Commission for Mental Health, Developmental Disabilities, and Substance
39 Use Services is further authorized to adopt temporary or permanent rules as described in
40 G.S. 122C-35(i), enacted by Section 10.2 of this act.

41 **SECTION 10.4.** Section 10.3 of this act is effective when it becomes law. Section
42 10.1 and Section 10.2 of this act become effective on the effective date of the emergency rules
43 adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Use
44 Services in accordance with Section 10.3 of this act. The Secretary of the Department of Health
45 and Human Services shall notify the Revisor of Statutes of the effective date of the emergency
46 rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance
47 Use Services.

49 **PART XI. ADD GABAPENTIN TO CONTROLLED SUBSTANCE REPORTING** 50 **SYSTEM**

51 **SECTION 11.1.** G.S. 90-113.73(b) reads as rewritten:

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

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

SECTION 11.2. G.S. 90-113.73(c) reads as rewritten:

"(c) A dispenser shall not be required to report instances in which a controlled ~~substance~~ substance, or gabapentin, is provided directly to the ultimate user and the quantity provided does not exceed a 48-hour supply."

SECTION 11.2A. G.S. 90-113.73 is amended by adding a new subsection to read:

"(c1) A dispenser shall not be required to report gabapentin to the controlled substances reporting system when gabapentin is a component of a compounded prescription that is dispensed in dosages of 100 milligrams or less."

SECTION 11.3. G.S. 90-113.73(f) reads as rewritten:

"(f) For purposes of this section, a "dispenser" includes a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes when that person dispenses any Schedule II through V controlled ~~substances~~-substance or gabapentin. Notwithstanding subsection (b) of this section, the Commission shall adopt rules requiring the information to be reported by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes."

SECTION 11.4. Section 11.1, Section 11.2, and Section 11.2A of this act become effective March 1, 2024. Section 11.3 of this act becomes effective March 1, 2025.

PART XII. REQUIRE ELECTRONIC PRESCRIBING OF CODEINE COUGH SYRUP

SECTION 12.1. G.S. 90-106 reads as rewritten:

"§ 90-106. Prescriptions and labeling.

...

(a1) Electronic Prescription Required; Exceptions. – Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe all targeted controlled ~~substances.~~ substances and all controlled substances included in G.S. 90-93(a)(1)a. This subsection does not apply to any product that is sold at retail without a prescription by a pharmacist under G.S. 90-93(b) through (d). This subsection does not apply to prescriptions for targeted controlled substances or any controlled substances included in G.S. 90-93(a)(1)a. issued by any of the following:

- (1) A practitioner, other than a pharmacist, who dispenses directly to an ultimate user.
- (2) A practitioner who orders a controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility, as defined in G.S. 14-32.2(i).
- (3) A practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically. The practitioner, however, shall document the reason for this exception in the patient's medical record.
- (4) A practitioner who writes a prescription to be dispensed by a pharmacy located on federal property. The practitioner, however, shall document the reason for this exception in the patient's medical record.
- (5) A person licensed to practice veterinary medicine pursuant to Article 11 of this Chapter. A person licensed to practice veterinary medicine pursuant to Article 11 of this Chapter may continue to prescribe targeted controlled substances from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.

(a2) Verification by Dispenser Not Required. – A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in subsection (a1) of this section prior to dispensing a targeted controlled ~~substance.~~ substance or a controlled substance included in G.S. 90-93(a)(1)a. A dispenser may continue to dispense targeted controlled substances and controlled substances included in G.S. 90-93(a)(1)a. from valid written, oral, or facsimile prescriptions that are otherwise consistent with applicable laws.

...."

SECTION 12.2. This section becomes effective January 1, 2024.

PART XIII. OVER-THE-COUNTER OPIOID ANTAGONIST TREATMENT

SECTION 13.1. G.S. 90-12.7 reads as rewritten:

"§ 90-12.7. Treatment of overdose with opioid antagonist; immunity.

(a) As used in this section, "opioid antagonist" means naloxone hydrochloride that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(b) The following individuals may prescribe an opioid antagonist in the manner prescribed by this subsection:

- (1) A practitioner acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antagonist to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family member, friend, or other person in a position to assist a person at risk of experiencing an opiate-related overdose. As an indicator of good faith, the practitioner, prior to prescribing an opioid under this subsection, may require receipt of a written communication that provides a factual basis for a reasonable conclusion as to either of the following:
 - a. The person seeking the opioid antagonist is at risk of experiencing an opiate-related overdose.

- 1 b. The person other than the person who is at risk of experiencing an
2 opiate-related overdose, and who is seeking the opioid antagonist, is
3 in relation to the person at risk of experiencing an opiate-related
4 overdose:
5 1. A family member, friend, or other person.
6 2. In the position to assist a person at risk of experiencing an
7 opiate-related overdose.
- 8 (2) The State Health Director or a designee may prescribe an opioid antagonist
9 pursuant to subdivision (1) of this subsection by means of a statewide standing
10 order.
11 (3) A practitioner acting in good faith and exercising reasonable care may directly
12 or by standing order prescribe an opioid antagonist to any governmental or
13 nongovernmental organization, including a local health department, a law
14 enforcement agency, or an organization that promotes scientifically proven
15 ways of mitigating health risks associated with substance use disorders and
16 other high-risk behaviors, for the purpose of distributing, through its agents,
17 the opioid antagonist to (i) a person at risk of experiencing an opiate-related
18 overdose or (ii) a family member, friend, or other person in a position to assist
19 a person at risk of experiencing an opiate-related overdose.
- 20 (c) A pharmacist may dispense an opioid antagonist to a person or organization pursuant
21 to a prescription issued in accordance with subsection (b) of this section. For purposes of this
22 section, the term "pharmacist" is as defined in G.S. 90-85.3.
- 23 (c1) A governmental or nongovernmental organization, including a local health
24 department, a law enforcement agency, or an organization that promotes scientifically proven
25 ways of mitigating health risks associated with substance use disorders and other high-risk
26 behaviors may, through its agents, distribute an opioid antagonist obtained pursuant to a
27 prescription issued in accordance with subdivision (3) of subsection (b) of this section or obtained
28 over-the-counter to (i) a person at risk of experiencing an opiate-related overdose or (ii) a family
29 member, friend, or other person in a position to assist a person at risk of experiencing an
30 opiate-related overdose. An organization, through its agents, shall include with any distribution
31 of an opioid antagonist pursuant to this subsection basic instruction and information on how to
32 administer the opioid antagonist.
- 33 (d) A person who receives an opioid antagonist that was prescribed pursuant to
34 subsection (b) of this section or distributed pursuant to subsection (c1) of this section or obtained
35 over-the-counter may administer an opioid antagonist to another person if (i) the person has a
36 good faith belief that the other person is experiencing a drug-related overdose and (ii) the person
37 exercises reasonable care in administering the drug to the other person. Evidence of the use of
38 reasonable care in administering the drug shall include the receipt of basic instruction and
39 information on how to administer the opioid antagonist.
- 40 (e) All of the following individuals are immune from any civil or criminal liability for
41 actions authorized by this section:
- 42 (1) Any practitioner who prescribes an opioid antagonist pursuant to subsection
43 (b) of this section.
44 (2) Any pharmacist who dispenses an opioid antagonist pursuant to subsection (c)
45 of this section.
46 (3) Any person who administers an opioid antagonist pursuant to subsection (d)
47 of this section.
48 (4) The State Health Director acting pursuant to subsection (b) of this section.
49 (5) Any organization, or agent of the organization, that distributes an opioid
50 antagonist pursuant to subsection (c1) of this section."

51 **SECTION 13.2.** This section is effective when it becomes law.

1
2 **PART XIII-A. PARENTAL LEAVE TECHNICAL CORRECTIONS**

3 **SECTION 13A.1.(a)** G.S. 126-8.6, as enacted by S.L. 2023-14, reads as rewritten:

4 **"§ 126-8.6. Paid parental leave.**

5 ...

6 (b) **Paid Parental Leave.** – The State Human Resources Commission shall adopt rules and
7 policies to provide that a permanent, probationary, or time-limited full-time State employee may
8 take the following paid parental leave:

9 (1) Up to eight weeks of paid leave after giving birth to a child; or

10 (2) Up to four weeks of paid leave after any other qualifying event.

11 (c) **Part-Time Employees.** – The State Human Resources Commission shall adopt rules
12 and policies to provide that a permanent, probationary, or time-limited part-time State employee
13 may take a prorated amount of paid leave after giving birth, not to exceed ~~four~~ eight weeks, or
14 paid leave after any other qualifying event, not to exceed ~~two~~ four weeks, in addition to any other
15 leave available to the employee.

16 (c1) The State Human Resources Commission shall adopt rules and policies providing for
17 a period of minimum service before an employee becomes eligible for parental leave, the
18 maximum number of uses of paid parental leave within a 12-month period, and how much leave
19 is to be provided in the event of miscarriage or the death of a child during birth.

20"

21 **SECTION 13A.1.(b)** G.S. 126-5(c19), as enacted by S.L. 2023-14, reads as
22 rewritten:

23 "(c19) The provisions of G.S. 126-8.6 shall apply to all exempt and nonexempt State
24 employees in the executive branch; to public school employees; and to community college
25 employees. Notwithstanding any other provision of this Chapter, G.S. 126-8.6 applies to all State
26 employees, public school employees, and community college employees. G.S. 126-8.6 does not
27 apply to employees described in subdivisions (2) and (3) of subsection (c1) of G.S. 126-5. The
28 legislative and judicial branches shall adopt parental leave policies."

29 **SECTION 13A.1.(c)** G.S. 115C-336.1, as amended by S.L. 2023-14, reads as
30 rewritten:

31 **"§ 115C-336.1. Parental leave.**

32 (a) In addition to paid parental leave authorized by G.S. 126-8.6, a school employee may
33 use annual leave or leave without pay to care for a newborn child or for a child placed with the
34 employee for adoption or foster care. A school employee may also use up to 30 days of sick leave
35 to care for a child placed with the employee for adoption. The leave may be for consecutive
36 workdays during the first 12 months after the date of birth or placement of the child, unless the
37 school employee and the local board of education agree otherwise.

38 (b) To the extent funds are made available for this purpose, the Department of Public
39 Instruction shall administer funds to public school units for the payment of substitute teachers
40 for any public school unit teacher using paid parental leave as provided in G.S. 126-8.6."

41 **SECTION 13A.1.(d)** G.S. 115C-218.90(a) is amended by adding a new subdivision
42 to read:

43 "(6) A board of directors may provide paid parental leave consistent with the
44 requirements of G.S. 126-8.6. If the board provides paid parental leave, it
45 shall be eligible to receive funds as provided in G.S. 115C-336.1(b)."

46 **SECTION 13A.1.(e)** G.S. 115C-238.68 is amended by adding a new subdivision to
47 read:

48 "(8) Paid parental leave. – Teachers employed by the board of directors shall be
49 eligible for paid parental leave as provided in G.S. 126-8.6. The board of
50 directors shall be eligible to receive funds as provided in G.S. 115C-336.1(b)."

1 **SECTION 13A.1.(f)** G.S. 116-239.10 is amended by adding a new subdivision to
2 read:

3 "(9) Paid parental leave. – Teachers employed by the board of the constituent
4 institution shall be eligible for paid parental leave as provided in G.S. 126-8.6.
5 The constituent institution shall be eligible to receive funds as provided in
6 G.S. 115C-336.1(b)."

7 **SECTION 13A.1.(g)** Section 5.1(e) of S.L. 2023-14 reads as rewritten:

8 "**SECTION 5.1.(e)** There is appropriated from the General Fund to the Department of Public
9 Instruction the sum of ten million dollars (\$10,000,000) in recurring funds for the 2023-2024
10 fiscal year and the sum of ten million dollars (\$10,000,000) in recurring funds for the 2024-2025
11 fiscal year to ~~fund paid parental leave authorized by this section~~ provide substitute teachers in
12 accordance with G.S. 115C-336.1(b)."

13 **SECTION 13A.1.(h)** This section becomes effective July 1, 2023, and applies to
14 requests for paid parental leave related to births occurring on or after that date.

15 16 **PART XIII-B. IN-PERSON CONSULTATION**

17 **SECTION 13B.1.(a)** G.S. 90-21.83A, as enacted by S.L. 2023-14, reads as
18 rewritten:

19 "**§ 90-21.83A. Informed consent to medical abortion.**

20 ...

21 (b) Except in the case of a medical emergency, consent to a medical abortion is voluntary
22 and informed only if all of the following conditions are satisfied:

23 ...

24 (2) The consent form shall include, at a minimum, all of the following:

25 ...

26 k. The location of the hospital that offers obstetrical or gynecological
27 care located within 30 miles of the location where the medical abortion
28 is performed or induced and at which the physician performing or
29 inducing the medical abortion has clinical privileges. If the physician
30 who will perform the medical abortion has no local hospital admitting
31 privileges, that information shall be communicated.

32 If the physician or qualified professional does not know the information
33 required in sub-subdivision a., j., or k. of this subdivision, the woman shall be
34 advised that this information will be directly available from the physician who
35 is to perform the medical abortion. However, the fact that the physician or
36 qualified professional does not know the information required in
37 sub-subdivision a., j., or k. shall not restart the 72-hour period. The
38 information required by this subdivision shall be provided in English and in
39 each language that is the primary language of at least two percent (2%) of the
40 State's population. The information shall be provided orally in person, by the
41 physician or qualified professional, in which case the required information
42 may be based on facts supplied by the woman to the physician and whatever
43 other relevant information is reasonably available. The information required
44 by this subdivision shall not be provided by a tape recording but shall be
45 provided during ~~a consultation in which the physician is able to ask questions~~
46 ~~of the patient and the patient is able to ask questions of the physician.~~ an
47 in-person consultation conducted by a qualified professional or a qualified
48 physician. A physician must be available to ask and answer questions within
49 the statutory time frame upon request of the patient or the qualified
50 professional. If, in the medical judgment of the physician, a physical
51 examination, tests, or the availability of other information to the physician

1 subsequently indicates a revision of the information previously supplied to the
 2 patient, then that revised information may be communicated to the patient at
 3 any time before the performance of the medical abortion. Nothing in this
 4 section may be construed to preclude provision of required information in a
 5 language understood by the patient through a translator.

6"

7 **SECTION 13B.1.(b)** This section becomes effective July 1, 2023.

8
 9 **PART XIV. TECHNICAL AND CONFORMING CHANGES TO S.L. 2023-14**

10 **SECTION 14.1.(a)** G.S. 14-23.7 reads as rewritten:

11 **"§ 14-23.7. Exceptions.**

12 Nothing in this Article shall be construed to permit the prosecution under this Article of any
 13 of the following:

- 14 (1) Acts which cause the death of an unborn child if those acts were lawful,
 15 pursuant to the provisions of G.S. 14-45.1, Article 1I of Chapter 90 of the
 16 General Statutes.
 17 (2) Acts which are committed pursuant to usual and customary standards of
 18 medical practice during diagnostic testing or therapeutic treatment.
 19 (3) Acts committed by a pregnant woman with respect to her own unborn child,
 20 including, but not limited to, acts which result in miscarriage or stillbirth by
 21 the woman. The following definitions shall apply in this section:
 22 a. Miscarriage. – The interruption of the normal development of an
 23 unborn child, other than by a live birth, and which is not an induced
 24 abortion permitted under G.S. 14-45.1, Article 1I of Chapter 90 of the
 25 General Statutes, resulting in the complete expulsion or extraction
 26 from a pregnant woman of the unborn child.
 27 b. Stillbirth. – The death of an unborn child prior to the complete
 28 expulsion or extraction from a woman, irrespective of the duration of
 29 pregnancy and which is not an induced abortion permitted under G.S.
 30 14-45.1, Article 1I of Chapter 90 of the General Statutes."

31 **SECTION 14.1.(b)** G.S. 90-21.81A, as enacted by S.L. 2023-14, reads as rewritten:

32 **"§ 90-21.81A. Abortion.**

33 (a) Abortion. – It shall be unlawful after the twelfth week of a woman's pregnancy to
 34 advise, procure, or cause procure or cause a miscarriage or abortion in the State of North
 35 Carolina.

36"

37 **SECTION 14.1.(c)** G.S. 90-21.81B, as enacted by S.L. 2023-14, reads as rewritten:

38 **"§ 90-21.81B. When abortion is lawful.**

39 Notwithstanding any of the provisions of G.S. 14-44 and G.S. 14-45, and subject to the
 40 provisions of this Article, it shall not be unlawful to advise, procure, or cause procure or cause a
 41 miscarriage or an abortion in the State of North Carolina in the following circumstances:

42"

43 **SECTION 14.1.(d)** G.S. 90-21.82(b), as amended by S.L. 2023-14, reads as
 44 rewritten:

45 "(b) Except in the case of a medical emergency, consent to a surgical abortion is voluntary
 46 and informed only if all of the following conditions are satisfied:

47 ...

48 (1a) The consent form shall include, at a minimum, all of the following:

- 49 a. The name of the physician who will perform the surgical abortion to
 50 ensure the safety of the procedure and prompt medical attention to any
 51 complications that may ~~arise.~~ arise, specific information for the

1 physician's hospital admitting privileges, and whether the physician
 2 accepts the pregnant woman's insurance. The physician performing a
 3 surgical abortion shall be physically present during the performance
 4 of the entire abortion procedure.

5"

6 **SECTION 14.1.(e)** G.S. 90-21.83A(b), as enacted by S.L. 2023-14, reads as
 7 rewritten:

8 "(b) Except in the case of a medical emergency, consent to a medical abortion is voluntary
 9 and informed only if all of the following conditions are satisfied:

10 ...

11 (2) The consent form shall include, at a minimum, all of the following:

- 12 a. The name of the physician who will prescribe, dispense, or otherwise
- 13 provide the abortion-inducing drugs to ensure the safety of the
- 14 procedure and prompt medical attention to any complications that may
- 15 ~~arise.~~ arise, specific information for the physician's hospital admitting
- 16 privileges, and whether the physician accepts the pregnant woman's
- 17 insurance. The physician prescribing, dispensing, or otherwise
- 18 providing any drug or chemical for the purpose of inducing an abortion
- 19 shall be physically present in the same room as the woman when the
- 20 first drug or chemical is administered to the woman.

21"

22 **SECTION 14.1.(f)** G.S. 90-21.83B, as enacted by S.L. 2023-14, reads as rewritten:
 23 **"§ 90-21.83B. Distribution of abortion-inducing drugs and duties of physician.**

24 (a) A physician prescribing, administering, or dispensing an abortion-inducing drug must
 25 examine the woman in person and, prior to providing an abortion-inducing drug, shall do all of
 26 the following:

27 ...

28 (6) Verify ~~that~~ the probable gestational age of the unborn ~~child is no more than~~
 29 ~~70 days.~~ child.

30 (7) Document in the woman's medical chart the probable ~~gestation~~ gestational age
 31 and existence of an ~~intrauterine location of the~~ pregnancy, and whether the
 32 woman received treatment for an Rh negative condition or any other
 33 diagnostic tests.

34"

35 **SECTION 14.1.(g)** G.S. 90-21.83C, as enacted by S.L. 2023-14, is repealed.

36 **SECTION 14.1.(h)** G.S. 90-21.85(a) reads as rewritten:

37 "(a) Notwithstanding ~~G.S. 14-45.1, G.S. 90-21.81B,~~ except in the case of a medical
 38 emergency, in order for the woman to make an informed decision, at least four hours before a
 39 woman having any part of an abortion performed or induced, and before the administration of
 40 any anesthesia or medication in preparation for the abortion on the woman, the physician who is
 41 to perform the abortion, or qualified technician working in conjunction with the physician, shall
 42 do each of the following:

43"

44 **SECTION 14.1.(i)** G.S. 131E-269 reads as rewritten:

45 **"§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform**
 46 **abortions.**

47 The Department of Health and Human Services shall charge each hospital or clinic certified
 48 by the Department as a facility suitable for the performance of abortions, as authorized under
 49 ~~G.S. 14-45.1, G.S. 90-21.81C,~~ a nonrefundable annual certification fee in the amount of seven
 50 hundred dollars (\$700.00)."

51 **SECTION 14.1.(j)** G.S. 90-21.93, as enacted by S.L. 2023-14, reads as rewritten:

1 **"§ 90-21.93. Reporting requirements.**

2 (a) Report. – After a surgical or medical abortion is performed, the physician or health
3 care provider that conducted the surgical or medical abortion shall complete and transmit a report
4 to the Department in compliance with the requirements of this section. The report shall be
5 completed by either the hospital, clinic, or health care provider in which the surgical or medical
6 abortion was completed and signed by the physician who dispensed, administered, prescribed, or
7 otherwise provided the abortion-inducing drug or performed the procedure or treatment to the
8 woman. Any physician or health care provider shall make reasonable efforts to include all of the
9 required information in this section in the report without violating the privacy of the woman. The
10 report shall be transmitted to the Department within 15 days after either the (i) date of the
11 follow-up appointment following a medical abortion, (ii) date of the last patient encounter for
12 treatment directly related to a surgical abortion, or (iii) end of the month in which the last
13 scheduled appointment occurred, whichever is later. A report completed under this section for a
14 minor shall be sent to the Department and the Division of Social Services within ~~three~~30 days
15 of the surgical or medical abortion.

16"

17 **SECTION 14.1.(k)** This section becomes effective July 1, 2023.

18
19 **PART XV. EFFECTIVE DATE**

20 **SECTION 15.1.** Except as otherwise provided, this act is effective when it becomes
21 law.