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March 27, 2019

A BILL TO BE ENTITLED

AN ACT TO ENACT THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT, ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO CONDUCT FIRST-LEVEL COMMITMENT EXAMINATIONS, ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS, RAISE AWARENESS OF LUPUS AND CREATE THE LUPUS ADVISORY COUNCIL, ENSURE THE PROPER ADMINISTRATION OF STEP THERAPY PROTOCOLS, ENSURE EQUAL COVERAGE FOR ORAL ANTICANCER DRUGS, MODERNIZE MEDICAID TELEMEDICINE POLICIES, INCREASE ACCESS TO TELEHEALTH SERVICES, AND CREATE THE NORTH CAROLINA HEALTHCARE SOLUTIONS TASK FORCE.

The General Assembly of North Carolina enacts:

PART I. PSYCHOLOGY INTERJURISDICTIONAL LICENSURE COMPACT

SECTION 1.(a) Article 18A of Chapter 90 of the General Statutes, G.S. 90-270.1 through G.S. 90-270.22, is recodified as Article 18G of Chapter 90 of the General Statutes, G.S. 90-270.135 through G.S. 90-270.159.

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

"Article 18H.

"Psychology Interjurisdictional Licensure Compact.

§ 90-270.160. Purpose.

This Compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology.
- (2) Enhance the states' ability to protect the public's health and safety, especially client/patient safety.
- (3) Encourage the cooperation of Compact States in the areas of psychology licensure and regulation.
- (4) Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions, and disciplinary history.



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- 1 (5) Promote compliance with the laws governing psychological practice in each
2 Compact State.
- 3 (6) Invest all Compact States with the authority to hold licensed psychologists
4 accountable through the mutual recognition of Compact State licenses.

5 **"§ 90-270.161. Definitions.**

- 6 (1) Adverse action. – Any action taken by a State Psychology Regulatory
7 Authority which finds a violation of a statute or regulation that is identified
8 by the State Psychology Regulatory Authority as discipline and is a matter of
9 public record.
- 10 (2) Association of State and Provincial Psychology Boards (ASPPB). – The
11 recognized membership organization composed of State and Provincial
12 Psychology Regulatory Authorities responsible for the licensure and
13 registration of psychologists throughout the United States and Canada.
- 14 (3) Authority to Practice Interjurisdictional Telepsychology. – A licensed
15 psychologist's authority to practice telepsychology, within the limits
16 authorized under this Compact, in another Compact State.
- 17 (4) Bylaws. – Those Bylaws established by the Psychology Interjurisdictional
18 Compact Commission pursuant to G.S. 90-270.169 for its governance or for
19 directing and controlling its actions and conduct.
- 20 (5) Client/patient. – The recipient of psychological services, whether
21 psychological services are delivered in the context of health care, corporate,
22 supervision, and/or consulting services.
- 23 (6) Commissioner. – The voting representative appointed by each State
24 Psychology Regulatory Authority pursuant to G.S. 90-270.169.
- 25 (7) Compact State. – A state, the District of Columbia, or United States territory
26 that has enacted this Compact legislation and which has not withdrawn
27 pursuant to G.S. 90-270.172(c) or been terminated pursuant to
28 G.S. 90-270.171(b).
- 29 (8) Confidentiality. – The principle that data or information is not made available
30 or disclosed to unauthorized persons and/or processes.
- 31 (9) Coordinated Licensure Information System or Coordinated Database. – An
32 integrated process for collecting, storing, and sharing information on
33 psychologists' licensure and enforcement activities related to psychology
34 licensure laws, which is administered by the recognized membership
35 organization composed of State and Provincial Psychology Regulatory
36 Authorities.
- 37 (10) Day. – Any part of a day in which psychological work is performed.
- 38 (11) Distant State. – The Compact State where a psychologist is physically present
39 (not through the use of telecommunications technologies) to provide
40 temporary in-person, face-to-face psychological services.
- 41 (12) E.Passport. – A certificate issued by the Association of State and Provincial
42 Psychology Boards (ASPPB) that promotes the standardization in the criteria
43 of interjurisdictional telepsychology practice and facilitates the process for
44 licensed psychologists to provide telepsychological services across state lines.
- 45 (13) Executive Board. – A group of directors elected or appointed to act on behalf
46 of, and within the powers granted to them by, the Commission.
- 47 (14) Home State. – A Compact State where a psychologist is licensed to practice
48 psychology. If the psychologist is licensed in more than one Compact State
49 and is practicing under the Authority to Practice Interjurisdictional
50 Telepsychology, the Home State is the Compact State where the psychologist
51 is physically present when the telepsychological services are delivered. If the

- 1 psychologist is licensed in more than one Compact State and is practicing
2 under the Temporary Authorization to Practice, the Home State is any
3 Compact State where the psychologist is licensed.
- 4 (15) Identity History Summary. – A summary of information retained by the FBI,
5 or other designee with similar authority, in connection with arrests and, in
6 some instances, federal employment, naturalization, or military service.
- 7 (16) In-person, face-to-face. – Interactions in which the psychologist and the
8 client/patient are in the same physical space and which does not include
9 interactions that may occur through the use of telecommunication
10 technologies.
- 11 (17) Interjurisdictional Practice Certificate (IPC). – A certificate issued by the
12 Association of State and Provincial Psychology Boards (ASPPB) that grants
13 temporary authority to practice based on notification to the State Psychology
14 Regulatory Authority of intention to practice temporarily and verification of
15 one's qualifications for such practice.
- 16 (18) License. – Authorization by a State Psychology Regulatory Authority to
17 engage in the independent practice of psychology, which would be unlawful
18 without the authorization.
- 19 (19) Non-Compact State. – Any State which is not at the time a Compact State.
- 20 (20) Psychologist. – An individual licensed for the independent practice of
21 psychology.
- 22 (21) Psychology Interjurisdictional Compact Commission (Commission). – The
23 national administration of which all Compact States are members.
- 24 (22) Receiving State. – A Compact State where the client/patient is physically
25 located when the telepsychological services are delivered.
- 26 (23) Rule. – A written statement by the Psychology Interjurisdictional Compact
27 Commission promulgated pursuant to G.S. 90-270.170 of the Compact that is
28 of general applicability, implements, interprets, or prescribes a policy or
29 provision of the Compact, or an organizational, procedural, or practice
30 requirement of the Commission and has the force and effect of statutory law
31 in a Compact State, and includes the amendment, repeal, or suspension of an
32 existing rule.
- 33 (24) Significant investigatory information. –
34 a. Investigative information that a State Psychology Regulatory
35 Authority, after a preliminary inquiry that includes notification and an
36 opportunity to respond if required by state law, has reason to believe,
37 if proven true, would indicate more than a violation of state statute or
38 ethics code that would be considered more substantial than minor
39 infraction; or
40 b. Investigative information that indicates that the psychologist
41 represents an immediate threat to public health and safety regardless
42 of whether the psychologist has been notified and/or had an
43 opportunity to respond.
- 44 (25) State. – A state, commonwealth, territory, or possession of the United States
45 or the District of Columbia.
- 46 (26) State Psychology Regulatory Authority. – The Board, office, or other agency
47 with the legislative mandate to license and regulate the practice of psychology.
- 48 (27) Telepsychology. – The provision of psychological services using
49 telecommunication technologies.

1 (28) Temporary Authorization to Practice. – A licensed psychologist's authority to
2 conduct temporary in-person, face-to-face practice, within the limits
3 authorized under this Compact, in another Compact State.

4 (29) Temporary in-person, face-to-face practice. – Where a psychologist is
5 physically present (not through the use of telecommunications technologies)
6 in the Distant State to provide for the practice of psychology for 30 days within
7 a calendar year and based on notification to the Distant State.

8 **"§ 90-270.162. Home State licensure.**

9 (a) The Home State shall be a Compact State where a psychologist is licensed to practice
10 psychology.

11 (b) A psychologist may hold one or more Compact State licenses at a time. If the
12 psychologist is licensed in more than one Compact State, the Home State is the Compact State
13 where the psychologist is physically present when the services are delivered as authorized by the
14 Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

15 (c) Any Compact State may require a psychologist not previously licensed in a Compact
16 State to obtain and retain a license to be authorized to practice in the Compact State under
17 circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology
18 under the terms of this Compact.

19 (d) Any Compact State may require a psychologist to obtain and retain a license to be
20 authorized to practice in a Compact State under circumstances not authorized by Temporary
21 Authorization to Practice under the terms of this Compact.

22 (e) A Home State's license authorizes a psychologist to practice in a Receiving State
23 under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

24 (1) Currently requires the psychologist to hold an active E.Passport;

25 (2) Has a mechanism in place for receiving and investigating complaints about
26 licensed individuals;

27 (3) Notifies the Commission, in compliance with the terms herein, of any adverse
28 action or significant investigatory information regarding a licensed individual;

29 (4) Requires an Identity History Summary of all applicants at initial licensure,
30 including the use of the results of fingerprints or other biometric data checks
31 compliant with the requirements of the Federal Bureau of Investigation (FBI),
32 or other designee with similar authority, no later than 10 years after activation
33 of the Compact; and

34 (5) Complies with the Bylaws and Rules of the Commission.

35 (f) A Home State's license grants Temporary Authorization to Practice to a psychologist
36 in a Distant State only if the Compact State:

37 (1) Currently requires the psychologist to hold an active IPC;

38 (2) Has a mechanism in place for receiving and investigating complaints about
39 licensed individuals;

40 (3) Notifies the Commission, in compliance with the terms herein, of any adverse
41 action or significant investigatory information regarding a licensed individual;

42 (4) Requires an Identity History Summary of all applicants at initial licensure,
43 including the use of the results of fingerprints or other biometric data checks
44 compliant with the requirements of the Federal Bureau of Investigation (FBI),
45 or other designee with similar authority, no later than 10 years after activation
46 of the Compact; and

47 (5) Complies with the Bylaws and Rules of the Commission.

48 **"§ 90-270.163. Compact privilege to practice telepsychology.**

49 (a) Compact States shall recognize the right of a psychologist, licensed in a Compact
50 State in conformance with G.S. 90-270.162, to practice telepsychology in other Compact States

1 (Receiving States) in which the psychologist is not licensed, under the Authority to Practice
2 Interjurisdictional Telepsychology as provided in the Compact.

3 (b) To exercise the Authority to Practice Interjurisdictional Telepsychology under the
4 terms and provisions of this Compact, a psychologist licensed to practice in a Compact State
5 must:

- 6 (1) Hold a graduate degree in psychology from an institute of higher education
7 that was, at the time the degree was awarded:
- 8 a. Regionally accredited by an accrediting body recognized by the U.S.
9 Department of Education to grant graduate degrees, or authorized by
10 Provincial Statute or Royal Charter to grant doctoral degrees; or
 - 11 b. A foreign college or university deemed to be equivalent to
12 sub-subdivision a. of this subdivision by a foreign credential
13 evaluation service that is a member of the National Association of
14 Credential Evaluation Services (NACES) or by a recognized foreign
15 credential evaluation service; and
- 16 (2) Hold a graduate degree in psychology that meets the following criteria:
- 17 a. The program, wherever it may be administratively housed, must be
18 clearly identified and labeled as a psychology program. Such a
19 program must specify in pertinent institutional catalogues and
20 brochures its intent to educate and train professional psychologists;
 - 21 b. The psychology program must stand as a recognizable, coherent,
22 organizational entity within the institution;
 - 23 c. There must be a clear authority and primary responsibility for the core
24 and specialty areas whether or not the program cuts across
25 administrative lines;
 - 26 d. The program must consist of an integrated, organized sequence of
27 study;
 - 28 e. There must be an identifiable psychology faculty sufficient in size and
29 breadth to carry out its responsibilities;
 - 30 f. The designated director of the program must be a psychologist and a
31 member of the core faculty;
 - 32 g. The program must have an identifiable body of students who are
33 matriculated in that program for a degree;
 - 34 h. The program must include supervised practicum, internship, or field
35 training appropriate to the practice of psychology;
 - 36 i. The curriculum shall encompass a minimum of three academic years
37 of full-time graduate study for doctoral degree and a minimum of one
38 academic year of full-time graduate study for master's degree;
 - 39 j. The program includes an acceptable residency as defined by the Rules
40 of the Commission.
- 41 (3) Possess a current, full, and unrestricted license to practice psychology in a
42 Home State that is a Compact State;
- 43 (4) Have no history of adverse action that violate the Rules of the Commission;
- 44 (5) Have no criminal record history reported on an Identity History Summary that
45 violates the Rules of the Commission;
- 46 (6) Possess a current, active E.Passport;
- 47 (7) Provide attestations in regard to areas of intended practice, conformity with
48 standards of practice, competence in telepsychology technology, criminal
49 background, and knowledge and adherence to legal requirements in the home
50 and receiving states, and provide a release of information to allow for primary
51 source verification in a manner specified by the Commission; and

1 (8) Meet other criteria as defined by the Rules of the Commission.

2 (c) The Home State maintains authority over the license of any psychologist practicing
3 into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

4 (d) A psychologist practicing in a Receiving State under the Authority to Practice
5 Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A
6 Receiving State may, in accordance with that state's due process law, limit or revoke a
7 psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State
8 and may take any other necessary actions under the Receiving State's applicable law to protect
9 the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state
10 shall promptly notify the Home State and the Commission.

11 (e) If a psychologist's license in any Home State, another Compact State, or any Authority
12 to Practice Interjurisdictional Telepsychology in any Receiving State is restricted, suspended, or
13 otherwise limited, the E.Passport shall be revoked and, therefore, the psychologist shall not be
14 eligible to practice telepsychology in a Compact State under the Authority to Practice
15 Interjurisdictional Telepsychology.

16 **"§ 90-270.164. Compact Temporary Authorization to Practice.**

17 (a) Compact States shall also recognize the right of a psychologist, licensed in a Compact
18 State in conformance with G.S. 90-270.162, to practice temporarily in other Compact States
19 (Distant States) in which the psychologist is not licensed, as provided in the Compact.

20 (b) To exercise the Temporary Authorization to Practice under the terms and provisions
21 of this Compact, a psychologist licensed to practice in a Compact State must:

22 (1) Hold a graduate degree in psychology from an institute of higher education
23 that was, at the time the degree was awarded:

- 24 a. Regionally accredited by an accrediting body recognized by the U.S.
25 Department of Education to grant graduate degrees, or authorized by
26 Provincial Statute or Royal Charter to grant doctoral degrees; or
27 b. A foreign college or university deemed to be equivalent to
28 sub-subdivision a. of this subdivision by a foreign credential
29 evaluation service that is a member of the National Association of
30 Credential Evaluation Services (NACES) or by a recognized foreign
31 credential evaluation service; and

32 (2) Hold a graduate degree in psychology that meets the following criteria:

- 33 a. The program, wherever it may be administratively housed, must be
34 clearly identified and labeled as a psychology program. Such a
35 program must specify in pertinent institutional catalogues and
36 brochures its intent to educate and train professional psychologists;
37 b. The psychology program must stand as a recognizable, coherent,
38 organizational entity within the institution;
39 c. There must be a clear authority and primary responsibility for the core
40 and specialty areas whether or not the program cuts across
41 administrative lines;
42 d. The program must consist of an integrated, organized sequence of
43 study;
44 e. There must be an identifiable psychology faculty sufficient in size and
45 breadth to carry out its responsibilities;
46 f. The designated director of the program must be a psychologist and a
47 member of the core faculty;
48 g. The program must have an identifiable body of students who are
49 matriculated in that program for a degree;
50 h. The program must include supervised practicum, internship, or field
51 training appropriate to the practice of psychology;

- 1 i. The curriculum shall encompass a minimum of three academic years
2 of full-time graduate study for doctoral degrees and a minimum of one
3 academic year of full-time graduate study for master's degrees;
4 j. The program includes an acceptable residency as defined by the Rules
5 of the Commission.

- 6 (3) Possess a current, full, and unrestricted license to practice psychology in a
7 Home State that is a Compact State;
8 (4) No history of adverse action that violates the Rules of the Commission;
9 (5) No criminal record history that violates the Rules of the Commission;
10 (6) Possess a current, active IPC;
11 (7) Provide attestations in regard to areas of intended practice and work
12 experience and provide a release of information to allow for primary source
13 verification in a manner specified by the Commission; and
14 (8) Meet other criteria as defined by the Rules of the Commission.

15 (c) A psychologist practicing into a Distant State under the Temporary Authorization to
16 Practice shall practice within the scope of practice authorized by the Distant State.

17 (d) A psychologist practicing into a Distant State under the Temporary Authorization to
18 Practice will be subject to the Distant State's authority and law. A Distant State may, in
19 accordance with that state's due process law, limit or revoke a psychologist's Temporary
20 Authorization to Practice in the Distant State and may take any other necessary actions under the
21 Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a
22 Distant State takes action, the state shall promptly notify the Home State and the Commission.

23 (e) If a psychologist's license in any Home State, another Compact State, or any
24 Temporary Authorization to Practice in any Distant State is restricted, suspended, or otherwise
25 limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice
26 in a Compact State under the Temporary Authorization to Practice.

27 **"§ 90-270.165. Conditions of telepsychology practice in a Receiving State.**

28 A psychologist may practice in a Receiving State under the Authority to Practice
29 Interjurisdictional Telepsychology only in the performance of the scope of practice for
30 psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in
31 the Rules of the Commission, and under the following circumstances:

- 32 (1) The psychologist initiates a client/patient contact in a Home State via
33 telecommunications technologies with a client/patient in a Receiving State.
34 (2) Other conditions regarding telepsychology as determined by Rules
35 promulgated by the Commission.

36 **"§ 90-270.166. Adverse actions.**

37 (a) A Home State shall have the power to impose adverse action against a psychologist's
38 license issued by the Home State. A Distant State shall have the power to take adverse action on
39 a psychologist's Temporary Authorization to Practice within that Distant State.

40 (b) A Receiving State may take adverse action on a psychologist's Authority to Practice
41 Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse
42 action against a psychologist based on an adverse action taken by a Distant State regarding
43 temporary in-person, face-to-face practice.

44 (c) If a Home State takes adverse action against a psychologist's license, that
45 psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the
46 E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is
47 terminated and the IPC is revoked.

- 48 (1) All Home State disciplinary orders which impose adverse action shall be
49 reported to the Commission in accordance with the Rules promulgated by the
50 Commission. A Compact State shall report adverse actions in accordance with
51 the Rules of the Commission.

1 (2) In the event discipline is reported on a psychologist, the psychologist will not
2 be eligible for telepsychology or temporary in-person, face-to-face practice in
3 accordance with the Rules of the Commission.

4 (3) Other actions may be imposed as determined by the Rules promulgated by the
5 Commission.

6 (d) A Home State's Psychology Regulatory Authority shall investigate and take
7 appropriate action with respect to reported inappropriate conduct engaged in by a licensee which
8 occurred in a Receiving State as it would if such conduct had occurred by a licensee within the
9 Home State. In such cases, the Home State's law shall control in determining any adverse action
10 against a psychologist's license.

11 (e) A Distant State's Psychology Regulatory Authority shall investigate and take
12 appropriate action with respect to reported inappropriate conduct engaged in by a psychologist
13 practicing under Temporary Authorization Practice which occurred in that Distant State as it
14 would if such conduct had occurred by a licensee within the Home State. In such cases, Distant
15 State's law shall control in determining any adverse action against a psychologist's Temporary
16 Authorization to Practice.

17 (f) Nothing in this Compact shall override a Compact State's decision that a
18 psychologist's participation in an alternative program may be used in lieu of adverse action and
19 that such participation shall remain nonpublic if required by the Compact State's law. Compact
20 States must require psychologists who enter any alternative programs to not provide
21 telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or
22 provide temporary psychological services under the Temporary Authorization to Practice in any
23 other Compact State during the term of the alternative program.

24 (g) No other judicial or administrative remedies shall be available to a psychologist in the
25 event a Compact State imposes an adverse action pursuant to subsection (c) of this section.

26 **"§ 90-270.167. Additional authorities invested in a Compact State's Psychology Regulatory**
27 **Authority.**

28 In addition to any other powers granted under state law, a Compact State's Psychology
29 Regulatory Authority shall have the authority under this Compact to:

30 (1) Issue subpoenas, for both hearings and investigations, which require the
31 attendance and testimony of witnesses and the production of evidence.
32 Subpoenas issued by a Compact State's Psychology Regulatory Authority for
33 the attendance and testimony of witnesses and/or the production of evidence
34 from another Compact State shall be enforced in the latter state by any court
35 of competent jurisdiction, according to that court's practice and procedure in
36 considering subpoenas issued in its own proceedings. The issuing State
37 Psychology Regulatory Authority shall pay any witness fees, travel expenses,
38 mileage, and other fees required by the service statutes of the state where the
39 witnesses and/or evidence are located.

40 (2) Issue cease and desist and/or injunctive relief orders to revoke a psychologist's
41 Authority to Practice Interjurisdictional Telepsychology and/or Temporary
42 Authorization to Practice.

43 (3) During the course of any investigation, a psychologist may not change his/her
44 Home State licensure. A Home State Psychology Regulatory Authority is
45 authorized to complete any pending investigations of a psychologist and to
46 take any actions appropriate under its law. The Home State Psychology
47 Regulatory Authority shall promptly report the conclusions of such
48 investigations to the Commission. Once an investigation has been completed,
49 and pending the outcome of said investigation, the psychologist may change
50 his/her Home State licensure. The Commission shall promptly notify the new
51 Home State of any such decisions as provided in the Rules of the Commission.

1 All information provided to the Commission or distributed by Compact States
2 pursuant to the psychologist shall be confidential, filed under seal, and used
3 for investigatory or disciplinary matters. The Commission may create
4 additional rules for mandated or discretionary sharing of information by
5 Compact States.

6 **"§ 90-270.168. Coordinated Licensure Information System.**

7 (a) The Commission shall provide for the development and maintenance of a Coordinated
8 Licensure Information System (Coordinated Database) and reporting system containing licensure
9 and disciplinary action information on all psychologists to whom this Compact is applicable in
10 all Compact States as defined by the Rules of the Commission.

11 (b) Notwithstanding any other provision of state law to the contrary, a Compact State
12 shall submit a uniform data set to the Coordinated Database on all licensees as required by the
13 Rules of the Commission, including:

14 (1) Identifying information;

15 (2) Licensure data;

16 (3) Significant investigatory information;

17 (4) Adverse actions against a psychologist's license;

18 (5) An indicator that a psychologist's Authority to Practice Interjurisdictional
19 Telepsychology and/or Temporary Authorization to Practice is revoked;

20 (6) Nonconfidential information related to alternative program participation
21 information;

22 (7) Any denial of application for licensure and the reasons for such denial; and

23 (8) Other information which may facilitate the administration of this Compact, as
24 determined by the Rules of the Commission.

25 (c) The Coordinated Database administrator shall promptly notify all Compact States of
26 any adverse action taken against, or significant investigative information on, any licensee in a
27 Compact State.

28 (d) Compact States reporting information to the Coordinated Database may designate
29 information that may not be shared with the public without the express permission of the
30 Compact State reporting the information.

31 (e) Any information submitted to the Coordinated Database that is subsequently required
32 to be expunged by the law of the Compact State reporting the information shall be removed from
33 the Coordinated Database.

34 **"§ 90-270.169. Establishment of the Psychology Interjurisdictional Compact Commission.**

35 (a) The Compact States hereby create and establish a joint public agency known as the
36 Psychology Interjurisdictional Compact Commission.

37 (1) The Commission is a body politic and an instrumentality of the Compact
38 States.

39 (2) Venue in proper and judicial proceedings by or against the Commission shall
40 be brought solely and exclusively in a court of competent jurisdiction where
41 the principal office of the Commission is located. The Commission may waive
42 venue and jurisdictional defenses to the extent it adopts or consents to
43 participate in alternative dispute resolution proceedings.

44 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
45 immunity.

46 (b) Membership, Voting, and Meetings. –

47 (1) The Commission shall consist of one voting representative appointed by each
48 Compact State who shall serve as that state's Commissioner. The State
49 Psychology Regulatory Authority shall appoint its delegate. This delegate
50 shall be empowered to act on behalf of the Compact State. This delegate shall
51 be limited to:

- 1 a. Executive Director, Executive Secretary, or similar executive;
2 b. Current member of the State Psychology Regulatory Authority of a
3 Compact State; or
4 c. Designee empowered with the appropriate delegate authority to act on
5 behalf of the Compact State.
6 (2) Any Commissioner may be removed or suspended from office as provided by
7 the law of the state from which the Commissioner is appointed. Any vacancy
8 occurring in the Commission shall be filled in accordance with the laws of the
9 Compact State in which the vacancy exists.
10 (3) Each Commissioner shall be entitled to one vote with regard to the
11 promulgation of Rules and creation of Bylaws and shall otherwise have an
12 opportunity to participate in the business and affairs of the Commission. A
13 Commissioner shall vote in person or by such other means as provided in the
14 Bylaws. The Bylaws may provide for Commissioners' participation in
15 meetings by telephone or other means of communication.
16 (4) The Commission shall meet at least once during each calendar year.
17 Additional meetings shall be held as set forth in the Bylaws.
18 (5) All meetings shall be open to the public, and public notice of meetings shall
19 be given in the same manner as required under the rule-making provisions in
20 G.S. 90-270.170.
21 (6) The Commission may convene in a closed, nonpublic meeting if the
22 Commission must discuss:
23 a. Noncompliance of a Compact State with its obligations under the
24 Compact;
25 b. The employment, compensation, discipline, or other personnel
26 matters, practices, or procedures related to specific employees or other
27 matters related to the Commission's internal personnel practices and
28 procedures;
29 c. Current, threatened, or reasonably anticipated litigation against the
30 Commission;
31 d. Negotiation of contracts for the purchase or sale of goods, services, or
32 real estate;
33 e. Accusation against any person of a crime or formally censuring any
34 person;
35 f. Disclosure of trade secrets or commercial or financial information
36 which is privileged or confidential;
37 g. Disclosure of information of a personal nature where disclosure would
38 constitute a clearly unwarranted invasion of personal privacy;
39 h. Disclosure of investigatory records compiled for law enforcement
40 purposes;
41 i. Disclosure of information related to any investigatory reports prepared
42 by or on behalf of or for use of the Commission or other committee
43 charged with responsibility for investigation or determination of
44 compliance issues pursuant to the Compact; or
45 j. Matters specifically exempted from disclosure by federal and state
46 statute.
47 (7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
48 Commission's legal counsel or designee shall certify that the meeting may be
49 closed and shall reference each relevant exempting provision. The
50 Commission shall keep minutes which fully and clearly describe all matters
51 discussed in a meeting and shall provide a full and accurate summary of

1 actions taken, of any person participating in the meeting, and the reasons
2 therefore, including a description of the views expressed. All documents
3 considered in connection with an action shall be identified in such minutes.
4 All minutes and documents of a closed meeting shall remain under seal,
5 subject to release only by a majority vote of the Commission or order of a
6 court of competent jurisdiction.

7 (c) The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws
8 and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes
9 and exercise the powers of the Compact, including, but not limited to:

10 (1) Establishing the fiscal year of the Commission;

11 (2) Providing reasonable standards and procedures:

12 a. For the establishment and meetings of other committees; and

13 b. Governing any general or specific delegation of any authority or
14 function of the Commission;

15 (3) Providing reasonable procedures for calling and conducting meetings of the
16 Commission, ensuring reasonable advance notice of all meetings and
17 providing an opportunity for attendance of such meetings by interested parties,
18 with enumerated exceptions designed to protect the public's interest, the
19 privacy of individuals of such proceedings, and proprietary information,
20 including trade secrets. The Commission may meet in closed session only
21 after a majority of the Commissioners vote to close a meeting to the public in
22 whole or in part. As soon as practicable, the Commission must make public a
23 copy of the vote to close the meeting revealing the vote of each Commissioner
24 with no proxy votes allowed;

25 (4) Establishing the titles, duties, and authority and reasonable procedures for the
26 election of the officers of the Commission;

27 (5) Providing reasonable standards and procedures for the establishment of the
28 personnel policies and programs of the Commission. Notwithstanding any
29 civil service or other similar law of any Compact State, the Bylaws shall
30 exclusively govern the personnel policies and programs of the Commission;

31 (6) Promulgating a Code of Ethics to address permissible and prohibited activities
32 of Commission members and employees;

33 (7) Providing a mechanism for concluding the operations of the Commission and
34 the equitable disposition of any surplus funds that may exist after the
35 termination of the Compact after the payment and/or reserving of all of its
36 debts and obligations;

37 (8) The Commission shall publish its Bylaws in a convenient form and file a copy
38 thereof and a copy of any amendment thereto with the appropriate agency or
39 officer in each of the Compact States;

40 (9) The Commission shall maintain its financial records in accordance with the
41 Bylaws; and

42 (10) The Commission shall meet and take such actions as are consistent with the
43 provisions of this Compact and the Bylaws.

44 (d) The Commission shall have the following powers:

45 (1) The authority to promulgate uniform rules to facilitate and coordinate
46 implementation and administration of this Compact. The rules shall have the
47 force and effect of law and shall be binding in all Compact States;

48 (2) To bring and prosecute legal proceedings or actions in the name of the
49 Commission, provided that the standing of any State Psychology Regulatory
50 Authority or other regulatory body responsible for psychology licensure to sue
51 or be sued under applicable law shall not be affected;

- 1 (3) To purchase and maintain insurance and bonds;
2 (4) To borrow, accept, or contract for services of personnel, including, but not
3 limited to, employees of a Compact State;
4 (5) To hire employees, elect or appoint officers, fix compensation, define duties,
5 grant such individuals appropriate authority to carry out the purposes of the
6 Compact, and establish the Commission's personnel policies and programs
7 relating to conflicts of interest, qualifications of personnel, and other related
8 personnel matters;
9 (6) To accept any and all appropriate donations and grants of money, equipment,
10 supplies, materials, and services and to receive, utilize, and dispose of the
11 same, provided that at all times the Commission shall strive to avoid any
12 appearance of impropriety and/or conflict of interest;
13 (7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to
14 own, hold, improve, or use any property, real, personal, or mixed, provided
15 that at all times the Commission shall strive to avoid any appearance of
16 impropriety;
17 (8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
18 dispose of any property, real, personal, or mixed;
19 (9) To establish a budget and make expenditures;
20 (10) To borrow money;
21 (11) To appoint committees, including advisory committees comprised of
22 members, state regulators, state legislators or their representatives, and
23 consumer representatives, and such other interested persons as may be
24 designated in this Compact and the Bylaws;
25 (12) To provide and receive information from, and to cooperate with, law
26 enforcement agencies;
27 (13) To adopt and use an official seal; and
28 (14) To perform such other functions as may be necessary or appropriate to achieve
29 the purposes of this Compact consistent with the state regulation of
30 psychology licensure, temporary in-person, face-to-face practice, and
31 telepsychology practice.
32 (e) The Executive Board. – The elected officers shall serve as the Executive Board, which
33 shall have the power to act on behalf of the Commission according to the terms of this Compact.
34 (1) The Executive Board shall be comprised of six members:
35 a. Five voting members who are elected from the current membership of
36 the Commission by the Commission.
37 b. One ex officio, nonvoting member from the recognized membership
38 organization composed of State and Provincial Psychology Regulatory
39 Authorities.
40 (2) The ex officio member must have served as staff or member on a State
41 Psychology Regulatory Authority and will be selected by its respective
42 organization.
43 (3) The Commission may remove any member of the Executive Board as
44 provided in Bylaws.
45 (4) The Executive Board shall meet at least annually.
46 (5) The Executive Board shall have the following duties and responsibilities:
47 a. Recommend to the entire Commission changes to the Rules or Bylaws,
48 changes to this Compact legislation, or fees paid by Compact States
49 such as annual dues and any other applicable fees;
50 b. Ensure Compact administration services are appropriately provided,
51 contractual or otherwise;

- 1 c. Prepare and recommend the budget;
2 d. Maintain financial records on behalf of the Commission;
3 e. Monitor Compact compliance of member states and provide
4 compliance reports to the Commission;
5 f. Establish additional committees as necessary; and
6 g. Other duties as provided in Rules or Bylaws.
- 7 (f) Financing of the Commission. –
8 (1) The Commission shall pay or provide for the payment of the reasonable
9 expenses of its establishment, organization, and ongoing activities.
10 (2) The Commission may accept any and all appropriate revenue sources,
11 donations, and grants of money, equipment, supplies, materials, and services.
12 (3) The Commission may levy on and collect an annual assessment from each
13 Compact State or impose fees on other parties to cover the cost of the
14 operations and activities of the Commission and its staff which must be in a
15 total amount sufficient to cover its annual budget as approved each year for
16 which revenue is not provided by other sources. The aggregate annual
17 assessment amount shall be allocated based upon a formula to be determined
18 by the Commission which shall promulgate a rule binding upon all Compact
19 States.
20 (4) The Commission shall not incur obligations of any kind prior to securing the
21 funds adequate to meet the same, nor shall the Commission pledge the credit
22 of any of the Compact States, except by and with the authority of the Compact
23 State.
24 (5) The Commission shall keep accurate accounts of all receipts and
25 disbursements. The receipts and disbursements of the Commission shall be
26 subject to the audit and accounting procedures established under its Bylaws.
27 However, all receipts and disbursements of funds handled by the Commission
28 shall be audited yearly by a certified or licensed public accountant and the
29 report of the audit shall be included in and become part of the annual report
30 of the Commission.
- 31 (g) Qualified Immunity, Defense, and Indemnification. –
32 (1) The members, officers, Executive Director, employees, and representatives of
33 the Commission shall be immune from suit and liability, either personally or
34 in their official capacity, for any claim for damage to or loss of property or
35 personal injury or other civil liability caused by or arising out of any actual or
36 alleged act, error, or omission that occurred, or that the person against whom
37 the claim is made had a reasonable basis for believing occurred within the
38 scope of Commission employment, duties, or responsibilities, provided that
39 nothing in this subdivision shall be construed to protect any such person from
40 suit and/or liability for any damage, loss, injury, or liability caused by the
41 intentional or willful or wanton misconduct of that person.
42 (2) The Commission shall defend any member, officer, Executive Director,
43 employee, or representative of the Commission in any civil action seeking to
44 impose liability arising out of any actual or alleged act, error, or omission that
45 occurred within the scope of Commission employment, duties, or
46 responsibilities, or that the person against whom the claim is made had a
47 reasonable basis for believing occurred within the scope of Commission
48 employment, duties, or responsibilities, provided that nothing herein shall be
49 construed to prohibit that person from retaining his or her own counsel, and
50 provided further that the actual or alleged act, error, or omission did not result
51 from that person's intentional or willful or wanton misconduct.

1 (3) The Commission shall indemnify and hold harmless any member, officer,
2 Executive Director, employee, or representative of the Commission for the
3 amount of any settlement or judgment obtained against that person arising out
4 of any actual or alleged act, error, or omission that occurred within the scope
5 of employment, duties, or responsibilities, or that such person had a
6 reasonable basis for believing occurred within the scope of Commission
7 employment, duties, or responsibilities, provided that the actual or alleged act,
8 error, or omission did not result from the intentional or willful or wanton
9 misconduct of that person.

10 **§ 90-270.170. Rule making.**

11 (a) The Commission shall exercise its rule-making powers pursuant to the criteria set
12 forth in this section and the Rules adopted thereunder. Rules and amendments shall become
13 binding as of the date specified in each rule or amendment.

14 (b) If a majority of the legislatures of the Compact States rejects a rule, by enactment of
15 a statute or resolution in the same manner used to adopt the Compact, then such rule shall have
16 no further force and effect in any Compact State.

17 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of
18 the Commission.

19 (d) Prior to promulgation and adoption of a final rule or Rules by the Commission, and
20 at least 60 days in advance of the meeting at which the rule will be considered and voted upon,
21 the Commission shall file a Notice of Proposed Rule Making:

22 (1) On the Web site of the Commission; and

23 (2) On the Web site of each Compact States' Psychology Regulatory Authority or
24 the publication in which each state would otherwise publish proposed rules.

25 (e) The Notice of Proposed Rule Making shall include:

26 (1) The proposed time, date, and location of the meeting in which the rule will be
27 considered and voted upon;

28 (2) The text of the proposed rule or amendment and the reason for the proposed
29 rule;

30 (3) A request for comments on the proposed rule from any interested person; and

31 (4) The manner in which interested persons may submit notice to the Commission
32 of their intention to attend the public hearing and any written comments.

33 (f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit
34 written data, facts, opinions, and arguments, which shall be made available to the public.

35 (g) The Commission shall grant an opportunity for a public hearing before it adopts a rule
36 or amendment if a hearing is requested by:

37 (1) At least 25 persons who submit comments independently of each other;

38 (2) A governmental subdivision or agency; or

39 (3) A duly appointed person in an association that has at least 25 members.

40 (h) If a hearing is held on the proposed rule or amendment, the Commission shall publish
41 the place, time, and date of the scheduled public hearing.

42 (1) All persons wishing to be heard at the hearing shall notify the Executive
43 Director of the Commission or other designated member in writing of their
44 desire to appear and testify at the hearing not less than five business days
45 before the scheduled date of the hearing.

46 (2) Hearings shall be conducted in a manner providing each person who wishes
47 to comment a fair and reasonable opportunity to comment orally or in writing.

48 (3) No transcript of the hearing is required, unless a written request for a transcript
49 is made, in which case the person requesting the transcript shall bear the cost
50 of producing the transcript. A recording may be made in lieu of a transcript
51 under the same terms and conditions as a transcript. This subsection shall not

1 preclude the Commission from making a transcript or recording of the hearing
2 if it so chooses.

3 (4) Nothing in this section shall be construed as requiring a separate hearing on
4 each rule. Rules may be grouped for the convenience of the Commission at
5 hearings required by this section.

6 (i) Following the scheduled hearing date, or by the close of business on the scheduled
7 hearing date if the hearing was not held, the Commission shall consider all written and oral
8 comments received.

9 (j) The Commission shall, by majority vote of all members, take final action on the
10 proposed rule and shall determine the effective date of the rule, if any, based on the rule-making
11 record and the full text of the rule.

12 (k) If no written notice of intent to attend the public hearing by interested parties is
13 received, the Commission may proceed with promulgation of the proposed rule without a public
14 hearing.

15 (l) Upon determination that an emergency exists, the Commission may consider and
16 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that
17 the usual rule-making procedures provided in the Compact and in this section shall be
18 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
19 after the effective date of the rule. For the purposes of this provision, an emergency rule is one
20 that must be adopted immediately in order to:

21 (1) Meet an imminent threat to public health, safety, or welfare;

22 (2) Prevent a loss of Commission or Compact State funds;

23 (3) Meet a deadline for the promulgation of an administrative rule that is
24 established by federal law or rule; or

25 (4) Protect public health and safety.

26 (m) The Commission or an authorized committee of the Commission may direct revisions
27 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
28 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
29 posted on the Web site of the Commission. The revision shall be subject to challenge by any
30 person for a period of 30 days after posting. The revision may be challenged only on grounds
31 that the revision results in a material change to a rule. A challenge shall be made in writing and
32 delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is
33 made, the revision will take effect without further action. If the revision is challenged, the
34 revision may not take effect without the approval of the Commission.

35 **"§ 90-270.171. Oversight, dispute resolution, and enforcement.**

36 (a) Oversight. –

37 (1) The executive, legislative, and judicial branches of state government in each
38 Compact State shall enforce this Compact and take all actions necessary and
39 appropriate to effectuate the Compact's purposes and intent. The provisions of
40 this Compact and the rules promulgated hereunder shall have standing as
41 statutory law.

42 (2) All courts shall take judicial notice of the Compact and the rules in any judicial
43 or administrative proceeding in a Compact State pertaining to the subject
44 matter of this Compact which may affect the powers, responsibilities, or
45 actions of the Commission.

46 (3) The Commission shall be entitled to receive service of process in any such
47 proceeding and shall have standing to intervene in such a proceeding for all
48 purposes. Failure to provide service of process to the Commission shall render
49 a judgment or order void as to the Commission, this Compact, or promulgated
50 rules.

51 (b) Default, Technical Assistance, and Termination. –

- 1 (1) If the Commission determines that a Compact State has defaulted in the
2 performance of its obligations or responsibilities under this Compact or the
3 promulgated rules, the Commission shall:
4 a. Provide written notice to the defaulting state and other Compact States
5 of the nature of the default, the proposed means of remedying the
6 default, and/or any other action to be taken by the Commission; and
7 b. Provide remedial training and specific technical assistance regarding
8 the default.
9 (2) If a state in default fails to remedy the default, the defaulting state may be
10 terminated from the Compact upon an affirmative vote of a majority of the
11 Compact States and all rights, privileges, and benefits conferred by this
12 Compact shall be terminated on the effective date of termination. A remedy
13 of the default does not relieve the offending state of obligations or liabilities
14 incurred during the period of default.
15 (3) Termination of membership in the Compact shall be imposed only after all
16 other means of securing compliance have been exhausted. Notice of intent to
17 suspend or terminate shall be submitted by the Commission to the Governor,
18 the majority and minority leaders of the defaulting state's legislature, and each
19 of the Compact States.
20 (4) A Compact State which has been terminated is responsible for all assessments,
21 obligations, and liabilities incurred through the effective date of termination,
22 including obligations which extend beyond the effective date of termination.
23 (5) The Commission shall not bear any costs incurred by the state which is found
24 to be in default or which has been terminated from the Compact, unless agreed
25 upon in writing between the Commission and the defaulting state.
26 (6) The defaulting state may appeal the action of the Commission by petitioning
27 the U.S. District Court for the State of Georgia or the federal district where
28 the Compact has its principal offices. The prevailing member shall be awarded
29 all costs of such litigation, including reasonable attorneys' fees.
30 (c) Dispute Resolution. –
31 (1) Upon request by a Compact State, the Commission shall attempt to resolve
32 disputes related to the Compact which arise among Compact States and
33 between Compact and Non-Compact States.
34 (2) The Commission shall promulgate a rule providing for both mediation and
35 binding dispute resolution for disputes that arise before the Commission.
36 (d) Enforcement. –
37 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
38 provisions and Rules of this Compact.
39 (2) By majority vote, the Commission may initiate legal action in the United
40 States District Court for the State of Georgia or the federal district where the
41 Compact has its principal offices against a Compact State in default to enforce
42 compliance with the provisions of the Compact and its promulgated Rules and
43 Bylaws. The relief sought may include both injunctive relief and damages. In
44 the event judicial enforcement is necessary, the prevailing member shall be
45 awarded all costs of such litigation, including reasonable attorneys' fees.
46 (3) The remedies herein shall not be the exclusive remedies of the Commission.
47 The Commission may pursue any other remedies available under federal or
48 state law.

49 **"§ 90-270.172. Date of implementation of the Psychology Interjurisdictional Compact**
50 **Commission and associated rules, withdrawal, and amendments.**

1 (a) The Compact shall come into effect on the date on which the Compact is enacted into
2 law in the seventh Compact State. The provisions which become effective at that time shall be
3 limited to the powers granted to the Commission relating to assembly and the promulgation of
4 rules. Thereafter, the Commission shall meet and exercise rule-making powers necessary to the
5 implementation and administration of the Compact.

6 (b) Any state which joins the Compact subsequent to the Commission's initial adoption
7 of the rules shall be subject to the rules as they exist on the date on which the Compact becomes
8 law in that state. Any rule which has been previously adopted by the Commission shall have the
9 full force and effect of law on the day the Compact becomes law in that state.

10 (c) Any Compact State may withdraw from this Compact by enacting a statute repealing
11 the same.

12 (1) A Compact State's withdrawal shall not take effect until six months after
13 enactment of the repealing statute.

14 (2) Withdrawal shall not affect the continuing requirement of the withdrawing
15 State's Psychology Regulatory Authority to comply with the investigative and
16 adverse action reporting requirements of this act prior to the effective date of
17 withdrawal.

18 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any
19 psychology licensure agreement or other cooperative arrangement between a Compact State and
20 a Non-Compact State which does not conflict with the provisions of this Compact.

21 (e) This Compact may be amended by the Compact States. No amendment to this
22 Compact shall become effective and binding upon any Compact State until it is enacted into the
23 law of all Compact States.

24 **"§ 90-270.173. Construction and severability.**

25 This Compact shall be liberally construed so as to effectuate the purposes thereof. If this
26 Compact shall be held contrary to the constitution of any state member thereto, the Compact shall
27 remain in full force and effect as to the remaining Compact States."

28 **SECTION 1.(c)** Subsections (a) and (b) of this section become effective when at
29 least seven states have enacted the Psychology Interjurisdictional Compact (PSYPACT) set forth
30 in subsection (b) of this section. The North Carolina Psychology Board shall report to the Revisor
31 of Statutes when the PSYPACT set forth in subsection (b) of this section has been enacted by
32 seven member states.

33
34 **PART II. ALLOW LICENSED MARRIAGE AND FAMILY THERAPISTS TO**
35 **CONDUCT FIRST-LEVEL EXAMINATIONS FOR INVOLUNTARY COMMITMENT**
36 **AND CREATE FEES**

37 **SECTION 2.(a)** G.S. 122C-263.1(a) reads as rewritten:

38 **"§ 122C-263.1. Secretary's authority to certify commitment examiners; training of certified**
39 **commitment examiners performing first examinations; LME/MCO**
40 **responsibilities.**

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

48 (1) The Secretary has received a request:

49 a. To certify a licensed clinical social worker, a master's or higher level
50 degree nurse practitioner, a licensed professional counsellor, a
51 licensed marriage and family therapist, or a physician's assistant to

1 conduct the first examinations described in G.S. 122C-263(c) and
 2 G.S. 122C-283(c).

3 b. To certify a master's level licensed clinical addictions specialist to
 4 conduct the first examination described in G.S. 122C-283(c).

5 ...
 6 (5) In no event shall the certification of a licensed clinical social worker, master's
 7 or higher level degree nurse practitioner, licensed professional counsellor, a
 8 licensed marriage and family therapist, physician assistant, or master's level
 9 certified clinical addictions specialist under this section be construed as
 10 authorization to expand the scope of practice of the licensed clinical social
 11 worker, the master's level nurse practitioner, licensed professional counsellor,
 12 a licensed marriage and family therapist, physician assistant, or the master's
 13 level certified clinical addictions specialist.

14 ...
 15 (9) A licensed marriage and family therapist shall not be authorized to conduct
 16 the initial examination of an individual married to a patient of the licensed
 17 marriage and family therapist."

18 **SECTION 2.(b)** This section is effective October 1, 2019.

19
 20 **PART III. ELIMINATE REDUNDANCY IN ADULT CARE HOME INSPECTIONS**

21 **SECTION 3.** G.S. 131D-2.11(a) reads as rewritten:

22 "(a) State Inspection and Monitoring. – The Department shall ensure that adult care homes
 23 required to be licensed by this Article are monitored for licensure compliance on a regular basis.
 24 All facilities licensed under this Article and adult care units in nursing homes are subject to
 25 inspections at all times by the Secretary. Except as provided in subsection (a1) of this section,
 26 the Division of Health Service Regulation shall inspect all adult care homes and adult care units
 27 in nursing homes on an annual basis. Beginning July 1, 2012, the Division of Health Service
 28 Regulation shall include as part of its inspection of all adult care homes a review of the facility's
 29 compliance with G.S. 131D-4.4A(b) and safe practices for injections and any other procedures
 30 during which bleeding typically occurs. In addition, the Department shall ensure that adult care
 31 homes are inspected every two years to determine compliance with physical plant and life-safety
 32 requirements.

33 If the annual or biennial licensure inspection of an adult care home is conducted separately
 34 from the inspection required every two years to determine compliance with physical plant and
 35 life-safety requirements, then the Division of Health Service Regulation shall not cite, as part of
 36 the annual or biennial licensure inspection, any noncompliance with any law or regulation that
 37 was cited during a physical plant and life-safety inspection, unless, in consultation with the
 38 section within the Division of Health Service Regulation that conducts physical plant and
 39 life-safety inspections, any of the following conditions are met:

- 40 (1) The noncompliance with the law or regulation continues and the
 41 noncompliance constitutes a Type A1 Violation, a Type A2 Violation, or a
 42 Type B Violation, as defined in G.S. 131D-34.
- 43 (2) The facility has not submitted a plan of correction for the physical plant or
 44 life-safety citation that has been accepted by the section within the Division
 45 of Health Services Regulation that conducts physical plant and life-safety
 46 inspections.
- 47 (3) The noncompliance with the physical plant or life-safety law and regulation
 48 cited by the section within the Division of Health Service Regulation that
 49 conducts physical plant and life-safety inspections has not been corrected
 50 within the time frame allowed for correction or has increased in severity.

1 Nothing in this subsection prevents a licensing inspector from referring a concern about
2 physical plant and life-safety requirements to the section within the Division of Health Service
3 Regulation that conducts physical plant and life-safety inspections."
4

5 **PART IV. RAISE LUPUS AWARENESS**

6 **SECTION 4.(a)** Chapter 103 of the General Statutes is amended by adding a new
7 section to read:

8 **"§ 103-15. Lupus Awareness Month.**

9 The month of May of each year is designated as Lupus Awareness Month in North Carolina."

10 **SECTION 4.(b)** Article 1B of Chapter 130A of the General Statutes is amended by
11 adding a new Part to read:

12 "Part 6A. Lupus Advisory Council.

13 **"§ 130A-33.70. Lupus Advisory Council.**

14 (a) There is established the Lupus Advisory Council in the Department. The Council shall
15 have the following duties and responsibilities with respect to North Carolina residents who have
16 been diagnosed with lupus:

- 17 (1) Make recommendations to the Governor and the Secretary aimed at improving
18 their health status.
- 19 (2) Identify and examine the limitations and problems associated with existing
20 laws, regulations, programs, and services.
- 21 (3) Examine the financing of, and access to, health services.
- 22 (4) Identify and review health promotion and disease prevention strategies
23 relating to the leading causes of death and disability.
- 24 (5) Advise the Governor and the Secretary upon any matter which the Governor
25 or Secretary may refer to it.

26 (b) The Lupus Advisory Council in the Department shall consist of 15 members to be
27 appointed as follows:

- 28 (1) Four members shall be appointed by the Governor, three of whom shall be
29 scientists with experience in lupus who participate in various fields of
30 scientific endeavor, including, but not limited to, biomedical research, social,
31 translational, behavioral, and epidemiological research, and public health, and
32 one of whom shall be an individual who has been diagnosed with lupus.
- 33 (2) Four members shall be appointed by the Speaker of the House of
34 Representatives, two of whom shall be medical clinicians with experience in
35 treating individuals diagnosed with lupus, one of whom shall represent
36 nonprofit women's organizations and health organizations, including at least
37 one state or national organization that deals with the treatment of lupus, and
38 one of whom shall be a public member who has been diagnosed with lupus.
- 39 (3) Four members shall be appointed by the President Pro Tempore of the Senate,
40 three of whom shall represent nonprofit women's organizations and health
41 organizations, including at least one state or national organization that deals
42 with the treatment of lupus, and one of whom shall be a public member who
43 has been diagnosed with lupus.
- 44 (4) Three members appointed by the Secretary, representing the Divisions of
45 Public Health and Social Services.
- 46 (5) Of the members appointed by the Governor, two shall serve initial terms of
47 one year, two shall serve initial terms of two years, and one shall serve an
48 initial term of three years. Thereafter, the Governor's appointees shall serve
49 terms of four years.
- 50 (6) Of the nonlegislative members appointed by the Speaker of the House of
51 Representatives, two shall serve initial terms of two years and one shall serve

1 an initial term of three years. Thereafter, nonlegislative members appointed
 2 by the Speaker of the House of Representatives shall serve terms of four years.
 3 Of the nonlegislative members appointed by the President Pro Tempore of the
 4 Senate, two shall serve initial terms of two years and one shall serve an initial
 5 term of three years. Thereafter, nonlegislative members appointed by the
 6 President Pro Tempore of the Senate shall serve terms of four years.
 7 Legislative members of the Council shall serve two-year terms.

8 (c) The Chairperson of the Council shall be elected by the Council from among its
 9 membership.

10 (d) The majority of the Council shall constitute a quorum for the transaction of business.

11 (e) Members of the Council shall receive per diem and necessary travel and subsistence
 12 expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, or travel and subsistence
 13 expenses in accordance with the provisions of G.S. 120-3.1, as applicable.

14 (f) All clerical support and other services required by the Council shall be provided by
 15 the Department."

17 PART V. STEP THERAPY PROTOCOLS

18 SECTION 5.(a) G.S. 58-3-221 reads as rewritten:

19 "**§ 58-3-221. Access to nonformulary and restricted access prescription drugs.**

20 (a) If an insurer (i) maintains one or more closed formularies for or restricts access to
 21 covered prescription drugs or devices, or (ii) requires an enrollee in a plan with an open or closed
 22 formulary to use a prescription drug or sequence of prescription drugs, other than the drug the
 23 enrollee's health care provider recommends, before the insurer provides coverage for the
 24 recommended prescription drug, then the insurer shall do all of the following:

25 (1) Develop the ~~formulary or formularies~~ or protocols and any restrictions on
 26 access to covered prescription drugs or devices in consultation with and with
 27 the approval of a pharmacy and therapeutics ~~committee, which shall include~~
 28 ~~participating physicians who are licensed to practice medicine in this~~
 29 ~~State committee.~~

30 (2) Make available to participating providers, pharmacists, and enrollees the
 31 complete drugs or devices formulary or formularies maintained by the insurer
 32 including a list of the devices and prescription drugs on the formulary by
 33 major therapeutic category that specifies whether a particular drug or device
 34 is preferred over other drugs or ~~devices.~~ devices, as well as any utilization
 35 management program indicators.

36 (3) Establish and maintain an ~~expeditious process or procedure that allows an~~
 37 ~~enrollee or the enrollee's physician acting on behalf of the enrollee to obtain,~~
 38 ~~without penalty or additional cost sharing beyond that provided for in the~~
 39 ~~health benefit plan, coverage for a specific nonformulary drug or device~~
 40 ~~determined to be medically necessary and appropriate by the enrollee's~~
 41 ~~participating physician without prior approval from the insurer, after the~~
 42 ~~enrollee's participating physician notifies the insurer that:~~

43 a. Either (i) the ~~formulary alternatives have been ineffective in the~~
 44 ~~treatment of the enrollee's disease or condition, or (ii) the formulary~~
 45 ~~alternatives cause or are reasonably expected by the physician to cause~~
 46 ~~a harmful or adverse clinical reaction in the enrollee; and~~

47 b. Either (i) the ~~drug is prescribed in accordance with any applicable~~
 48 ~~clinical protocol of the insurer for the prescribing of the drug, or (ii)~~
 49 ~~the drug has been approved as an exception to the clinical protocol~~
 50 ~~pursuant to the insurer's exception procedure.~~ Update protocols based

1 on a review of new evidence, research, and newly developed
2 treatments.

3 (4) ~~Provide coverage for a restricted access drug or device to an enrollee without~~
4 ~~requiring prior approval or use of a nonrestricted formulary drug if an~~
5 ~~enrollee's physician certifies in writing that the enrollee has previously used~~
6 ~~an alternative nonrestricted access drug or device and the alternative drug or~~
7 ~~device has been detrimental to the enrollee's health or has been ineffective in~~
8 ~~treating the same condition and, in the opinion of the prescribing physician, is~~
9 ~~likely to be detrimental to the enrollee's health or ineffective in treating the~~
10 ~~condition again.~~An insurer, or a pharmacy benefits manager under contract
11 with an insurer, shall require that its pharmacy and therapeutics committee
12 either meet the requirements for conflict of interest set by the Center for
13 Medicare and Medicaid Services or meet the accreditation standards of the
14 National Committee for Quality Assurance or another independent accrediting
15 organization.

16 (b) An insurer may not void a contract or refuse to renew a contract between the insurer
17 and a prescribing provider because the prescribing provider has prescribed a medically necessary
18 and appropriate nonformulary or restricted access drug or device as provided in this section.

19 **(b1) Exception Process.** – Each insurer shall establish and maintain an expeditious process
20 or procedure, published on either the insurer's Web site or in policies provided to health care
21 providers, that allows an enrollee or the enrollee's prescribing provider acting on behalf of the
22 enrollee to obtain, without penalty or additional cost-sharing beyond that provided for in the
23 health benefit plan, coverage for a specific nonformulary drug or device or the drug requested by
24 the prescribing provider, if it is determined to be medically necessary and appropriate by the
25 enrollee's prescribing provider and the prescription drug is covered under the current health
26 benefit plan.

27 (1) An insurer shall grant an exception request if the prescribing provider's
28 submitted justification and supporting clinical documentation are sufficient to
29 demonstrate any of the following:

- 30 a. The enrollee has tried the alternate drug while covered by the current
31 or the previous health benefit plan.
32 b. The formulary or alternate drug has been ineffective in the treatment
33 of the enrollee's disease or condition.
34 c. The formulary or alternate drug causes or is reasonably expected by
35 the prescribing provider to cause a harmful or adverse clinical reaction
36 in the enrollee.
37 d. Either (i) the drug is prescribed in accordance with any applicable
38 clinical protocol of the insurer for the prescribing of the drug, or (ii)
39 the drug has been approved as an exception to the clinical protocol
40 pursuant to the insurer's exception procedure.
41 e. The enrollee's prescribing provider certifies in writing that the enrollee
42 has previously used an alternative nonrestricted access drug or device
43 and the alternative drug or device has been detrimental to the enrollee's
44 health or has been ineffective in treating the same condition and, in the
45 opinion of the prescribing health care provider, is likely to be
46 detrimental to the enrollee's health or ineffective in treating the
47 condition again.

48 (2) Nothing in this section shall preclude an insurer from requiring prior
49 authorization for the coverage of a prescribed drug that was covered by the
50 enrollee's previous health benefit plan.

1 **(b2)** Pharmaceutical drug samples or patient incentive programs, including coupons or
2 debit cards, shall not be considered trial and failure of a preferred prescription drug in lieu of
3 trying the formulary-preferred prescription drug.

4 **(b3)** Exception process requirements:

5 **(1)** The insurer, health benefit plan, or utilization review organization may request
6 relevant documentation from the patient or health care provider to support the
7 exception request. Relevant information includes the results of any patient
8 examination, clinical evaluation, or second opinion that may be required.

9 **(2)** A licensed physician or licensed pharmacist shall evaluate the clinical
10 appropriateness of the exception request.

11 **(3)** For nonurgent exception requests for a prospective or concurrent review:

12 a. The insurer shall communicate to the enrollee's health care provider if
13 additional information is required within 72 hours after the insurer
14 receives the exception request.

15 b. The insurer shall communicate an exception request determination to
16 the enrollee's providers within 72 hours after receiving all relevant
17 information.

18 **(4)** In the case of an urgent review:

19 a. The insurer shall communicate to the enrollee's health care provider if
20 additional information is required within 24 hours after the insurer
21 receives the exception request.

22 b. The insurer shall communicate an exception request determination to
23 the enrollee's providers within 24 hours after receiving all relevant
24 information.

25 **(c)** As used in this section:

26 **(1)** "Closed formulary" means a list of prescription drugs and devices reimbursed
27 by the insurer that excludes coverage for drugs and devices not listed.

28 **(1a)** "Health benefit plan" has definition provided in G.S. 58-3-167.

29 **(2)** "Insurer" has the meaning provided in G.S. 58-3-167.

30 **(3)** "Restricted access drug or device" means those covered prescription drugs or
31 devices for which reimbursement by the insurer is conditioned on the insurer's
32 prior approval to prescribe the drug or device or on the provider prescribing
33 one or more alternative drugs or devices before prescribing the drug or device
34 in question.

35 **(d)** Nothing in this section requires an insurer to pay for drugs or devices or classes of
36 drugs or devices related to a benefit that is specifically excluded from coverage by the insurer.

37 **(e)** This section shall not be construed to prevent the health benefit plan from requiring
38 an enrollee to try an A-rated generic equivalent drug, or a biosimilar, as defined under 42 U.S.C.
39 § 262(i)(2), prior to providing coverage for the equivalent branded prescription drug."

40 **SECTION 5.(b)** This section becomes effective October 1, 2019, and applies to
41 insurance contracts issued, renewed, or amended on or after that date.

42

43 **PART VI. CANCER TREATMENT FAIRNESS**

44 **SECTION 6.(a)** Article 3 of Chapter 58 of the General Statutes is amended by adding
45 a new section to read as follows:

46 "§ 58-3-282. Coverage for orally administered anticancer drugs.

47 **(a)** This section applies to health benefit plans sold on the individual market as defined
48 in G.S. 58-68-25(a)(9) that provide coverage for prescribed, orally-administered anticancer drugs
49 that are used to kill or slow the growth of cancerous cells and that provide coverage for
50 intravenously administered or injected anticancer drugs.

1 **(b)** Health benefit plans shall not impose a co-payment, coinsurance percentage, or
2 deductible or a combination thereof to the insured for oral originator oncology products that is
3 greater than the co-payment, coinsurance percentage, or deductible or a combination thereof
4 charged to the insured for intravenously administered or injected anticancer drugs. For purposes
5 of the above, coinsurance percentage means the percentage of costs used to determine the dollar
6 amount of a covered health care service paid by the patient and not the actual dollar amount paid.

7 **(c)** An insurer that limits the total amount paid by a covered person through all
8 in-network, cost-sharing requirements to no more than three hundred dollars (\$300.00) per filled
9 prescription for any oral originator oncology product shall be deemed in compliance with this
10 section. For purposes of this subsection, "cost-sharing requirements" shall include co-payments,
11 coinsurance, and deductibles. For subsequent years, the amount referenced in this subsection
12 shall be indexed using the change of the Average Wholesale Price for oral originator oncology
13 products and shall be rounded to the nearest whole cent per unit. The index factor shall be the
14 index as of February 17 of the year preceding the change divided by the index of February 16 of
15 the previous year. The price indexed maximum cost-sharing amount shall be posted by the
16 Commissioner no later than April 1 of each year and shall apply to policies renewed and
17 purchased the following calendar year.

18 **(d)** This section shall not apply with regard to a plan that does not meet the minimum
19 essential coverage requirement of the Patient Protection and Affordable Care Act, a
20 grandfathered or transitional plan under the Affordable Care Act, a high deductible health benefit
21 plan or policy that is qualified to be used in conjunction with a health savings account, a medical
22 savings account, or other similar programs authorized by 26 U.S.C. § 220, et seq."

23 **SECTION 6.(b)** This section becomes effective January 1, 2020, and applies to
24 insurance contracts or policies issued, renewed, or amended on or after that date. This section
25 shall not become effective if this section is determined by the federal government to create a
26 state-required benefit that is in excess of the essential health benefits pursuant to 45 C.F.R. §
27 155.170(a)(3). If it is determined that this section creates a state-required benefit that is in excess
28 of the essential health benefits pursuant to 45 C.F.R. § 155.170(a)(3), the Department of
29 Insurance shall notify the Revisor of Statutes.

30 31 **PART VII. MODERNIZE MEDICAID TELEMEDICINE POLICIES**

32 **SECTION 7.(a)** The Department of Health and Human Services (DHHS) shall make
33 the following changes to the Medicaid and NC Health Choice Clinical Coverage Policy No. 1H,
34 Telemedicine and Telepsychiatry:

- 35 (1) DHHS shall reimburse for telemedicine and telepsychiatry services performed
36 in a recipient's home or delivered from a licensed practitioner's home.
- 37 (2) A referral shall not be required for the use of telemedicine or telepsychiatry
38 services above and beyond what is required for face-to-face services.
- 39 (3) The delivery of telemedicine or telepsychiatry over the phone or by video cell
40 phone shall be covered. Any session interrupted by a breakdown in technology
41 shall be covered to the extent it would have been covered had breakdown not
42 occurred.
- 43 (4) A referring provider who is eligible to bill for facility fees and a receiving
44 provider who is eligible to bill for facility fees shall be allowed to bill for
45 facility fees related to the provision of telemedicine or telepsychiatry on the
46 same date of service.
- 47 (5) Telemedicine and telepsychiatry services shall not be subject to the exact same
48 restrictions as face-to-face contacts in office-based settings. The clinical
49 coverage policy shall be updated to align the policy with best practices for
50 telemental health and to maintain the expectation for the same standard of
51 care.

- 1 (6) All behavioral health providers who are directly enrolled as providers in the
2 Medicaid and NC Health Choice programs, including licensed professional
3 counselors, licensed marriage and family therapists, certified clinical
4 supervisors, and licensed clinical addictions specialists, shall be included in
5 the coverage policy as providers who may bill Medicaid or NC Health Choice
6 for telemedicine and telepsychiatry services and as providers who may bill for
7 a facility fee.

8 In addition to the changes to Clinical Coverage Policy No. 1H, Telemedicine and
9 Telepsychiatry, DHHS is directed to expand the billing code set available for telemedicine and
10 telepsychiatry to include most outpatient billing codes, including family therapy and
11 psychotherapy for crisis. With the exception of family therapy, the expanded billing codes shall
12 not include group-type therapies.

13 **SECTION 7.(b)** The Department of Health and Human Services shall submit to the
14 Centers for Medicare and Medicaid Services any waivers or amendments to the NC Medicaid
15 State Plan necessary to implement this act. The changes required by Section 7(a) of this act shall
16 be effective after the completion of the process for amending policy that is required under
17 G.S. 108A-54.2.

18 **SECTION 7.(c)** This section is effective when it becomes law.
19

20 **PART VIII. INCREASE ACCESS TO TELEHEALTH SERVICES**

21 **SECTION 8.(a)** The Department of Health and Human Services shall ensure that
22 Medicaid and NC Health Choice coverage of telemedicine and telepsychiatry services are
23 consistent with this section and shall amend Clinical Coverage Policy No. 1H as necessary. The
24 term "telehealth" shall replace the term "telemedicine" for all clinical coverage policies.

25 **SECTION 8.(b)** For the purposes of Medicaid and NC Health Choice coverage,
26 "telehealth" shall be defined as the delivery of health care-related services by a Medicaid or NC
27 Health Choice provider licensed in North Carolina to a Medicaid or NC Health Choice recipient
28 through (i) an encounter conducted through real-time interactive audio and video technology, (ii)
29 store and forward services that are provided by asynchronous technologies as the standard
30 practice of care where medical information is sent to a provider for evaluation, or (iii) an
31 asynchronous communication in which the provider has access to the recipient's medical history
32 prior to the telehealth encounter. The requirement for a face-to-face encounter shall be satisfied
33 with the use of asynchronous telecommunications technologies in which the health care provider
34 has access to the recipient's medical history prior to the telehealth encounter. Telehealth shall not
35 include the delivery of services solely through electronic mail, text chat, or audio-communication
36 unless either (i) additional medical history and clinical information is communicated
37 electronically between the provider and patient or (ii) the services delivered are behavioral health
38 services.

39 **SECTION 8.(c)** With regard to Medicaid and NC Health Choice coverage of
40 telehealth services, the Department of Health and Human Services shall do all of the following:

- 41 (1) Promote access to health care for Medicaid and NC Health Choice recipients
42 through telehealth services.
43 (2) Require that any prior authorization requests for a referral or consultation for
44 specialty care be processed by the patient's primary care provider and require
45 that the specialist coordinate care with the primary care provider.
46 (3) Require all Medicaid providers providing telehealth services be licensed in
47 this State to provide the service rendered through telehealth.
48 (4) Require health care facilities that receive reimbursement for telehealth
49 consultations and have a Medicaid provider who practices in that facility
50 establish quality-of-care protocols and patient confidentiality guidelines to
51 ensure all requirements and patient care standards are met as required by law.

1 **SECTION 8.(d)** The Department of Health and Human Services shall not require,
2 as a condition of Medicaid or NC Health Choice coverage of telehealth services, any of the
3 following:

- 4 (1) A provider be physically present with a patient or client, unless the provider
5 determines it is medically necessary to perform the health care services in
6 person.
- 7 (2) A provider to conduct a telehealth consultation if an in-person consultation
8 with a Medicaid provider is reasonably available where the patient resides,
9 works, or attends school or if the patient prefers an in-person consultation.
- 10 (3) A prior authorization, medical review, or administrative clearance for
11 telehealth that would not be required if the health care service were provided
12 in person.
- 13 (4) A provider be employed by another provider or agency in order to provide
14 telehealth services if it would not be required of the provider if the same
15 service were provided in person.
- 16 (5) A provider be part of a telehealth network in order to bill for Medicaid or NC
17 Health Choice services.
- 18 (6) A provider to demonstrate it is necessary to provide services to a Medicaid or
19 NC Health Choice recipient through telehealth.
- 20 (7) A restriction or denial of coverage based solely on the technology used to
21 deliver telehealth services.

22 **SECTION 8.(e)** The Department of Health and Human Services shall ensure (i)
23 Medicaid and NC Health Choice coverage and reimbursement for telehealth services are
24 equivalent to the reimbursement and coverage for the same services if provided in person and (ii)
25 that any deductible, copayment, or coinsurance requirement is equivalent to the same service if
26 it was provided to the patient in person.

27 **SECTION 8.(f)** Nothing in this section shall be construed to require coverage of
28 telehealth services that are not medically necessary or to require reimbursement of fees charged
29 by a telehealth facility for the transmission of a telehealth encounter.

30 **SECTION 8.(g)** In implementing the requirements of this section, the Department
31 of Health and Human Services shall engage in activities designed to prevent fraud, waste, and
32 abuse of the Medicaid and NC Health Choice programs.

33 **SECTION 8.(h)** The Department of Health and Human Services shall submit to the
34 Centers for Medicare and Medicaid Services any waivers or amendments to the NC Medicaid
35 State Plan necessary to implement Section 8 of this act.

36 **SECTION 8.(i)** By September 1, 2020, the Department of Health and Human
37 Services shall submit a report on changes, expected costs, savings, and outcomes of telehealth
38 services required by Section 8 of this act to the Joint Legislative Medicaid and NC Health Choice
39 Oversight Committee and the Fiscal Research Division.

40 **SECTION 9.(a)** Part 7 of Article 50 of Chapter 58 of the General Statutes is amended
41 by adding a new section to read as follows:

42 **"§ 58-50-305. Coverage for telehealth services.**

43 (a) For the purposes of this section, the term "telehealth" means the delivery of health
44 care-related services by a health care provider who is licensed in this State to a patient or client
45 through (i) an encounter conducted through real-time interactive audio and video technology, (ii)
46 store and forward services that are provided by asynchronous technologies as the standard
47 practice of care where medical information is sent to a provider for evaluation, or (iii) an
48 asynchronous communication in which the provider has access to the recipient's medical history
49 prior to the telehealth encounter. The requirement for a face-to-face encounter shall be satisfied
50 with the use of asynchronous telecommunications technologies in which the health care provider
51 has access to the recipient's medical history prior to the telehealth encounter. Telehealth shall not

1 include the delivery of services solely through electronic mail, text chat, or audio-communication
 2 unless either (i) additional medical history and clinical information is communicated
 3 electronically between the provider and patient or (ii) the services delivered are behavioral health
 4 services.

5 (b) A health benefit plan may not exclude from coverage a covered health care service or
 6 procedure delivered by a preferred or contracted health professional to a covered patient as a
 7 telehealth service solely because the covered health care service or procedure is not provided
 8 through an in-person consultation.

9 (c) A health benefit plan may require a deductible, a copayment, or coinsurance for a
 10 covered health care service or procedure delivered by a preferred or contracted health
 11 professional to a covered patient as a telehealth service. The amount of the deductible,
 12 copayment, or coinsurance may not exceed the amount of the deductible, copayment, or
 13 coinsurance required for the covered health care service or procedure provided through an
 14 in-person consultation."

15 **SECTION 9.(b)** G.S. 135-48.51 reads as rewritten:

16 "**§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General**
 17 **Statutes.**

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

19 ...

20 (13) G.S. 58-50-305, Coverage for telehealth services.

21 ~~(14)~~(14) G.S. 58-67-88, Continuity of care."

22 **SECTION 10.** Sections 8 and 9 of this act become effective October 1, 2019. Section
 23 9 of this act applies to health benefit plan contracts issued, renewed, or amended on or after that
 24 date.

25
 26 **PART IX. NORTH CAROLINA HEALTHCARE SOLUTIONS TASK FORCE.**

27 **SECTION 11.(a)** The North Carolina Healthcare Solutions Task Force. – The North
 28 Carolina Area Health Education Centers Program shall convene a North Carolina Healthcare
 29 Solutions Task Force (Task Force) to make recommendations for innovative solutions to health
 30 care access issues in the state of North Carolina.

31 **SECTION 11.(b)** Composition. – The Task Force shall consist of 17 members,
 32 appointed as follows:

- 33 (1) Three members of the Senate appointed by the President Pro Tempore of the
 34 Senate, one of whom shall be designated as a cochair.
- 35 (2) Three members of the House of Representatives appointed by the Speaker of
 36 the House of Representatives, one of whom shall be appointed as a cochair.
- 37 (3) Three members from the North Carolina Area Health Education Centers
 38 appointed by the Director of the North Carolina Area Health Education
 39 Centers Program.
- 40 (4) Two members from the Cecil G. Sheps Center for Health Services Research
 41 appointed by the Director of the Cecil G. Sheps Center for Health Services
 42 Research.
- 43 (5) Two members from the North Carolina Institute of Medicine appointed by the
 44 President and CEO of the North Carolina Institute of Medicine.
- 45 (6) Two members from the Office of Rural Health, Department of Health and
 46 Human Services, appointed by the Director of the Office of Rural Health.
- 47 (7) One member from the medical school of a private institution of higher
 48 education appointed by the President Pro Tempore of the Senate.
- 49 (8) One member from the medical school of a private institution of higher
 50 education appointed by the Speaker of the House of Representatives.

1 **SECTION 11.(c)** Quorum. – A majority of the Task Force members shall constitute
2 a quorum for the transaction of business. No action may be taken except by a majority vote at a
3 meeting at which a quorum is present.

4 **SECTION 11.(d)** Vacancies. – Vacancies on the Task Force shall be filled by the
5 individual who appointed the member to the seat that became vacant.

6 **SECTION 11.(e)** Role of the North Carolina Area Health Education Centers. – The
7 North Carolina Area Health Education Centers shall assist the Task Force as follows:

8 (1) Convene and facilitate meetings.

9 (2) Provide necessary clerical and administrative support.

10 (3) Prepare the Task Force reports.

11 (4) Provide technical assistance as appropriate.

12 **SECTION 11.(f)** Ad Hoc Subcommittees. – The cochairs may, at their discretion,
13 establish ad hoc subcommittees involving experts and representatives of stakeholder groups to
14 provide information and offer recommendations related to their areas of expertise and interest.

15 **SECTION 11.(g)** Duties. – The Task Force shall conduct a 10-year, ongoing study
16 of issues related to access to health care in North Carolina. The Task Force shall divide its work
17 into two stages, the first to identify metrics to provide an accurate assessment and measurement
18 of the state of access to health care in North Carolina, and the second to identify any issues
19 relating to access to health care in North Carolina and to develop innovative solutions that will
20 increase access to health care and improve the state of access to health care in North Carolina as
21 measured by the identified metrics.

22 (1) Stage One. – The Task Force shall convene its first meeting at the call of the
23 chairs, but no later than October 1, 2019. During Stage One, the Task Force
24 shall:

25 a. Identify and develop metrics to provide an accurate assessment of the
26 current state of access to health care in North Carolina.

27 b. Identify data and data sources necessary to provide an accurate
28 assessment of the current state of access to health care in North
29 Carolina. If the necessary data sources are unavailable or do not exist,
30 the Task Force shall recommend how to obtain the needed data.

31 c. Examine reimbursement rates offered by, and other factors pertaining
32 to, Medicaid, NC Health Choice, and the State Health Plan for
33 Teachers and State Employees and how those rates and other factors
34 affect (i) the numbers of providers choosing to participate in the
35 programs and (ii) access to health care for the beneficiaries of those
36 programs.

37 d. Examine the provider reimbursement rates for Medicaid services
38 provided through the Community Alternatives Program for Disabled
39 Adults (CAP/DA) waiver to determine (i) the adequacy of the rates to
40 ensure access to these services and (ii) whether adjustments to the
41 CAP/DA waiver would be needed to ensure that CAP/DA
42 beneficiaries do not lose access to services as a result of any provider
43 rate increase.

44 e. Examine the state of graduate medical education, access to clinical
45 rotations for physician assistants, nurse practitioners, and certified
46 nurse midwives and the distribution of community preceptors.

47 f. Examine any other issues the Task Force deems necessary to properly
48 measure and assess the state of access to health care in North Carolina.

49 (2) Stage Two. – During Stage Two, the Task Force shall:

50 a. Report on the current state of access to health care in North Carolina,
51 based on the metrics and data identified in Stage One.

- 1 b. Identify and report on innovative solutions to address issues
2 preventing greater access to health care in North Carolina. Solutions
3 identified by the Task Force should be designed to expand overall
4 access to health care while maintaining cost-effectiveness.
- 5 c. Examine at least the following:
- 6 1. The impact of short-term health care provider exchange or
7 visitation programs on access to health care, particularly in
8 rural areas of the State.
- 9 2. The feasibility of offering tax credits or other financial
10 incentives to health care providers in order to increase the
11 number of health care providers in the State.
- 12 3. Innovative measures implemented by other states that are
13 designed to increase access to health care.
- 14 4. Whether the direct primary care model of payment would
15 increase preventative health services, improve health
16 outcomes, and lower the overall cost of care.
- 17 5. The extent to which new models of health care and payment
18 are being adopted in North Carolina and the effects of those
19 models on access to health care in the State.
- 20 6. Any other health care access issues the Task Force deems
21 appropriate.
- 22 d. Report on the impact previous years' recommendations have had on
23 the current state of access to health care in North Carolina and any
24 other areas of examination the Task Force deems appropriate.

25 **SECTION 11.(h)** Reports. –

- 26 (1) Stage One. – The Task Force shall submit a report to the Joint Legislative
27 Oversight Committee on Health and Human Services at the conclusion of
28 Stage One, which shall be no later than April 1, 2021.
- 29 (2) Stage Two. – The Task Force shall submit annual reports on its Stage Two
30 activities to the Joint Legislative Oversight Committee on Health and Human
31 Services. The first of these reports shall be submitted no later than April 1,
32 2022, and subsequent reports shall be submitted annually thereafter until April
33 1, 2030.

34 **SECTION 11.(i)** The Task Force shall terminate on the date it submits its final report
35 in 2030.

36 **SECTION 11.(j)** This section is effective when it becomes law.

37

38 **PART X. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

39 **SECTION 12.(a)** If any section or provision of this act is declared unconstitutional
40 or invalid by the courts, it does not affect the validity of this act as a whole or any part other than
41 the part declared to be unconstitutional or invalid.

42 **SECTION 12.(b)** Except as otherwise provided, this act is effective when it becomes
43 law.