

North Carolina Health Care Law Update – 2018 to Present

Appropriations Act of 2018

The Appropriations Act set out North Carolina's spending plan included various sections implicating North Carolina Health Care law. This section summarizes these provisions and appropriations as they may be of interest to North Carolina health care providers:

Sec. 11B.2: Separate Star-Rated License/Birth through Two Years of Age/Report. (SL 2018-5)

Sec. 11B.2 of S.L. 2018-5 directs the Department of Health and Human Services, Division of Child Development and Early Education (Division) to develop a separate birth through two years of age, star-rated license for child care facilities. In developing the separate, star-rate license, the Division must consider staff qualifications, staff turnover rate, educational outcomes, as well as the evaluation of certified religious-based child care centers for rate payments and the minimum requirements for certification.

Sec. 11B.2 of S.L. 2018-5 requires the Division to submit a report to the Joint Legislative Oversight Committee on Health and Human Services by November 1, 2018, with its recommendations regarding the separate, star-rated license and recommendations for revising the current star-rated system.

This section became effective July 1, 2018.

Sec. 11B.3: Additional Child Care Subsidy Market Rate Increases/Certain Age Groups and Counties. (SL 2018-5)

Sec. 11B.3 of S.L. 2018-5 amends S.L. 2017-57, Sec. 11B.4 to add new language requiring the Department of Health and Human Services, Division of Child Development and Early Education (Division) to increase the child care subsidy market rates for children three to five years of age in three, four and five star rated child care centers and homes in tier three counties. New language is also added to require that as of October 1, 2018, the Division must increase child care subsidy market rates for children birth through five years of age in three, four and five star rated child care centers and homes in tier one and tier two counties.

This section became effective July 1, 2018.

Sec. 11B.4: Report Date for Match Requirements/Allow Fund-Raising with State Funds. (SL 2018-5)

Sec. 11B.4 of S.L. 2018-5 amends S.L. 2017-57, Sec. 11B.8 to add new language requiring the North Carolina Partnership for Children, Inc. to submit a report with information on private cash and in-kind contributions by October 1 of each year to the Joint Legislative Oversight Committee on Health and Human Services.

This section allows the North Carolina Partnership for Children, Inc. and local partnerships to use up to 1% of State funds for fund-raising activities and provides that this use is not subject to the expenditure restrictions of Sec. 11B.8.(h) of S.L. 2017-57. The North Carolina Partnership for Children, Inc. must submit an additional report to the Joint Legislative Oversight Committee on Health and Human Services beginning October 1, 2019, containing the amount of funds expended on fund-raising, any return on fund-raising investment, and other information deemed relevant.

Sec. 11C.1: Final Report on Child Welfare System Changes. (SL 2018-5)

Sec. 11C.1 of S.L. 2018-5 amends Sec. 11C.7 of S.L. 2017-57 to update reporting requirements and directs the Division of Social Services (DSS), Department of Health and Human Services (DHHS), to: (i) notify the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division within 30 days of the complete implementation of the federal Program Improvement Plan (Plan) to bring North Carolina into compliance with national standards for child welfare policy and practices and (ii) require DSS to submit a final report no later than 90 days after implementation of the Plan is complete.

This section also amends prior reporting requirements to require DSS to notify the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division within 30 days of the completion of the child welfare component of the North Carolina Families Accessing Services through Technology (NC FAST) system and to submit a final report no later than 90 days after complete implementation.

This section became effective July 1, 2018.

Sec. 11C.2: Expand Eckerd Kids and Caring for Children's Angel Watch Program. (SL 2018-5)

Sec. 11C.2 of S.L. 2018-5 amends Sec. 11C.14 (a) of S.L. 2017-57 to require the Division of Social Services, Department of Health and Human Services, to expand the Eckerd Kids and Caring for Children's Angel Watch program to include the siblings of any children being served by the program as long as the siblings are under 18 years of age. This foster care program provides services to children, ages 0 to 10, who are not in the custody of a

county department of social services and whose families are temporarily unable to care for them due to a crisis.

This section became effective July 1, 2018.

Sec. 11C.4: Criminal Background Checks of Applicants and Current Employees Who Access Federal Tax Information Under Federal Law. (SL 2018-5)

Section 11C.4 of S.L. 2018-5 adds a new Subpart to Part 4 of Article 13 of Chapter 143B of the General Statutes. The new Subpart allows the Department of Public Safety to provide criminal histories of employment applicants, current employees, contractual employees, and the employees of contractors to the Divisions of Social Services and Medical Assistance of the Department of Health and Human Services upon request of those Divisions. The Department of Public Safety may charge a fee to cover the cost of conducting the background check, and the agencies requesting the information must keep all information obtained confidential.

This section became effective July 1, 2018.

Sec 11D.1: Plan for Eastern Band of Cherokee Indians to Assume Responsibility for Administering HCCBG. (SL 2018-5)

Sec. 11D.1 of S.L. 2018-5 requires the Division of Aging and Adult Services, Department of Health and Human Services (DHHS), in consultation with the Eastern Band of Cherokee Indians (EBCI), to develop and submit a plan to enable the ECBI to assume responsibility for administering the Home and Community Care Block Grant (HCCBG). The section outlines specified report requirements, including: funding amounts and sources; the number of individuals eligible for HCCBG services and plans to avoid double counting individuals; information on how eligibility will be determined; State and federal laws, rules or other guidance that should be considered; a federal waiver application or State Plan amendment that DHHS would be required to file; explanation and recommendations to address any information technology issues; identification of recurring and nonrecurring implementation costs; a proposed time line for EBCI to assume responsibility; and any other information the DHHS Secretary deems relevant to the EBCI successfully assuming the responsibility. The plan must be submitted to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by February 1, 2019.

This section became effective July 1, 2018.

Sec 11E.1: Changes to Newborn Screening Program. (SL 2018-5)

Sec. 11E.1 of S.L. 2018-5 pertains to newborn screening and amends G.S. 130A-125 as follows:

- Requires the Commission for Public Health to ensure that each condition listed on the Recommended Uniform Screening Panel (RUSP) is included in the Newborn Screening Program.
- Exempts the Commission from rule making with respect to adding screening tests for Pompe disease, Mucopolysaccharidosis Type I (MPS I), and X-Linked Adrenoleukodystrophy (X-ALD)
- Increases the screening fee from \$44 to \$128 and requires that \$31 of each fee go to the newly established nonreverting Newborn Screening Equipment Replacement and Acquisition Fund to be used to purchase or replace laboratory instruments, equipment, and information technology systems for the Newborn Screening Program.
- Requires an annual report by the Department of Health and Human Services to the House Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division, on the Newborn Screening Program with regard to: services funded, budget and expenditures, fees and receipts, anticipated additions to the RUSP and any needs associated with these additions; the Fund balance; and other information relevant to maintain the Newborn Screening Program as a fee-supported program. The first report must be submitted by March 1, 2019, and continue to be submitted annually on March 1.

This section became effective July 1, 2018, and the newly authorized fee applies to laboratory tests performed on or after that date.

Sec. 11E.2: Study Concerning Vital Records Fee. (SL 2018-5)

Sec. 11E.2 of S.L. 2018-5 requires the Division of Public Health, Department of Health and Human Services, to examine the capacity of the revenue generated from vital records fees to cover the operational costs of the vital records system and to report the findings to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than December 1, 2018.

This section became effective July 1, 2018.

Sec. 11F.1: Single-Stream Funding for Mental Health/Developmental Disabilities/Substance Abuse Services Community Services. (SL 2018-5)

Section 11F.1 of S.L. 2018-5 amends section 11F.2(b) of S.L. 2017-57 to require the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services, to reduce its allocation for single-stream funding in the 2018-19 fiscal year by \$36,440,895 in recurring funds and by \$71,189,458 in nonrecurring funds. The reductions originally called for in section 11F.2(b) of S.L. 2017-57 were \$36,002,854 in recurring funds and \$54,605,823 in nonrecurring funds.

This section became effective July 1, 2018.

Sec. 11F.2: Use of Dorthea Dix Hospital Property Funds to Purchase Additional Behavioral Health Beds. (SL 2018-5)

Section 11F.2 of S.L. 2015-5 amends section 11F.5 of S.L. 2017-57 to require the Department of Health and Human Services to report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the number of beds or bed days purchased by the Department under the State-administered, three-way contract and the number of beds or bed days purchased by Local Management Entities/Managed Care Organizations for individuals who are indigent or are Medicaid recipients. It also requires funds which are not expended or encumbered as of June 30, 2019, to remain in the Dorthea Dix Hospital Property Fund.

This section became effective July 1, 2018.

Sec. 11F.3: Use of Dorthea Dix Hospital Property Funds to Improve School Safety. (SL 2018-5)

Section 11F.3 of S.L. 2018-5 transfers \$10 million in nonrecurring funds from the Dorthea Dix Hospital Property Fund to the Department of Public Instruction to provide all or a portion of the salary and benefits costs needed to employ additional school mental health support personnel during the 2018-2019 fiscal year.

This section became effective July 1, 2018.

Sec. 11F.4: Funds for TROSA to Expand Substance Use Disorder Treatment & Recovery Services. (SL 2018-5)

Sec. 11F.4 of S.L. 2018-5 appropriates non-recurring funds as a grant-in-aid to Triangle Residential Options for Substance Abusers (TROSA), Inc., a nonprofit organization. The funds appropriated must be used for the construction of a new satellite TROSA facility in the Triad area of the State for the provision of comprehensive, long-term residential substance use disorder recovery services. Sec. 11F.4 of S.L. 2018-5 requires TROSA to submit a report on the status of the construction project, including a breakdown of all expenditures from the allocated funds and a projected completion date for the construction project.

No later than May 1, 2019, the Department of Health and Human Services must submit a report on the information above to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

This section became effective July 1, 2018.

Sec. 11F.5: Funds for Vaya Health to Expand Facility-Based Crisis Services. (SL 2018-5)

Sec. 11F.5 of S.L. 2018-5 appropriates non-recurring funds as grant-in-aid to Vaya Health (Vaya). The funds appropriated must be used for the construction of a facility-based crisis center in Wilkes County. Sec. 11F.5 of S.L. 2018-5 requires Vaya to submit a report on the status of the construction project, including a breakdown of all expenditures from the allocated funds and a projected completion date for the construction project.

No later than May 1, 2019, the Department of Health and Human Services must submit a report on the information above to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

This section became effective July 1, 2018.

Sec. 11F.6: Cost Analysis for Expansion of the Wright School. (SL 2018-5)

Sec. 11F.6 of S.L. 2018-5 requires the Department of Health and Human Services to develop and submit a detailed cost analysis for expanding the Wright School to two additional locations within the State to (i) provide statewide access to best practice, cost-effective, residential mental health treatment to children ages 6 to 13 with serious emotional and behavioral disorders and (ii) support their families and communities in building the capacity to meet their children's special needs at home, school, and within the community. The report must include a detailed cost estimate for two State-operated facilities, one west of Interstate 77 and one east of Interstate 95, projected operating costs for three years for the facilities, and a projected analysis of how the Medicaid program will be impacted by this expansion over a three year period. The report is due to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by December 1, 2018.

This section became effective July 1, 2018.

Sec. 11F.7: Funds for Evidence-Based Supported Employment Services for Individuals with Serious Mental Illness, Intellectual Disabilities, or Developmental Disabilities. (SL 2018-5)

Sec. 11F.7 of S.L. 2018-5 provides for a grant to the North Carolina Association of People Supporting Employment First (NC ASPE) to develop and implement training programs, including online training modules, for the Department of Health and Human Services (DHHS). These training programs will focus on the provision of supported employment services to assist individuals in targeted populations to prepare for, obtain, and maintain competitive employment. The targeted populations are individuals with serious mental illness who are at risk of entering an adult care home, and individuals with intellectual or developmental disabilities. These training programs will be available to employers who are

willing to hire individuals in the targeted populations, providers of services to targeted populations, and other organizations as determined by DHHS.

This section became effective July 1, 2018.

Sec 11F.9: Funds for New Broughton Hospital. (SL 2018-5)

Sec. 11F.9 of S.L. 2018-5 provides that of the funds appropriated by the act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the new Broughton Hospital for the 2018-2019 fiscal, up to \$5 million in recurring funds must be used exclusively for the following:

- Creation of no more than 169 full-time equivalent positions assigned to the new Broughton Hospital;
- Costs directly related to planning for and transitioning patients from the old to the new Broughton Hospital
- Operational costs for the new beds at the new Broughton Hospital.

However the total annualized costs of the above must not exceed \$15,000,000 in recurring funds.

This section became effective July 1, 2018.

Sec. 11F.10: Establish Ranges for LME/MCO Solvency. (SL 2018-5)

Sec. 11F.10 of S.L. 2018-5 amends Chapter 122C of the General Statutes to create a new section G.S. 122C-125.2 establishing solvency ranges applicable to each local management entity/managed care organization (LME/MCO), beginning September 1, 2018. The solvency range is determined by a formula based on: (i) the LME/MCO's ability to pay current liabilities, including incurred but not reported claims; (ii) amounts required to cover catastrophic or extraordinary events that the LME/MCO may experience; (iii) intergovernmental transfers that the LME/MCO is required to make; (iv) projected operating losses for the LME/MCO during the subsequent 24 months; and (v) qualifying expenditures in the LME/MCO's reinvestment plan. On a quarterly basis, the Department of Health and Human Services (DHHS) must compare the cash balance, including cash and investment balances and amounts in the Medicaid Risk Reserve account, of each LME/MCO against the LME/MCO's calculated solvency range and notify the LME/MCO and the General Assembly's Fiscal Research Division of the results. An LME/MCO with a cash balance that is more than 5% above or below the calculated solvency range will be subject to a corrective action plan developed by DHHS in collaboration with the LME/MCO to bring the LME/MCO into the calculated solvency range.

This section also makes conforming changes to other laws pertaining to LME/MCO solvency, including changes to G.S. 122C-124.2. As amended, G.S. 122C-124.2 allows the Secretary of DHHS to assign the contract of an LME/MCO that is not in compliance with

a corrective action plan required by the new solvency statute to an LME/MCO that is in compliance with the requirements of the new solvency statute.

The changes to G.S. 122C-124.2 are effective September 1, 2018. The remainder of this section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11G.1: Approval for Nursing Home Administrators to Serve as Adult Care Home Administrators. (SL 2018-5)

Sec. 11G.1 of S.L. 2018-5, as amended by Sec. 3.8 of S.L. 2018-97, amends the definition of "administrator" in G.S. 131D-2 as it pertains to the licensing of adult care homes, and adds a new statute to Article 20A, Chapter 90, pertaining nursing home administrators serving as adult care home administrators. The new statute (G.S. 90-288.14A) allows the Department of Health and Human Services (DHHS) to approve as an adult care home administrator any individual licensed as a nursing home administrator who within 90 calendar days after commencing employment as an adult care home administrator successfully completes the written exam administered by DHHS for assisted living administrator certification. The conforming change to G.S. 131D-2 defines an adult care home administrator as a person approved by DHHS as an assisted living administrator (under G.S. 90-288.14) or an adult care home administrator (under G.S. 90-288.14A).

This section as amended became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.3: Medicaid Coverage for Nurse Family Partnership Model Pilot. (SL 2018-5)

Sec. 11H.3 directs the Department of Health and Human Services (DHHS) to submit a waiver to the Centers for Medicare and Medicaid by August 1, 2018, requesting approval to draw down a federal match for Medicaid coverage of services of home visits under the County Pilot A program contained in DHHS's January 24, 2018 report entitled "Plan to Implement Coverage for Home Visits for Pregnant Women and Families with Young Children." Upon the conclusion of the pilot, this section requires that the services provided under the pilot be covered by Medicaid statewide. This section also requires DHHS to report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by November 1, 2018, on the timeline for the implementation of statewide Medicaid coverage of the services and on expected savings associated with statewide coverage. This section requires an additional report six months after the end of the County Pilot A on the actual outcomes and savings achieved through the pilot.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.4: Establish Medicaid Coverage for Ambulance Transports to Alternative Appropriate Care Locations. (SL 2018-5)

Sec. 11H.4 of S.L. 2018-5 requires the Department of Health and Human Services (DHHS) to submit, no later than November 1, 2018, a State Plan amendment or waiver to the Centers for Medicare and Medicaid (CMS) to establish Medicaid reimbursement for ambulance transports to alternative care locations for Medicaid recipients in behavioral health crisis. This coverage will begin July 1, 2019, or upon CMS approval, whichever is later. DHHS must submit a report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by December 1, 2018, on the expected costs, savings, and outcomes associated with this coverage, as well as whether the coverage will be included in capitated Prepaid Health Plan contracts, contracts with local management entity/managed care organizations, or both.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.5: Amend Audit Frequency/County Accuracy of Medicaid Eligibility Determinations. (SL 2018-5)

Sec. 11H.5 of S.L. 2018-5 amends Part 11 of Article 2 of Chapter 108A, pertaining to audits by the Department of Health and Human Services of the accuracy of Medicaid eligibility determinations made by county departments of social services. This section changes the required audit frequency for each county department of social services from once a year to at least once every three years. County departments of social services that are subject to corrective action for failure to meet accuracy or quality standards must be audited annually.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.6: Conform to Federal Repeal of Medicaid Subrogation Provisions. (SL 2018-5)

Sec. 11H.6 of S.L. 2018-5 repeals Sec. 11H.23 of S.L. 2017-57, which made changes to the State Medicaid subrogation laws to conform to the federal law changes that took effect October 1, 2017. On February 9, 2018, the federal law changes that had taken effect on October 1, 2017, were retroactively repealed. This section retroactively repeals the changes to the State law made in S.L. 2017-57, in conformance with the federal retroactive repeal. Medicaid subrogation refers to a process where the Medicaid program recovers amounts that Medicaid paid for care to a recipient when the recipient later receives a settlement or other compensation from a third party who is liable for the cost of the care. For subrogation recovery cases that may have been adversely affected by the change in federal and State law and the retroactive repeal of those laws, this section provides a process for seeking relief.

The portion of this Section that repeals Sec. 11H.23 of S.L. 2017-57, is retroactively effective to July 1, 2017. The remainder of this section became effective June 12, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.7: Study Expansion of PACE Program. (SL 2018-5)

Sec. 11G.1 of S.L. 2018-5 requires a follow-up study by the Department of Health and Human Services in response to the March 14, 2018, report entitled "Study of the Program of All-Inclusive Care for the Elderly." The study and report must explore expansion of the Program of All-Inclusive Care for the Elderly (PACE) and include the following elements:

- No less than three options for expansion, including alternatives that involve statewide expansion and expansion by zip code specific service areas.
- The fiscal impact to the State of each expansion option.
- The impact to unserved and underserved counties based upon each expansion option.
- An analysis of potential options for delivery of care, including strategies to adapt the PACE model of care to serve populations that are currently ineligible, diagnostic criteria other than a need for skilled nursing level care, and options to allow individuals in assisted living to participate in the PACE program.
- An analysis of the cost to the State as well as any anticipated savings associated with each potential option for delivery of care.
- Specific recommendations regarding options for expansion provided under the first bulleted item above and options for delivery of care provided under the fourth bulleted item above.

The report on the follow-up study must be submitted to the Joint Legislative Oversight Committee on Medicaid and Health Choice by December 1, 2018. The report must include any legislation required to implement the recommendations.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.8: Evaluation of Administrative and Policy Staffing Needs in a Managed Care Service Delivery Environment. (SL 2018-5)

The Department of Health and Human Services (DHHS) is required to conduct an evaluation of its staffing in the Division of Medical Assistance (DMA) and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), as well as future staffing in the Division of Health Benefits (DHB), as those staffing levels relate to conducting operations in a managed care service delivery environment. The evaluation must consider all of the following:

- The changing functional needs and required staff experience based upon the introduction of capitated contracts.
- Whether any administrative or policy functions are duplicative between DMA and DMH/DD/SAS.
- Whether any administrative or policy functions performed by staff within DMA or DMH/DD/SAS are duplicative of functions either contractually required to be performed by LME/MCOs or through vendor contracts.
- Whether the administrative and policy staffing needs of DMA and DMH/DD/SAS correspond to similar administrative and policy staffing needs for DHB. This evaluation shall include how the administrative and policy staffing needs of DHB are predicted to change under the seven-year forecast prepared by DHHS.
- Whether the current positions within DMA, DMH/DD/SAS, and DHB ensure effective monitoring of, oversight of, and analysis of relevant data to assess the success of the Medicaid and State-funded behavioral health system.
- Divisional staffing changes and changes to contractual agreements to align more appropriately with a managed care delivery environment for the Medicaid and State-funded behavioral health system.

DHHS must report its findings to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division no later than October 1, 2019.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.9: Medicaid Transformation Seven-Year Forecast. (SL 2018-5)

Sec. 11H.9 of S.L. 2018-5 requires the Department of Health and Human Services to submit to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by November 1, 2018, a detailed seven-year forecast for Medicaid Transformation that includes an annual budget detailing anticipated requirements, receipts, and appropriations

for each fiscal year starting with the 2018-2019 fiscal year and ending with the 2024-2025 fiscal year.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.10: Clarify Scope of Authority to Define Medicaid Program Eligibility. (SL 2018-5)

Sec. 11H.10 of S.L. 2018-5 makes clarifying changes to the laws limiting the Department of Health and Human Services' authority to modify eligibility criteria for the Medicaid and NC Health Choice programs, to specify that resource limits, in addition to eligibility categories and income thresholds, can only be modified by the General Assembly.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.11: Increase Number of Medical Professional Providers Eligible for Supplemental Payments. (SL 2018-5)

Sec. 11H.11 of S.L. 2018-5 adds 60 new slots for eligible medical providers who may receive supplemental payments that increase those providers' reimbursement to the average commercial rate, as described in the Medicaid State Plan, beginning July 1, 2018. The Department of Health and Human Services (DHHS) must allocate the slots among the entities listed in the Medicaid State Plan, which include the East Carolina University Brody School of Medicine, the University of North Carolina at Chapel Hill (UNC) Faculty Physicians, UNC Hospital's Pediatric Clinic, and UNC Physicians Network, and Chatham Hospital. This section requires DHHS to submit a report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by October 1, 2018, explaining how DHHS allocated the 60 slots and how the increase in the slots will increase access to health care in rural areas.

This section became effective July 1, 2018.

S99 - Appropriations Act of 2018.

Sec. 11H.12: Medicaid and Health Choice Provider Screening Changes. (SL 2018-5)

Sec. 11H.12 of S.L. 2018-5 amends G.S. 108C-3, which categorizes Medicaid and NC Health Choice provider types as either limited, moderate, or high risk for purposes of provider screening and enrollment, in accordance with federal regulations. The change to the statute made in this section moves the following provider types from the high-risk category to the limited-risk category: (i) nationally-accredited behavioral health and intellectual and developmental disability provider agencies and (ii) licensed outpatient

behavioral health providers. This section also deletes outdated references to Critical Access Behavioral Health Agencies in the statute.

This section became effective June 12, 2018, and applies to initial provider applications and revalidation requests made on or after that day.

S99 - Appropriations Act of 2018.

Sec. 11I.1: Use of Medicaid Transformation Fund for Medicaid Transformation Needs. (SL 2018-5)

Sec. 11I.1 of S.L. 2018-5 directs the use of up to \$60 million from the Medicaid Transformation Fund for information technology, staffing, and contracts associated with qualifying needs related to Medicaid transformation requirements to implement a managed care delivery system. The Office of State Budget and Management must verify that the funds will be used for a qualifying need during the 2018-2019 fiscal year and that total requirements (State and federal share combined) does not exceed the amount budgeted, prior to transferring the funds to the Department of Health and Human Services. Any portion of the State share of the cost of these needs that are later reimbursed by federal funds must be returned to the Medicaid Transformation Fund.

This section became effective July 1, 2018.

Impact on Medicare / Medicaid

On October 24, 2018, the federal Centers for Medicare and Medicaid Services (CMS) approved North Carolina's 1115 Demonstration Waiver application that had been submitted in November of 2017. This federal approval has allowed North Carolina to implement the transition to Medicaid managed care and integrate physical health, behavioral health, and pharmacy benefits.

In a press release, the NCDHHS explained that:

This transition toward whole person care includes the authority to create Tailored Plans to serve people with intellectual/developmental disabilities (I/DD) or higher intensity behavioral health needs and a specialized behavioral health home model to ensure strong care management for those individuals. To support broader state efforts to combat the opioid crisis and improve access to treatment, DHHS received authority to implement new flexibilities that allow for treatment of substance use disorder in institutions of mental disease (IMD).

The release went on to explain that:

The approved waiver also gives North Carolina federal authority to implement through its managed care plans an innovative Healthy Opportunities pilot program to improve health and reduce health care costs. These pilots will identify the most cost-effective ways for

managed care plans to deliver whole person care and ensure that Medicaid dollars are purchasing value.

H156 - Medicaid PHP Licensure & Transformation Mods. (SL 2018-49)

S.L. 2018-49 does the following:

- Creates a Prepaid Health Plan (PHP) Licensure Act governing the Department of Insurance's licensure of Medicaid PHPs as part of Medicaid transformation.
- Makes various changes to laws pertaining to health insurance and Medicaid transformation.

This act became effective June 22, 2018. The sections pertaining to the lock-in program for certain controlled substances apply to health benefit plan contracts issued, renewed, or amended on or after June 22, 2018.

H403 - Medicaid and Behavioral Health Modifications. (SL 2018-48)

S.L. 2018-48 modifies components of the 2015 Medicaid Transformation legislation as follows: (i) allows Prepaid Health Plans (PHPs) to cover certain behavioral health services when capitated PHP contracts begin; (ii) adds certain populations to the list of populations that will not be covered by PHP contracts; (iii) increases the number of statewide PHPs required from three to four; and (iv) directs a planning period for and the implementation of BH IDD Tailored Plans to serve individuals with severe behavioral health needs, to be initially operated by local management entities/managed care organizations (LME/MCOs), and to begin one year after the 1115 demonstration waiver begins.

This act became effective June 22, 2018.

S335 - Budget Technical Corrections & Study.

Sec. 3.13: Increase Rate for CAP/DA In-Home Aide Services and Provide Adult Optical Coverage. (SL 2018-97)

Sec. 3.13 of S.L. 2018-97 adds a new Section 11H.13 to the 2018 Appropriations Act, S.L. 2018-5, requiring the Department of Health and Human Services (DHHS) redirecting funds from the Medicaid Rebase for the 2018-2019 fiscal year to be used for two purposes, effective January 1, 2019: (i) to increase the Medicaid rate paid for in-home aide services provided under the CAP/DA Waiver to the maximum amount allowed within the funding provided, but no more than \$3.90 paid per 15-minute billing unit; and (ii) to provide adult optical Medicaid coverage. Subsection (d) of this section requires DHHS to submit a report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by March 1, 2019, on all new services and rate increases implemented for the Medicaid or NC Health Choice programs during the 2017-2019 fiscal biennium, including any pending waivers or State Plan amendments containing new services or rate increases.

This section became effective July 1, 2018.

DHHS Studies

H277 - Naturopathic Study. (SL 2018-24)

S.L. 2018-24 requires on or before September 15, 2018, the Secretary of the Department of Health and Human Services (DHHS), or designee, must convene a work group to study the delivery of naturopathic medicine in North Carolina. The work group must consist of: two naturopathic doctors selected by the NC Association of Naturopathic Physicians; one medical doctor with knowledge of naturopathic medicine selected by the NC Medical Society; the chairperson of the North Carolina Medical Board or designee; and the Secretary of DHHS or designee. The work group is required to develop recommendations which must include the following:

- Identification of an approved program of study for naturopathic medicine offered by an institution of higher education that leads to a degree as a Doctor of Naturopathic Medicine.
- A scope of practice for naturopathic doctors.
- Whether the practice of naturopathic medicine should constitute the practice of medicine or surgery as defined in Chapter 90 of the General Statutes.
- Recommendations on appropriate fees for application, examination, certification, renewals, and late renewals, which may be necessary to cover the costs of oversight.

The work group is required to report findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before January 15, 2019. The recommendations must include appropriate fees for application, examination, certification, renewals, and late renewal, as appropriate to cover the associated costs for oversight.

The act became effective June 14, 2018

H741 - DHHS Study/Maternal and Neonatal Care. (SL 2018-93)

S.L. 2018-93 directs the Department of Health and Human Services (DHHS) to study and report on North Carolina's ability to provide access to high-quality, risk-appropriate maternal and neonatal care. It also permits the simultaneous cremations of fetuses or infants born to the same mother at the same time.

This act became effective June 25, 2018.

S335 - Budget Technical Corrections & Study.

Sec. 3.11: Study Increasing Group Home Services. (SL 2018-97)

Sec. 3.11 of S.L. 2018-97 adds a new Sec. 11H.9A to the 2018 Appropriations Act, S.L. 2018-5, requiring the Department of Health and Human Services (DHHS), in conjunction with stakeholders, to develop a plan for increased utilization of 1915(b)(3) services and "in-lieu-of" services for group home residents. The plan must include standardized processes, methodologies, service definitions, and rates of reimbursement for the services. DHHS must provide a report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and the Joint Legislative Oversight Committee on Health and Human Services by January 7, 2019, containing the plan and details about cost, funding, and other needs for implementation of the plan.

This section became effective July 1, 2018.

Rural Health

H998 - Improving NC Rural Health. (SL 2018-88)

S.L. 2018-88 directs the actions outlined below in order to improve access to health care in rural areas.

- Graduate Medical Education and New Teaching Hospitals Directs the Department of Health and Human Services (DHHS) to study incentives for medical education in rural areas and to assist rural hospitals in becoming designated as teaching hospitals and report to Joint Legislative Oversight Committee on Health and Human Services (JLOC-HHS) and the Joint Legislative Oversight Committee on Medicaid and NC Health Choice (JLOC-Medicaid & Health Choice) by October 1, 2018. Also directs DHHS to conduct a study to identify rural hospitals that desire to be designated as new teaching hospitals, determine the technical assistance required, and calculate the expected costs. DHHS must provide an interim report by October 1, 2018, and a final report by October 1, 2019, to the JLOC-HHS and the JLOC-Medicaid & Health Choice.
- Target Loan Repayment Program Directs the Office of Rural Health, DHHS, to ensure the NC State Loan Repayment Program is targeted to increase the number of health care providers in rural areas of the State and encourage both recruitment and retention, and to identify the need for dentists in rural areas. DHHS must provide an interim report to JLOC-HHS by October 1, 2018, and a final report by October 1, 2019.
- Improve Access to Dental Care Amends the law to improve access to dental care in rural areas by facilitating the license by credentials process for current license holders in one of the four states that border NC. This section becomes effective October 1, 2018.
- Medicaid Health Outcomes Programs Directs DHHS to conduct a study to propose two new Medicaid coordinated quality outcomes programs designed to reduce unnecessary

and inappropriate service utilization and generate sustainable savings to the Medicaid program. DHHS must report to JLOC-Medicaid & Health Choice by October 1, 2018.

Licensing and Enforcement

H357 - Modernize Dietetics/Nutrition Practice Act. (SL 2018-91)

S.L. 2018-91 amends the Dietetics/Nutrition Practice Act by adding new definitions, changing the composition of the North Carolina Board of Dietetics/Nutrition, modifying the requirements to obtain a license and the acts that are prohibited to unlicensed individuals, permitting telepractice and enteral nutrition therapy, instituting background checks, and making conforming changes.

The portion of the act concerning the unlawful use of certain titles becomes effective October 1, 2018, and applies to acts committed on or after that date. The remainder of the act became

H512 - Monitor Implementation of TBI Waiver. (SL 2018-81)

S.L.2018-81 requires the Department of Health and Human Services (Department) to make quarterly reports on the status and implementation of the 1915(c) waiver for individuals with traumatic brain injury (TBI). The Department is also required to adopt rules or medical coverage policies relating to service programs for individuals with TBI, develop a best practice model and strive to maintain adequate reimbursement rates. In addition, the bill allows township hospitals that continue to operate under Article 2 of Chapter 131 of the General Statutes, pursuant to Section 3 of Chapter 775 of the 1983 Session Laws to exercise many of the powers currently permitted to public hospitals under Article 2 of Chapter 131E of the General Statutes. It also amends G.S. 131E-184(h) to extend the period in which the acquisition or reopening of a Legacy Medical Facility is exempt from Certificate of Need review by 36 months. Finally, it changes the definition of "Legacy Medical Facility" to include facilities that provided outpatient care.

This act became effective June 25, 2018.

S124 - LEO Managed CBD Oil Drop Box. (SL 2018-36)

S.L. 2018-36 requires all residual oil from hemp extract that is lawfully possessed by a caregiver for treatment of a patient diagnosed with intractable epilepsy to be disposed of at a secure collection box that is managed by law enforcement, and requires neurologists approving dispensation to a caregiver of residual oil from hemp extract to inform the caregiver of this disposal requirement.

This act will become effective December 1, 2018.

S368 - Update False Claims Act/Rare Disease Appt/HIE. (SL 2018-41)

S.L. 2018-41 does the following:

- Updates the False Claims Act, effective June 22, 2018, and applies to actions brought on or after that date. In general, the act Requires the courts to dismiss an action or claim regarding false claims if substantially the same allegations or transactions were publicly disclosed via specified methods except for any action brought by the attorney general or if the person bringing the action is the original source of information. Prohibits a private action concerning specified retaliatory acts by employers after more than three years after retaliatory acts.
- Extends the terms of the current members of the Advisory Council on Rare Diseases until July 31, 2023, effective June 22, 2018.
- Extends the HIE Network deadlines for ambulatory surgical centers, dentists, and pharmacies effective June 22, 2018. Ambulatory surgical centers and dentists are required to begin submitting demographic and clinical data by June 1, 2021. Pharmacies must begin submitting claims data by June 1, 2021.

The effective dates for this act are noted above.

* Note: Legislation extending the terms for the Advisory Council on Rare Diseases was enacted twice. Sec. 2.11 of S.L. 2018-97 extended the terms to July 1, 2023. Because it has a later effective date of July 1, 2018, it replaces Sec. 8 of S.L. 2018-41.

S616 - Heroin & Opioid Prevention & Enforcement Act. (SL 2018-44)

S.L. 2018-44 does the following:

- Amends laws pertaining to the North Carolina Controlled Substances Act.
- Amends laws pertaining to the North Carolina Controlled Substances Reporting System Act.
- Establishes conditions and requirements for the release of information from the Controlled Substances Reporting System to local law enforcement.
- Revises and establishes penalties for certain violations.
- Expresses the intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position with the State Bureau of Investigation.
- Amends the statewide Telepsychiatry program that delivers mental health and substance abuse care.

S630 - Revise Involuntary Commitment Laws to Improve Behavioral Health. (SL 2018-33)

S.L. 2018-33 makes changes to the laws for voluntary and involuntary commitment for the mentally ill and substance abusers, which are found in Chapter 122C of the General Statutes.

Section (c1) of G.S. 122C-55, as amended, Section 44, Section 45.(a), and Section 45.(b) of this act became effective June 22, 2018. The remainder of the act will be effective October 1, 2019, and apply to proceedings initiated on or after that date.

S750 - Health in Local Confinement/Veterinarians Controlled Substances/Wendell Holmes Murphy Freeway/Tax Due Date. (SL 2018-76)

S.L. 2018-76 does the following:

- Addresses health issues in local confinement facilities.
- Ensures State prisons are full participants in the NC Health Information Exchange, known as NC HealthConnex.
- Amends the duties of law enforcement officers related to involuntary commitment.
- Amends the North Carolina Controlled Substances Act and the Controlled Substances Reporting System pertaining to the practice of veterinary medicine.
- Requires continuing education for veterinarians on the abuse of controlled substances.
- Includes the North Carolina Veterinary Medical Board on the Prescription Drug Abuse Advisory Committee.
- Amends various budget provisions.

S335 - Budget Technical Corrections & Study.

Sec. 2.11: Extend Initial Terms/Advisory Council on Rare Diseases. (SL 2018-97)

Sec. 2.11 of S.L. 2018-97, amends Part X of S.L. 2018-5, to extend the terms of the initial members appointed to the Advisory Council on Rare Diseases to July 1, 2023.*

This section became effective July 1, 2018.

*Note: Legislation extending the terms for the Advisory Council on Rare Diseases was enacted twice. Section 8 of S.L. 2018-41 extends the terms of the members until July 31, 2023, effective June 22, 2018. However, Sec 2.11 of S.L. 2018-97 extended the terms to July 1, 2023 and because it has a later effective date of July 1, 2018, it replaces the provision in S.L. 2018-41.

Medical Board

S420 - Community College Governance/Amend Medical Board. (SL 2018-92)

S.L. 2018-92 (i) allows the State Board of Community Colleges (SBCC) to appoint an interim board of trustees to assume the powers and duties of a board of trustees of a local community college in certain instances; (ii) allows the SBCC to appoint an advisory committee; (iii) establishes remediation actions that must be completed prior to vacating the entire board; (iv) requires that the boards of trustees of local community colleges meet at least once every two months; (v) authorizes the SBCC to require financial audits in certain cases; and (vi) adjusts the membership of the North Carolina Medical Board.

This act became effective June 25, 2018.