



# HOUSE BILL 734: Dept. of Health & Human Services Revisions.

2021-2022 General Assembly

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<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 9, 2021
<b>Introduced by:</b>	Reps. Potts, Stevens	<b>Prepared by:</b>	Jessica Boney
<b>Analysis of:</b>	Second Edition		Staff Attorney

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**OVERVIEW:** *House Bill 734 would make various changes to the laws regarding the Department of Health and Human Services, and to Article 2 of Chapter 122C of the General Statutes to prevent the operation of unlicensed mental health facilities.*

## **BILL ANALYSIS:**

**Section 1** would amend the definition of developmental disability to state a severe, chronic disability attributable to a mental or physical impairment or a combination of mental and physical impairments.

**Section 2** would provide decisions on the waiver of any of the rules on the licensure of facilities for the mentally ill, the developmentally disabled, and substance abusers may be appealed by filing a contested case under Article 3 of GS Chapter 150B, previously was appealable to the Commission for a hearing under Article 3 of GS Chapter 150B.

**Section 3** would require the Secretary of DHHS to adopt a copayment schedule for behavioral health services, intellectual and developmental disabilities services, and substance use disorder services based on the Medicaid copayments for those services be used by LMEs and by contractual provider agencies.

**Section 4** would amend the membership of the State Consumer and Family Advisory Committee.

**Section 5** would add the transportation method used by individuals admitted under a petition of involuntary commitment to the 24-hour facility and the number of individuals moved to voluntary status at any time between arrival at the 24-hour facility and completion of the required 24-hour examination to the report required by G.S. 122C-255.

**Section 6** would amend the statutes governing the first exam for involuntary commitment due to mental health or substance abuse to allow the use of telehealth, previously was telemedicine. Telehealth would be defined as the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other. It would provide further detail of the first exam procedure for involuntary commitment due to substance abuse.

The second examination for involuntary commitment due to mental illness or substance abuse would be able to be conducted using telehealth equipment and procedures. The physician who examines the respondent by telehealth would have to be satisfied to a reasonable medical certainty that the determinations made in accordance with the statute would not be different if the exam had been done in person. When an examining physician is not so satisfied, the physician must note that the exam was not satisfactorily accomplished, and the respondent must be taken for a face-to-face exam.

**Section 7** would make technical changes to the law governing transitional permits for food establishments.

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**Section 7.1, Section 7.2, Section 7.3, Section 7.4** would make the following changes to Article 2 of Chapter 122C of the General Statutes, which governs licensure of facilities for the mentally ill, the developmentally disabled, and substance abusers:

**Section 7.1(a)** would require DHHS to conduct follow-up visits to ensure compliance with specified criteria following the issuance of a cease and desist order to facilities providing services without a required license. **Section 7.1(b)** would prohibit the Secretary of DHHS from enrolling a new provider in the N.C. Medicaid or N.C. Health Choice programs or revalidating an enrolled provider in the Medicaid or NC Health Choice programs for any applicant meeting specified criteria. **Section 7.1(c)** would give the Secretary of DHHS the power to issue orders directing facilities not licensed under Article 2 that are providing services requiring a license to cease and desist.

**Section 7.2** would increase the penalty for operating a licensable facility without a license to a Class H felony, including a fine of \$1,000 per day that the facility is in violation.

**Section 7.3(a)** would amend the exclusion of licensure under Article 2 to state physicians and psychologists engaged in private office practice and receiving reimbursement under the Medicare program, N.C. Medicaid, or the N.C. Health Choice program may not be excluded from the licensure requirement. It authorizes the Commission on Public Health to adopt rules establishing a procedure for facilities that would otherwise require licensure under Article 2 that are certified by a nationally recognized agency to be deemed licensed. **Section 7.3(b)** would direct DHHS to establish a database with specified, publicly available information on the status of any ongoing investigations of reported operation of a program or facility in violation of Article 2. **Section 7.3(c)** would direct DHHS to collaborate with the Department of Insurance to establish a toll-free number or website to be used to verify the licensure status of a facility. **Section 7.3(d)** would direct DHHS to collaborate with community organizations for a public information campaign about the appropriate type of care for individuals with mental health disorders and the importance of receiving care from a licensed facility or licensed professional.

**Section 7.4(a)** would retitle Article 2 as "Licensure of Facilities for Individuals with Mental Health, Developmental Disabilities, and Substance Use Disorders" and would make various conforming changes.

**Section 8** would add spas operating for display at temporary events to the definition of public swimming pool. It would be effective July 1, 2020.

**EFFECTIVE DATE:** Unless otherwise provided, this act would be effective when it becomes law.