

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1046
Committee Substitute Favorable 5/6/09
Committee Substitute #2 Favorable 5/13/09

Short Title: Child Care Facilities Rules.

(Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE AUTHORITY TO ADOPT RULES ESTABLISHING
3 STANDARDS APPLICABLE TO CHILD CARE CENTERS THAT PROVIDE
4 DEVELOPMENTAL DAY PROGRAMS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 143B-147(a) reads as rewritten:

7 "(a) There is hereby created the Commission for Mental Health, Developmental
8 Disabilities, and Substance Abuse Services of the Department of Health and Human Services
9 with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State
10 and local mental health, developmental disabilities, substance abuse programs including
11 education, prevention, intervention, screening, assessment, referral, detoxification, treatment,
12 rehabilitation, continuing care, emergency services, case management, and other related
13 services. Such rules shall be designed to promote the amelioration or elimination of the mental
14 illness, developmental disabilities, or substance abuse problems of the citizens of this State.
15 Rules establishing standards for certification of child care centers providing Developmental
16 Day programs are excluded from this section and shall be adopted by the Child Care
17 Commission under G.S. 110-88. The Commission for Mental Health, Developmental
18 Disabilities, and Substance Abuse Services shall have the authority:

19 (1) To adopt rules regarding the

- 20 a. Admission, including the designation of regions, treatment, and
21 professional care of individuals admitted to a facility operated under
22 the authority of G.S. 122C-181(a), that is now or may be established;
23 b. Operation of education, prevention, intervention, treatment,
24 rehabilitation and other related services as provided by area mental
25 health, developmental disabilities, and substance abuse authorities,
26 county programs, and all providers of public services under Part 4 of
27 Article 4 of Chapter 122C of the General Statutes;
28 c. Hearings and appeals of area mental health, developmental
29 disabilities, and substance abuse authorities as provided for in Part 4
30 of Article 4 of Chapter 122C of the General Statutes; and
31 d. and e. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1,
32 2002.
33 f. Standards of public services for mental health, developmental
34 disabilities, and substance abuse services.



- 1 (2) To adopt rules for the licensing of facilities for the mentally ill,
2 developmentally disabled, and substance abusers, under Article 2 of Chapter
3 122C of the General Statutes.
- 4 (3) To advise the Secretary of the Department of Health and Human Services
5 regarding the need for, provision and coordination of education, prevention,
6 intervention, treatment, rehabilitation and other related services in the areas
7 of:
8 a. Mental illness and mental health,
9 b. Developmental disabilities,
10 c. Substance abuse.
11 d. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1,
12 2002.
- 13 (4) To review and advise the Secretary of the Department of Health and Human
14 Services regarding all State plans required by federal or State law and to
15 recommend to the Secretary any changes it thinks necessary in those plans;
16 provided, however, for the purposes of meeting State plan requirements
17 under federal or State law, the Department of Health and Human Services is
18 designated as the single State agency responsible for administration of plans
19 involving mental health, developmental disabilities, and substance abuse
20 services.
- 21 (5) To adopt rules relating to the registration and control of the manufacture,
22 distribution, security, and dispensing of controlled substances as provided by
23 G.S. 90-100.
- 24 (6) To adopt rules to establish the professional requirements for staff of licensed
25 facilities for the mentally ill, developmentally disabled, and substance
26 abusers. Such rules may require that one or more, but not all staff of a
27 facility be either licensed or certified. If a facility has only one professional
28 staff, such rules may require that that individual be licensed or certified.
29 Such rules may include the recognition of professional certification boards
30 for those professions not licensed or certified under other provisions of the
31 General Statutes provided that the professional certification board evaluates
32 applicants on a basis which protects the public health, safety or welfare.
- 33 (7) Except where rule making authority is assigned under that Article to the
34 Secretary of the Department of Health and Human Services, to adopt rules to
35 implement Article 3 of Chapter 122C of the General Statutes.
- 36 (8) To adopt rules specifying procedures for waiver of rules adopted by the
37 Commission.
- 38 (9) To adopt rules establishing a process for non-Medicaid eligible clients to
39 appeal to the Division of Mental Health, Developmental Disabilities, and
40 Substance Abuse Services of the Department of Health and Human Services
41 decisions made by an area authority or county program affecting the client.
42 The purpose of the appeal process is to ensure that mental health,
43 developmental disabilities, and substance abuse services are delivered within
44 available resources, to provide an additional level of review independent of
45 the area authority or county program to ensure appropriate application of and
46 compliance with applicable statutes and rules, and to provide additional
47 opportunities for the area authority or county program to resolve the
48 underlying complaint. Upon receipt of a written request by the non-Medicaid
49 eligible client, the Division shall review the decision of the area authority or
50 county program and shall advise the requesting client and the area authority
51 or county program as to the Division's findings and the bases therefor.

1 Notwithstanding Chapter 150B of the General Statutes, the Division's
2 findings are not a final agency decision for purposes of that Chapter. Upon
3 receipt of the Division's findings, the area authority or county program shall
4 issue a final decision based on those findings. Nothing in this subdivision
5 shall be construed to create an entitlement to mental health, developmental
6 disabilities, and substance abuse services."

7 **SECTION 2.** G.S. 110-88 is amended by adding the following new subdivision to

8 read:

9 "(14) To adopt rules establishing standards for certification of child care centers
10 providing Developmental Day programs."

11 **SECTION 3.** This act becomes effective January 1, 2010.