

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1046  
Committee Substitute Favorable 5/6/09

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. The Commission for Mental Health, Developmental Disabilities, and Substance  
18 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31 d. and e. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1,  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.

35 (2) To adopt rules for the licensing of facilities for the mentally ill,  
36 developmentally disabled, and substance abusers, under Article 2 of Chapter  
37 122C of the General Statutes.



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- 1 (3) To advise the Secretary of the Department of Health and Human Services  
2 regarding the need for, provision and coordination of education, prevention,  
3 intervention, treatment, rehabilitation and other related services in the areas  
4 of:  
5 a. Mental illness and mental health,  
6 b. Developmental disabilities,  
7 c. Substance abuse.  
8 d. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1,  
9 2002.
- 10 (4) To review and advise the Secretary of the Department of Health and Human  
11 Services regarding all State plans required by federal or State law and to  
12 recommend to the Secretary any changes it thinks necessary in those plans;  
13 provided, however, for the purposes of meeting State plan requirements  
14 under federal or State law, the Department of Health and Human Services is  
15 designated as the single State agency responsible for administration of plans  
16 involving mental health, developmental disabilities, and substance abuse  
17 services.
- 18 (5) To adopt rules relating to the registration and control of the manufacture,  
19 distribution, security, and dispensing of controlled substances as provided by  
20 G.S. 90-100.
- 21 (6) To adopt rules to establish the professional requirements for staff of licensed  
22 facilities for the mentally ill, developmentally disabled, and substance  
23 abusers. Such rules may require that one or more, but not all staff of a  
24 facility be either licensed or certified. If a facility has only one professional  
25 staff, such rules may require that that individual be licensed or certified.  
26 Such rules may include the recognition of professional certification boards  
27 for those professions not licensed or certified under other provisions of the  
28 General Statutes provided that the professional certification board evaluates  
29 applicants on a basis which protects the public health, safety or welfare.
- 30 (7) Except where rule making authority is assigned under that Article to the  
31 Secretary of the Department of Health and Human Services, to adopt rules to  
32 implement Article 3 of Chapter 122C of the General Statutes.
- 33 (8) To adopt rules specifying procedures for waiver of rules adopted by the  
34 Commission.
- 35 (9) To adopt rules establishing a process for non-Medicaid eligible clients to  
36 appeal to the Division of Mental Health, Developmental Disabilities, and  
37 Substance Abuse Services of the Department of Health and Human Services  
38 decisions made by an area authority or county program affecting the client.  
39 The purpose of the appeal process is to ensure that mental health,  
40 developmental disabilities, and substance abuse services are delivered within  
41 available resources, to provide an additional level of review independent of  
42 the area authority or county program to ensure appropriate application of and  
43 compliance with applicable statutes and rules, and to provide additional  
44 opportunities for the area authority or county program to resolve the  
45 underlying complaint. Upon receipt of a written request by the non-Medicaid  
46 eligible client, the Division shall review the decision of the area authority or  
47 county program and shall advise the requesting client and the area authority  
48 or county program as to the Division's findings and the bases therefor.  
49 Notwithstanding Chapter 150B of the General Statutes, the Division's  
50 findings are not a final agency decision for purposes of that Chapter. Upon  
51 receipt of the Division's findings, the area authority or county program shall

1 issue a final decision based on those findings. Nothing in this subdivision  
2 shall be construed to create an entitlement to mental health, developmental  
3 disabilities, and substance abuse services."

4 **SECTION 2.** G.S. 110-88 is amended by adding the following new subdivision to  
5 read:

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

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