

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 1110
SENATE BILL 724

AN ACT TO EFFECT SEVERAL PROVISIONS TO IMPROVE THE QUALITY,
REDUCE THE OVERALL COSTS AND PROVIDE INSURANCE COVERAGE
FOR THE TREATMENT OF CHEMICAL DEPENDENCY.

Whereas, Chapter 415, 1983 Session Laws, directed the Mental Health Study Commission to establish an Ad Hoc Committee of experts to study cost effectiveness issues in the treatment of alcoholism and drug abuse; and

Whereas, the Ad Hoc Committee completed its task and reported its findings to the Mental Health Study Commission which accepted and endorsed the findings and recommendations; and

Whereas, the findings are as follows:

(a) Chemical dependency is a term which describes the abuse and/or addiction of alcohol and other drugs.

(b) Chemical dependency is a distinct illness which can be medically defined and is not a symptom or sub-category of other diseases.

(c) The benefits of chemical dependency prevention and treatment have been proven to outweigh the costs of treatment.

(d) No one type of treatment or treatment setting has been proven to be more effective than any other type of treatment. Thus, the optimal treatment for a client is the lowest cost treatment that will produce positive results.

(e) Current licensing regulations for hospitals and substance abuse facilities provide no specific rules for chemical dependency treatment facilities or units.

(f) Current Certificate of Need requirements do not clearly distinguish what types of chemical dependency facilities require CON and which do not.

(g) Many self-insured employers provide coverage for chemical dependency treatment.

(h) Many group insurance policies exclude coverage of chemical dependency in part or full.

(i) Many group insurance policies which cover chemical dependency treatment will pay for that treatment only if delivered in the more expensive inpatient medical setting.

(j) Insurance carriers generally will reimburse only for services performed in State-licensed health care facilities; and

Whereas, the following statutory changes are required in order to effect improvements in the delivery, regulation, licensure and reimbursement of services for substance abusers and chemically dependent persons; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-176 is amended by adding a new subsection to read:

"(5a) 'Chemical dependency treatment facility' means a public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of chemically dependent or substance abusing persons and related services. The facility or unit may be:

- a. a unit within a general hospital or an attached or freestanding unit of a general hospital licensed under Article 5, Chapter 131E, of the General Statutes,
- b. a unit within a psychiatric hospital or an attached or freestanding unit of a psychiatric hospital licensed under Article 1A, Chapter 122, of the General Statutes,
- c. a freestanding facility specializing in treatment of persons who are substance abusers or chemically dependent licensed under Article 1A, Chapter 122, of the General Statutes; and may be identified as 'chemical dependency, substance abuse, alcoholism, or drug abuse treatment units,' 'residential chemical dependency, substance abuse, alcoholism or drug abuse facilities,' 'social setting detoxification facilities' and 'medical detoxification facilities,' or by other names if the purpose is to provide treatment of chemically dependent or substance abusing persons, but shall not include halfway houses or recovery farms."

Sec. 2. G.S. 131E-176(9) is amended by adding the following language after the last semicolon in the fifth line:

"chemical dependency treatment facilities,".

Sec. 3. G.S. 131E-178(a) is amended by adding the following after the period in the second line:

"Provided that chemical dependency treatment facilities containing beds licensed as of June 30, 1984, shall not be required to obtain a certificate of need."

Sec. 4. G.S. 122-23.2(4) is rewritten to read:

"(4) 'Facility' means any person at one location whose primary purpose is to provide services for one or more minors or for two or more adults for the care, treatment, habilitation or rehabilitation of the mentally ill, the mentally retarded or substance abusers. When the services offered are provided to individuals who are mentally ill or mentally retarded, these services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 hours or more. When the services offered are provided to individuals who are substance abusers, these services shall include all outpatient services, day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 hours or more. Facilities

for individuals who are substance abusers include chemical dependency treatment facilities."

Sec. 5. G.S. 122-23.3(a)(2) is amended by deleting the words "psychiatric services;" and substituting for those words the following: "special units for the mentally ill, mentally retarded or substance abusers;"

Sec. 6. G.S. 143B-147(a) is amended by adding a new subsection to read:

"(6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, mentally retarded and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or welfare."

Sec. 7. Article 26 of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-251.8. Coverage for chemical dependency treatment. – (a) As used in this section, the term 'chemical dependency' means the pathological use or abuse of alcohol or other drugs in a manner or to a degree that produces an impairment in personal, social or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal.

(b) Every insurer that writes a policy or contract of group or blanket health insurance or group or blanket accident and health insurance that is issued, renewed, or amended on or after January 1, 1985, shall offer to its insureds benefits for the necessary care and treatment of chemical dependency that are not less favorable than benefits for physical illness generally. Except as provided in subsection (c) of this section, benefits for treatment of chemical dependency shall be subject to the same durational limits, dollar limits, deductibles, and coinsurance factors as are benefits for physical illness generally.

(c) Every group policy or group contract of insurance that provides benefits for chemical dependency treatment and that provides total annual benefits for all illnesses in excess of six thousand dollars (\$6,000) is subject to the following conditions:

- (1) The policy or contract shall provide, for each 24- month period, a minimum benefit of six thousand dollars (\$6,000) for the necessary care and treatment of chemical dependency.
- (2) No more than one half of the policy's or contract's maximum benefits for chemical dependency for a 24- month period shall be paid for the necessary care and treatment of chemical dependency in any 30 consecutive day period.
- (3) The policy or contract shall provide a minimum benefit of twelve thousand dollars (\$12,000) for the necessary care and treatment of chemical dependency for the life of the policy or contract.

(d) Provisions for benefits for necessary care and treatment of chemical dependency in group policies or group contracts of insurance shall provide benefit

payments for the following providers of necessary care and treatment of chemical dependency:

- (1) The following units of a general hospital licensed under Article 5 of General Statutes Chapter 131E:
 - a. chemical dependency units in facilities licensed after October 1, 1984;
 - b. medical units;
 - c. psychiatric units; and
- (2) The following facilities or programs licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122:
 - a. chemical dependency units in psychiatric hospitals;
 - b. chemical dependency hospitals;
 - c. residential chemical dependency treatment facilities;
 - d. social setting detoxification facilities or programs;
 - e. medical detoxification facilities or programs; and
- (3) Duly licensed physicians and duly licensed practicing psychologists and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122.

Provided, however, that nothing in this subsection shall prohibit any policy or contract of insurance from requiring the most cost effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

(e) Coverage for chemical dependency treatment as described in this section shall not be applicable to any group policy holder or group contract holder who rejects the coverage in writing."

Sec. 8. Article 1 of General Statutes Chapter 57 is amended by adding a new section to read:

"§ 57-7.3. Coverage for chemical dependency treatment. – (a) As used in this section, the term 'chemical dependency' means the pathological use or abuse of alcohol or other drugs in a manner or to a degree that produces an impairment in personal, social, or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal.

(b) Every group insurance certificate or group subscriber contract under any hospital or medical plan governed by this Chapter that is issued, renewed, or amended on or after January 1, 1985, shall offer to its insureds benefits for the necessary care and treatment of chemical dependency that are not less favorable than benefits for physical illness generally. Except as provided in subsection (c) of this section, benefits for chemical dependency shall be subject to the same durational limits, dollar limits, deductibles, and coinsurance factors as are benefits for physical illness generally.

(c) Every group insurance certificate or group subscriber contract that provides benefits for chemical dependency treatment and that provides total annual benefits for

all illnesses in excess of six thousand dollars (\$6,000) is subject to the following conditions:

- (1) The certificate or contract shall provide, for each 24-month period, a minimum benefit of six thousand dollars (\$6,000) for the necessary care and treatment of chemical dependency.
 - (2) No more than one half of the certificate's or contract's maximum benefits for chemical dependency for a 24-month period shall be paid for the necessary care and treatment of chemical dependency in any 30 consecutive day period.
 - (3) The certificate or contract shall provide a minimum benefit of twelve thousand dollars (\$12,000) for the necessary care and treatment of chemical dependency for the life of the certificate or contract.
- (d) Provisions for benefits for necessary care and treatment of chemical dependency in group certificates or group contracts shall provide for benefit payments for the following providers of necessary care and treatment of chemical dependency:
- (1) The following units of a general hospital licensed under Article 5 of General Statutes Chapter 131E:
 - a. chemical dependency units in facilities licensed after October 1, 1984;
 - b. medical units;
 - c. psychiatric units; and
 - (2) The following facilities or programs licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122:
 - a. chemical dependency units in psychiatric hospitals;
 - b. chemical dependency hospitals;
 - c. residential chemical dependency treatment facilities;
 - d. social setting detoxification facilities or programs;
 - e. medical detoxification facilities or programs; and
 - (3) Duly licensed physicians and duly licensed practicing psychologists and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122.

Provided, however, that nothing in this subsection shall prohibit any certificate or contract from requiring the most cost effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

(e) Coverage for chemical dependency treatment as described in this section shall not be applicable to any group certificate holder or group subscriber contract holder who rejects the coverage in writing."

Sec. 9. General Statutes Chapter 57B is amended by adding a new section to read:

"§ 57B-12.1. Coverage for chemical dependency treatment. – (a) As used in this section, the term 'chemical dependency' means the pathological use or abuse of alcohol

or other drugs in a manner or to a degree that produces an impairment in personal, social or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal.

(b) On and after January 1, 1985, every health maintenance organization that writes a health care plan on a group basis and that is subject to this Chapter shall offer benefits for the necessary care and treatment of chemical dependency that are not less favorable than benefits under the health care plan generally. Except as provided in subsection (c) of this section, benefits for chemical dependency shall be subject to the same durational limits, dollar limits, deductibles, and coinsurance factors as are benefits under the health care plan generally.

(c) Every group health care plan that provides benefits for chemical dependency treatment and that provides total annual benefits for all illnesses in excess of six thousand dollars (\$6,000) is subject to the following conditions:

- (1) The plan shall provide, for each 24-month period, a minimum benefit of six thousand dollars (\$6,000) for the necessary care and treatment of chemical dependency.
- (2) No more than one half of the plan's maximum benefits for chemical dependency for a 24-month period shall be paid for the necessary care and treatment of chemical dependency in any 30 consecutive day period.
- (3) The plan shall provide a lifetime minimum benefit of twelve thousand dollars (\$12,000) for the necessary care and treatment of chemical dependency for each enrollee.

(d) Provisions for benefits for necessary care and treatment of chemical dependency in group health care plans shall provide for benefit payments for the following providers of necessary care and treatment of chemical dependency:

- (1) The following units of a general hospital licensed under Article 5 of General Statutes Chapter 131E:
 - a. chemical dependency units in facilities licensed after October 1, 1984;
 - b. medical units;
 - c. psychiatric units; and
- (2) The following facilities or programs licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122:
 - a. chemical dependency units in psychiatric hospitals;
 - b. chemical dependency hospitals;
 - c. residential chemical dependency treatment facilities;
 - d. social setting detoxification facilities or programs;
 - e. medical detoxification facilities or programs; and
- (3) Duly licensed physicians and duly licensed practicing psychologists and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities

licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122.

Provided, however, that nothing in this subsection shall prohibit any plan from requiring the most cost effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

(e) Coverage for chemical dependency treatment as described in this section shall not be applicable to any group that rejects the coverage in writing.

(f) Notwithstanding any other provision of this section or Chapter, any health maintenance organization subject to this Chapter that becomes a qualified health maintenance organization under Title XIII of the United States Public Health Service Act shall provide the benefits required under that federal Act, which shall be deemed to constitute compliance with the provisions of this section; and any health maintenance organization may provide that the benefits provided under this section must be obtained through providers affiliated with the health maintenance organization."

Sec. 10. G.S. 135-40.1(1) is recodified as G.S. 135- 40.1(1a), and the following new G.S. 135-40.1(1) is added:

"(1) The term 'chemical dependency' means the pathological use or abuse of alcohol or other drugs in a manner or to a degree that produces an impairment in personal, social or occupational functioning and which may, but need not, include a pattern of tolerance and withdrawal."

Sec. 11. Part 3 of Article 3 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-40.7A. Special provisions for chemical dependency. – (a) Except as otherwise provided in this section, benefits for treatment of chemical dependency are covered by the Plan and shall be subject to the same deductibles, durational limits, and coinsurance factors as are benefits for physical illness generally.

(b) Notwithstanding any other provision of this Part, the maximum benefit for each covered individual for treatment of chemical dependency is as follows:

30 consecutive day period	\$ 3,000
calendar year	5,000
lifetime \$	15,000

Expenditures incurred before January 1, 1985, shall not count toward the maximum imposed by this subsection.

(c) Notwithstanding any other provision of this Part, provisions for benefits for necessary care and treatment of chemical dependency under this Part shall provide for benefit payments for the following providers of necessary care and treatment of chemical dependency:

- (1) The following units of a general hospital licensed under Article 5 of General Statutes Chapter 131E:
 - a. chemical dependency units in facilities licensed after October 1, 1984;
 - b. medical units;
 - c. psychiatric units; and

- (2) The following facilities licensed after July 1, 1984, under Article 1A of General Statutes Chapter 131E:
 - a. chemical dependency units in psychiatric hospitals;
 - b. chemical dependency hospitals;
 - c. residential chemical dependency treatment facilities;
 - d. social setting detoxification facilities or programs;
 - e. medical detoxification facilities or programs; and
- (3) Duly licensed physicians and duly licensed practicing psychologists and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 1A of General Statutes Chapter 122.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

Sec. 12. G.S. 135-40.6(1)r. is amended:

- (1) by deleting ", alcoholism and drug addiction, or any combination thereof"; and (2) by deleting "any of these conditions", and inserting in lieu thereof "this condition".

Sec. 13. G.S. 58-251.1(b)(11) is amended in the second line by deleting the word "The" and substituting for that word the following: "Except for the payment of benefits for the necessary care and treatment of chemical dependency as required by law, the".

Sec. 14. Each insurer and health maintenance organization that offers benefits for chemical dependency treatment shall report to the North Carolina Department of Insurance its experience under Sections 7, 8, or 9 of this act on or before April 1, 1986. The Department shall compile such reports and present them to the Mental Health Study Commission and to the Joint Legislative Commission on Governmental Operations on or before May 1, 1986. Such report shall contain the following information:

- (1) The number of policies written that include coverage for chemical dependency treatment.
- (2) The number of insureds and beneficiaries or enrollees covered for chemical dependency treatment and the number not covered.
- (3) The number of offerings of coverage made and the number rejected.
- (4) Recommendations regarding the offering of chemical dependency benefits.

Sec. 15. The Department of Human Resources is directed to conduct an evaluation of the effects of the provisions of this bill on the availability, utilization, cost and quality of chemical dependency treatment in North Carolina. The Department shall present an interim report to the 1987 General Assembly and a final report to the 1989 General Assembly.

Sec. 16. The enactment of Sections 1 through 3 of this act shall not be construed as requiring a facility which had obtained prior to June 30, 1984, a certificate of need for such use under prior law to obtain a new certificate of need on account of the specific inclusion of chemical dependency treatment facilities in Article 9 of Chapter 131E of the General Statutes.

Sec. 17. This act shall become effective upon ratification except that Sections 10, 11, and 12 shall become effective January 1, 1985.

In the General Assembly read three times and ratified, this the 6th day of July, 1984.