

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-119
SENATE BILL 1309**

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO WAIVE TEMPORARILY CERTAIN REQUIREMENTS OF THE MENTAL HEALTH COMMITMENT STATUTES FOR PARTICIPANTS IN THE FIRST EVALUATION PILOT PROGRAM AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY CERTAIN ISSUES RELATING TO THE PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2003-178, as amended by Section 10.27 of S.L. 2006-66, as amended by Section 1.1(a)(5) of S.L. 2007-504, and as further amended by Section 3 of S.L. 2009-340, reads as rewritten:

"**SECTION 1.** The Secretary of Health and Human Services may, upon request of an LME, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addictions specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the LME shall specifically describe:
 - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
 - b. How the waiver will enable the LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
 - c. How the services to be provided by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist under the waiver are within each of these professional's scope of practice.
 - d. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.
- (2) The Secretary shall review the request and may approve it upon finding that:
 - a. The request meets the requirements of this section.



- b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
 - c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the waiver and also protects the health, safety, and welfare of individuals receiving these services.
 - d. The duties and responsibilities performed by the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist are within the individual's scope of practice.
- (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver. The Secretary shall send a report on the evaluation to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substances Abuse Services by October 1, 2009. The report shall include data gathered from all participating LMEs since the beginning of the pilot.
 - (4) The waiver granted by the Secretary under this section shall be in effect until ~~October 1, 2010~~October 1, 2012.
 - (5) The Secretary may grant a waiver under this section to up to ~~15~~20 LMEs.
 - (6) In no event shall the substitution of a licensed clinical social worker, masters level psychiatric nurse, or masters level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the masters level psychiatric nurse, or the masters level certified clinical addictions specialist.
 - (7) The Department shall assure that staff performing the duties are trained and privileged to perform the functions identified in the waiver. The Department shall involve stakeholders including, but not limited to, the North Carolina Psychiatric Association, The North Carolina Nurses Association, National Association of Social Workers, The North Carolina Substance Abuse Professional Certification Board, North Carolina Psychological Association, The North Carolina Society for Clinical Social Work, and the North Carolina Medical Society in developing required staff competencies.
 - (8) The LME shall assure that a physician is available at all times to provide backup support to include telephone consultation and face-to-face evaluation, if necessary.

"SECTION 2. This act becomes effective July 1, 2003, and expires ~~October 1,~~ 2010~~October 1, 2012.~~"

SECTION 2. The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall expand its standardized certification training program to include refresher training for all certified providers and shall report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on the participation rate of licensed clinical social worker, the master's level psychiatric nurse, or the master's level certified clinical addictions specialist in the pilot program and whether the program should include other licensed or certified health care professionals.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 3:25 p.m. this 20th day of July, 2010