

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

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HOUSE BILL 562

Short Title: Dir. Pay/Subs. Abuse Prof. (Public)

Sponsors: Representatives Alexander; Adams, Beall, Black, Church, Crawford, Cunningham, Earle, Easterling, Fox, H. Hunter, Jeffus, Luebke, Michaux, Mosley, Oldham, Ramsey, Tolson, Wainwright, Watson, and Yongue.

Referred to: Insurance.

March 20, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR DIRECT PAYMENT OF CERTIFIED SUBSTANCE
3 ABUSE PROFESSIONALS UNDER HEALTH INSURANCE POLICIES AND
4 PLANS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 58-50-30 reads as rewritten:

7 **"§ 58-50-30. Discrimination forbidden; right to choose services of optometrist,
8 podiatrist, certified clinical social worker, certified substance abuse
9 professional, dentist, chiropractor, psychologist, pharmacist, certified fee-
10 based practicing pastoral counselor, or advanced practice registered
11 nurse.**

12 (a) Discrimination between individuals of the same class in the amount of
13 premiums or rates charged for any policy of insurance covered by Articles 50 through 55
14 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of
15 such policy, or in any other manner whatsoever, is prohibited.

16 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
17 provides for payment of or reimbursement for any service rendered in connection with a
18 condition or complaint which is within the scope of practice of a duly licensed

1 optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed
2 chiropractor, a duly certified clinical social worker, a duly certified substance abuse
3 professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified
4 fee-based practicing pastoral counselor, or an advanced practice registered nurse, the
5 insured or other persons entitled to benefits under such policy shall be entitled to payment
6 of or reimbursement for such services, whether such services be performed by a duly
7 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
8 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
9 certified substance abuse professional, a duly licensed psychologist, a duly licensed
10 pharmacist, a duly certified fee-based practicing pastoral counselor, or an advanced
11 practice registered nurse, notwithstanding any provision contained in such policy.
12 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
13 provides for certification of disability which is within the scope of practice of a duly
14 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
15 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
16 certified substance abuse professional, a duly licensed psychologist, a duly certified fee-
17 based practicing pastoral counselor, or an advanced practice registered nurse, the insured
18 or other persons entitled to benefits under such policy shall be entitled to payment of or
19 reimbursement for such disability whether such disability be certified by a duly licensed
20 physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist,
21 a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed
22 psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced
23 practice registered nurse, notwithstanding any provisions contained in such policy. The
24 policyholder, insured, or beneficiary shall have the right to choose the provider of such
25 services notwithstanding any provision to the contrary in any other statute.

26 Whenever any policy of insurance provides coverage for medically necessary
27 treatment, the insurer shall not impose any limitation on treatment or levels of coverage if
28 performed by a duly licensed chiropractor acting within the scope of his practice as
29 defined in G.S. 90-151 unless a comparable limitation is imposed on such medically
30 necessary treatment if performed or authorized by any other duly licensed physician.

31 (b) For the purposes of this section, a 'duly licensed psychologist' shall be defined
32 only to include a psychologist who is duly licensed in the State of North Carolina and has
33 a doctorate degree in psychology and at least two years clinical experience in a
34 recognized health setting, or has met the standards of the National Register of Health
35 Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist
36 shall be defined as a licensed psychologist who holds permanent licensure and
37 certification as a health services provider psychologist issued by the North Carolina
38 Psychology Board.

39 (c) For the purposes of this section, a 'duly certified clinical social worker' is a
40 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North
41 Carolina Certification Board for Social Work pursuant to Chapter 90B of the General
42 Statutes.

1 (c1) For purposes of this section, a 'duly certified fee-based practicing pastoral
2 counselor' shall be defined only to include fee-based practicing pastoral counselors
3 certified by the North Carolina State Board of Examiners of Fee-Based Practicing
4 Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

5 (c2) For purposes of this section, a 'duly certified substance abuse professional' is a
6 person certified by the North Carolina Substance Abuse Professionals Certification Board
7 pursuant to Article 5C of Chapter 90 of the General Statutes.

8 (d) Payment or reimbursement is required by this section for a service performed
9 by an advanced practice registered nurse only when:

- 10 (1) The service performed is within the nurse's lawful scope of practice;
- 11 (2) The policy currently provides benefits for identical services performed
12 by other licensed health care providers;
- 13 (3) The service is not performed while the nurse is a regular employee in an
14 office of a licensed physician;
- 15 (4) The service is not performed while the registered nurse is employed by
16 a nursing facility (including a hospital, skilled nursing facility,
17 intermediate care facility, or home care agency); and
- 18 (5) Nothing in this section is intended to authorize payment to more than
19 one provider for the same service.

20 No lack of signature, referral, or employment by any other health care provider may be
21 asserted to deny benefits under this provision.

22 For purposes of this section, an 'advanced practice registered nurse' means only a
23 registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist
24 in psychiatric and mental health nursing, or nurse midwife.

25 (e) Payment or reimbursement is required by this section for a service performed
26 by a duly licensed pharmacist only when:

- 27 (1) The service performed is within the lawful scope of practice of the
28 pharmacist;
- 29 (2) The service performed is not initial counseling services required under
30 State or federal law or regulation of the North Carolina Board of
31 Pharmacy;
- 32 (3) The policy currently provides reimbursement for identical services
33 performed by other licensed health care providers; and
- 34 (4) The service is identified as a separate service that is performed by other
35 licensed health care providers and is reimbursed by identical payment
36 methods.

37 Nothing in this subsection authorizes payment to more than one provider for the same
38 service."

39 Section 2. G.S. 58-65-1 reads as rewritten:

40 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign**
41 **corporations prohibited.**

42 (a) Any corporation heretofore or hereafter organized under the general
43 corporation laws of the State of North Carolina for the purpose of maintaining and

1 operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital
2 care and/or medical and/or dental service may be provided in whole or in part by said
3 corporation or by hospitals and/or physicians and/or dentists participating in such plan, or
4 plans, shall be governed by this Article and Article 66 of this Chapter and shall be
5 exempt from all other provisions of the insurance laws of this State, heretofore enacted,
6 unless specifically designated herein, and no laws hereafter enacted shall apply to them
7 unless they be expressly designated therein.

8 The term 'hospital service plan' as used in this Article and Article 66 of this Chapter
9 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
10 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
11 obstetrical equipment, accommodations and/or any and all other services authorized or
12 permitted to be furnished by a hospital under the laws of the State of North Carolina and
13 approved by the North Carolina Hospital Association and/or the American Medical
14 Association.

15 The term 'medical service plan' as used in this Article and Article 66 of this Chapter
16 includes the contracting for the payment of fees toward, or furnishing of, medical,
17 obstetrical, surgical and/or any other professional services authorized or permitted to be
18 furnished by a duly licensed physician, except that in any plan in any policy of insurance
19 governed by this Article and Article 66 of this Chapter that includes services which are
20 within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a
21 duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered
22 nurse, a duly certified clinical social worker, a duly certified substance abuse
professional, a duly certified fee-based practicing pastoral counselor, and a duly licensed
24 physician, then the insured or beneficiary shall have the right to choose the provider of
25 the care or service, and shall be entitled to payment of or reimbursement for such care or
26 service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor,
27 a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered
28 nurse, a duly certified clinical social worker, a duly certified substance abuse
professional, a duly certified fee-based practicing pastoral counselor, or a duly licensed
30 physician notwithstanding any provision to the contrary contained in such policy. The
31 term 'medical services plan' also includes the contracting for the payment of fees toward,
32 or furnishing of, professional medical services authorized or permitted to be furnished by
33 a duly licensed provider of health services licensed under Chapter 90 of the General
34 Statutes.

35 (b) Payment or reimbursement is required by this section for a service performed
36 by an advanced practice registered nurse only when:

- 37 (1) The service performed is within the nurse's lawful scope of practice;
38 (2) The policy currently provides benefits for identical services performed
39 by other licensed health care providers;
40 (3) The service is not performed while the nurse is a regular employee in an
41 office of a licensed physician;

- 1 (4) The service is not performed while the registered nurse is employed by
2 a nursing facility (including a hospital, skilled nursing facility,
3 intermediate care facility, or home care agency); and
4 (5) Nothing in this section is intended to authorize payment to more than
5 one provider for the same service.

6 No lack of signature, referral, or employment by any other health care provider may be
7 asserted to deny benefits under this provision.

8 (b1) Payment or reimbursement is required by this section for a service performed
9 by a duly licensed pharmacist only when:

- 10 (1) The service performed is within the lawful scope of practice of the
11 pharmacist;
12 (2) The service performed is not initial counseling services required under
13 State or federal law or regulation of the North Carolina Board of
14 Pharmacy;
15 (3) The policy currently provides reimbursement for identical services
16 performed by other licensed health care providers; and
17 (4) The service is identified as a separate service that is performed by other
18 licensed health care providers and is reimbursed by identical payment
19 methods.

20 Nothing in this subsection authorizes payment to more than one provider for the same
21 service.

22 (c) For purposes of this section, an 'advanced practice registered nurse' means
23 only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical
24 specialist in psychiatric and mental health nursing, or nurse midwife.

25 For the purposes of this section, a 'duly certified clinical social worker' is a 'certified
26 clinical social worker' as defined in G.S. 90B-3(2) and certified by the North Carolina
27 Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

28 For purposes of this section, a 'duly certified fee-based practicing pastoral counselor'
29 shall be defined only to include fee-based practicing pastoral counselors certified by the
30 North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors
31 pursuant to Article 26 of Chapter 90 of the General Statutes.

32 For the purposes of this section, a 'duly licensed psychologist' shall be defined only to
33 include a psychologist who is duly licensed in the State of North Carolina and has a
34 doctorate degree in psychology and at least two years clinical experience in a recognized
35 health setting, or has met the standards of the National Register of Health Providers in
36 Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a
37 licensed psychologist who holds permanent licensure and certification as a health
38 services provider psychologist issued by the North Carolina Psychology Board.

39 For purposes of this section, a 'duly certified substance abuse professional' is a person
40 certified by the North Carolina Substance Abuse Professionals Certification Board
41 pursuant to Article 5C of Chapter 90 of the General Statutes.

42 The term 'dental service plan' as used in this Article and Article 66 of this Chapter
43 includes contracting for the payment of fees toward, or furnishing of dental and/or any

1 other professional services authorized or permitted to be furnished by a duly licensed
2 dentist.

3 The insured or beneficiary of every 'medical service plan' and of every 'dental service
4 plan,' as those terms are used in this Article and Article 66 of this Chapter, or of any
5 policy of insurance issued thereunder, that includes services which are within the scope
6 of practice of both a duly licensed physician and a duly licensed dentist shall have the
7 right to choose the provider of such care or service, and shall be entitled to payment of or
8 reimbursement for such care or service, whether the provider be a duly licensed physician
9 or a duly licensed dentist notwithstanding any provision to the contrary contained in any
10 such plan or policy.

11 The term 'hospital service corporation' as used in this Article and Article 66 of this
12 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
13 medical and/or dental service plan, as herein defined. Any corporation heretofore or
14 hereafter organized and coming within the provisions of this Article and Article 66 of this
15 Chapter, the certificate of incorporation of which authorizes the operation of either a
16 hospital or medical and/or dental service plan, or any or all of them, may, with the
17 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
18 approved by the Commissioner of Insurance, for the payment of either hospital or
19 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
20 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
21 them, for the furnishing of fees or services respectively under a hospital or medical
22 and/or dental service plan, or any or all of them.

23 The term 'preferred provider' as used in this Article and Article 66 of this Chapter
24 with respect to contracts, organizations, policies or otherwise means a health care service
25 provider who has agreed to accept, from a corporation organized for the purposes
26 authorized by this Article and Article 66 of this Chapter or other applicable law, special
27 reimbursement terms in exchange for providing services to beneficiaries of a plan
28 administered pursuant to this Article and Article 66 of this Chapter. Except to the extent
29 prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of
30 Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual
31 terms and conditions for special reimbursement shall be those which the corporation and
32 preferred provider find to be mutually agreeable.

33 (d) No foreign or alien hospital or medical and/or dental service corporation as
34 herein defined shall be authorized to do business in this State."

35 Section 3. G.S. 135-40.7A(c) reads as rewritten:

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

40 (1) The following units of a general hospital licensed under Article 5 of
41 General Statutes Chapter 131E:

42 a. Chemical dependency units in facilities licensed after October 1,
43 1984;

- b. Medical units;
 - c. Psychiatric units; and

(2) The following facilities licensed after July 1, 1984, under Article 2 of General Statutes Chapter 122C:

 - 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, certified clinical social workers, substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes, licensed professional counselors, certified fee-based practicing pastoral counselors, certified clinical specialists in psychiatric and mental health nursing, 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 2 of General Statutes Chapter 122C.

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."

Section 4, G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers are authorized to provide necessary care and treatment for mental illness under this section:

- (1) Licensed psychiatrists;
 - (2) Licensed or certified doctors of psychology;
 - (3) Certified clinical social workers;
 - (3a) Licensed professional counselors;
 - (4) Psychiatric nurses;
 - (4a) Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;
 - (5) Other social workers under the direct employment and supervision of a licensed psychiatrist or licensed doctor of psychology;
 - (6) Psychological associates with a master's degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology;
 - (7) Licensed psychiatric hospitals and licensed general hospitals providing psychiatric treatment programs;
 - (8) Certified residential treatment facilities, community mental health centers, and partial hospitalization facilities; and
 - (9) Certified fee-based practicing pastoral counselors."

1 Section 5. This act becomes effective July 1, 1997, and applies to claims for
2 payment or reimbursement for services rendered on or after that date.