

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 593

Senate Insurance and Consumer Protection Committee Substitute Adopted 6/27/01

Short Title: Health Insurance: Licensed Prof'l. Counselor.

(Public)

Sponsors:

Referred to:

March 14, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR DIRECT PAYMENT OF LICENSED PROFESSIONAL  
COUNSELORS UNDER HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-50-30 reads as rewritten:

"§ 58-50-30. ~~Discrimination forbidden; right~~ Right to choose services of  
optometrist, podiatrist, certified clinical social worker, certified  
substance abuse professional, licensed professional counselor, dentist,  
chiropractor, psychologist, pharmacist, certified fee-based practicing  
pastoral counselor, advanced practice nurse, or physician assistant.

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

(a1) Whenever any policy of insurance governed by Articles 1 through ~~64~~65  
of this Chapter provides for payment of or reimbursement for any service rendered in  
connection with a condition or complaint that is within the scope of practice of a duly  
licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed  
chiropractor, a duly certified clinical social worker, a duly certified substance abuse  
professional, a duly licensed professional counselor, a duly licensed psychologist, a duly  
licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly  
licensed physician assistant, or an advanced practice registered nurse, the insured or  
other persons entitled to benefits under the policy shall be entitled to payment of or  
reimbursement for the services, whether the services be performed by a duly licensed  
physician, ~~a duly licensed physician assistant, a duly licensed optometrist, a duly  
licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified  
clinical social worker, a duly certified substance abuse professional, a duly licensed  
psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral~~

1 ~~counselor, or an advanced practice registered nurse, or a provider listed in this~~  
2 ~~subsection, notwithstanding any provision contained in the policy.~~

3 (a2) Whenever any policy of insurance governed by Articles 1 through ~~6465~~  
4 this Chapter provides for certification of disability that is within the scope of practice of  
5 a duly licensed physician, a duly licensed physician assistant, a duly licensed  
6 optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed  
7 chiropractor, a duly certified clinical social worker, a duly certified substance abuse  
8 professional, a duly licensed professional counselor, a duly licensed psychologist, a duly  
9 certified fee-based practicing pastoral counselor, or an advanced practice registered  
10 nurse, the insured or other persons entitled to benefits under the policy shall be entitled  
11 to payment of or reimbursement for the disability whether the disability be certified by a  
12 duly licensed physician, ~~a duly licensed physician assistant, a duly licensed optometrist,~~  
13 ~~a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly~~  
14 ~~certified clinical social worker, a duly certified substance abuse professional, a duly~~  
15 ~~licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an~~  
16 ~~advanced practice registered nurse, or a provider listed in this subsection,~~  
17 notwithstanding any provisions contained in the policy. The policyholder, insured, or  
18 beneficiary shall have the right to choose the provider of the services notwithstanding  
19 any provision to the contrary in any other statute.

20 (a3) Whenever any policy of insurance provides coverage for medically necessary  
21 treatment, the insurer shall not impose any limitation on treatment or levels of coverage  
22 if performed by a duly licensed chiropractor acting within the scope of the chiropractor's  
23 practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the  
24 medically necessary treatment if performed or authorized by any other duly licensed  
25 physician.

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

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

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

1 (c2) For purposes of this section, a "duly certified substance abuse professional" is  
2 a person certified by the North Carolina Substance Abuse Professional Certification  
3 Board pursuant to Article 5C of Chapter 90 of the General Statutes.

4 (c3) For purposes of this section, a "duly licensed professional counselor" is a  
5 person licensed by the North Carolina Board of Licensed Professional Counselors  
6 pursuant to Article 24 of Chapter 90 of the General Statutes.

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

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

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

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

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

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

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

38 (f) Payment or reimbursement is required by this section for a service performed  
39 by a duly licensed physician assistant only when:

- 40 (1) The service performed is within the lawful scope of practice of the  
41 physician assistant in accordance with rules adopted by the North  
42 Carolina Medical Board pursuant to G.S. 90-18.1;

- 1           (2) The policy currently provides reimbursement for identical services  
2           performed by other licensed health care providers; and  
3           (3) The reimbursement is made to the physician, clinic, agency, or  
4           institution employing the physician assistant.

5 Nothing in this subsection is intended to authorize payment to more than one provider  
6 for the same service. For the purposes of this section, a "duly licensed physician  
7 assistant" is a physician assistant as defined by G.S. 90-18.1."

8           **SECTION 2.** Article 65 of Chapter 58 is amended by adding a new section  
9 to read:

10 **"§ 58-65-1.1. Regulation and definitions; application of other laws; profit and**  
11 **foreign corporations prohibited.**

12       (a) Any corporation ~~heretofore or hereafter~~ organized under the general  
13 corporation laws of the State of North Carolina for the purpose of maintaining and  
14 operating a nonprofit hospital ~~and/or or medical and/or or dental~~ service plan whereby  
15 hospital care ~~and/or or medical and/or or dental~~ service may be provided in whole or in  
16 part by ~~said the~~ corporation or by ~~hospitals and/or physicians and/or hospitals,~~  
17 physicians, or dentists participating in ~~such the~~ plan, or plans, shall be governed by this  
18 Article and Article 66 of this Chapter and shall be exempt from all other provisions of  
19 the insurance laws of this ~~State, heretofore enacted~~ State, unless otherwise provided.  
20 ~~specifically designated herein, and no laws hereafter enacted shall apply to them unless~~  
21 ~~they be expressly designated therein.~~

22       The term "hospital service plan" as used in this Article and Article 66 of this Chapter  
23 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory  
24 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and  
25 obstetrical equipment, accommodations ~~and/or or any and all~~ other services authorized  
26 or permitted to be furnished by a hospital under the laws of the State of North Carolina  
27 and approved by the North Carolina Hospital Association ~~and/or or~~ the American  
28 Medical Association.

29       The term "medical service plan" as used in this Article and Article 66 of this Chapter  
30 includes the contracting for the payment of fees toward, or furnishing of, medical,  
31 obstetrical, surgical ~~and/or or any~~ other professional services authorized or permitted to  
32 be furnished by a duly licensed physician, ~~except that in any plan in any policy of~~  
33 ~~insurance governed by this Article and Article 66 of this Chapter that includes services~~  
34 ~~which are within the scope of practice of a duly licensed optometrist, a duly licensed~~  
35 ~~chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced~~  
36 ~~practice registered nurse, a duly certified clinical social worker, a duly certified~~  
37 ~~substance abuse professional, a duly certified fee-based practicing pastoral counselor, a~~  
38 ~~duly licensed physician assistant, and a duly licensed physician, then the insured or~~  
39 ~~beneficiary shall have the right to choose the provider of the care or service, and shall~~  
40 ~~be entitled to payment of or reimbursement for such care or service, whether the~~  
41 ~~provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed~~  
42 ~~psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly~~

~~certified clinical social worker, a duly certified substance abuse professional, a duly certified fee based practicing pastoral counselor, a duly licensed physician assistant, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. physician or other provider listed in G.S. 58-50-30. The term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.~~

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

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

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

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

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

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

~~(b2) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:~~

- ~~(1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board, pursuant to G.S. 90-18.1;~~

- 1           (2) ~~The policy currently provides reimbursement for identical services~~  
2           ~~performed by other licensed health care providers; and~~  
3           (3) ~~The reimbursement is made to the physician, clinic, agency, or~~  
4           ~~institution employing the physician assistant.~~

5 ~~Nothing in this subsection is intended to authorize payment to more than one provider~~  
6 ~~for the same service. For the purposes of this section a "duly licensed physician~~  
7 ~~assistant" is a physician assistant as defined by G.S. 90-18.1.~~

8           ~~(e) For purposes of this section, an "advanced practice registered nurse" means~~  
9 ~~only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical~~  
10 ~~specialist in psychiatric and mental health nursing, or nurse midwife.~~

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

15 ~~For purposes of this section, a "duly certified fee based practicing pastoral~~  
16 ~~counselor" shall be defined only to include fee based practicing pastoral counselors~~  
17 ~~certified by the North Carolina State Board of Examiners of Fee Based Practicing~~  
18 ~~Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.~~

19 ~~For the purposes of this section, a "duly licensed psychologist" shall be defined only~~  
20 ~~to include a psychologist who is duly licensed in the State of North Carolina and has a~~  
21 ~~doctorate degree in psychology and at least two years clinical experience in a~~  
22 ~~recognized health setting, or has met the standards of the National Register of Health~~  
23 ~~Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be~~  
24 ~~defined as a licensed psychologist who holds permanent licensure and certification as a~~  
25 ~~health services provider psychologist issued by the North Carolina Psychology Board.~~

26 ~~For purposes of this section, a "duly certified substance abuse professional" is a~~  
27 ~~person certified by the North Carolina Substance Abuse Professional Certification~~  
28 ~~Board pursuant to Article 5C of Chapter 90 of the General Statutes.~~

29 ~~The term "dental service plan" as used in this Article and Article 66 of this Chapter~~  
30 ~~includes contracting for the payment of fees toward, or furnishing of dental and/or or~~  
31 ~~any other professional services authorized or permitted to be furnished by a duly~~  
32 ~~licensed dentist.~~

33 ~~The insured or beneficiary of every "medical service plan" and of every "dental~~  
34 ~~service plan," as those terms are used in this Article and Article 66 of this Chapter, or of~~  
35 ~~any policy of insurance issued thereunder, that includes services which are within the~~  
36 ~~scope of practice of both a duly licensed physician and a duly licensed dentist shall have~~  
37 ~~the right to choose the provider of such care or service, and shall be entitled to payment~~  
38 ~~of or reimbursement for such care or service, whether the provider be a duly licensed~~  
39 ~~physician or a duly licensed dentist notwithstanding any provision to the contrary~~  
40 ~~contained in any such plan or policy.~~

41 ~~The term "hospital service corporation" as used in this Article and Article 66 of this~~  
42 ~~Chapter is intended to mean any nonprofit corporation operating a hospital and/or or~~

1 medical ~~and/or or~~ dental service plan, as ~~herein defined~~ defined in this section. Any  
2 corporation ~~heretofore or hereafter~~ organized and ~~coming within~~ subject to the  
3 provisions of this Article and Article 66 of this Chapter, the certificate of incorporation  
4 of which authorizes the operation of either a hospital or medical ~~and/or or~~ dental service  
5 plan, or any or all of them, may, with the approval of the Commissioner of Insurance,  
6 issue subscribers' contracts or certificates approved by the Commissioner of Insurance,  
7 for the payment of either hospital or medical ~~and/or or~~ dental fees, or the furnishing of  
8 such services, or any or all of them, and may enter into contracts with hospitals for  
9 physicians ~~and/or or~~ dentists, or any or all of them, for the furnishing of fees or services  
10 respectively under a hospital or medical ~~and/or or~~ dental service plan, or any or all of  
11 them.

12 The term "preferred provider" as used in this Article and Article 66 of this Chapter  
13 with respect to contracts, organizations, policies or otherwise means a health care  
14 service provider who has agreed to accept, from a corporation organized for the  
15 purposes authorized by this Article and Article 66 of this Chapter or other applicable  
16 law, special reimbursement terms in exchange for providing services to beneficiaries of  
17 a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the  
18 extent prohibited either by G.S. 58-65-140 or by ~~regulations~~ rules promulgated by the  
19 Department of Insurance not inconsistent with this Article and Article 66 of this  
20 Chapter, the contractual terms and conditions for special reimbursement shall be those  
21 which the corporation and preferred provider find to be mutually agreeable.

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

24 **SECTION 3.** G.S. 58-50-56(c) reads as rewritten:

25 "(c) At the initial offering of a preferred provider plan to the public, health care  
26 providers may submit proposals for participation in accordance with the terms of the  
27 preferred provider plan within 30 days after that offering. After that time period, any  
28 health care provider may submit a proposal, and the insurer offering the preferred  
29 provider benefit plan shall consider all pending applications for participation and give  
30 reasons for any rejections or failure to act on an application on at least an annual basis.  
31 Any health care provider seeking to participate in the preferred provider benefit plan,  
32 whether upon the initial offering or subsequently, may be permitted to do so in the  
33 discretion of the insurer offering the preferred provider benefit plan. ~~The second and~~  
34 ~~third paragraphs of G.S. 58-50-30(a) apply to preferred provider benefit plans. G.S. 58-~~  
35 ~~50-30 applies to preferred provider benefit plans."~~

36 **SECTION 4.** G.S. 58-3-120 reads as rewritten:

37 "§ 58-3-120. **Discrimination forbidden.**

38 (a) No company doing the business of insurance as defined in G.S. 58-7-15 shall  
39 make any discrimination in favor of any person.

40 (b) Discrimination between individuals of the same class in the amount of  
41 premiums or rates charged for any policy of insurance covered by Articles 50 through

1 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or  
2 conditions of such policy, or in any other manner whatsoever, is prohibited."

3           **SECTION 5.** This act becomes effective October 1, 2001, and applies to  
4 claims for payment or reimbursement for services rendered on or after that date.