

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1717

Short Title: Children & Family Svces/Deemed Status. (Public)

Sponsors: Representatives Holliman; and Faison.

Referred to: Mental Health Reform, if favorable, Health.

April 19, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN
2 SERVICES TO GRANT DEEMED STATUS TO CERTAIN
3 NONGOVERNMENTAL AGENCIES OR SERVICE PROVIDERS OF MENTAL
4 HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE
5 SERVICES UNDER CERTAIN CONDITIONS; TO AMEND CERTAIN
6 LICENSE RENEWALS AND AUDIT PROCESSES IN ORDER TO EXPEDITE
7 THE PROVISION OF SERVICES; AND TO PROVIDE FOR A LEAD AGENCY
8 TO COORDINATE COMPLAINT INVESTIGATIONS WHEN LAWS OR
9 RULES UNDER THE ENFORCEMENT RESPONSIBILITY OF MULTIPLE
10 DHHS AGENCIES ARE INVOLVED IN THE INVESTIGATION.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 122C-22 is amended by adding the following new
13 subsections to read:

14 **"§ 122C-22. Exclusions from licensure; deemed status.**

15 (a) The following are excluded from the provisions of this Article and are not
16 required to obtain licensure under this Article:

17 ...

18 (c) The Commission shall adopt rules establishing a procedure whereby a
19 nongovernmental agency or service provider that is under contract with or endorsed by
20 an LME to provide mental health, developmental disabilities, or substance abuse
21 services and that is certified by one or more of the following nationally recognized
22 entities, may be deemed by the Secretary as meeting the requirements for licensure
23 under this Article and for providing services endorsed by the LME:

- 24 (1) The Joint Commission on the Accreditation of Healthcare
25 Organizations (JCAHO).
26 (2) The Commission on Accreditation of Rehabilitation Facilities (CARF).
27 (3) The Council on Quality and Leadership in Supports for People with
28 Disabilities (CQL).
29

1 (4) The Council on Accreditation of Services for Families and Children
2 (COA).

3 Upon receipt of proof of accreditation for the services to be provided, the Secretary
4 shall deem the agency or service provider as having met the requirements of this Article
5 to provide services that have been endorsed by an LME. The Secretary shall renew the
6 deemed status at the license renewal date if the agency or service provider submits proof
7 of certification in good standing and endorsement by the LME at the time of renewal.
8 An agency or service provider that is deemed licensed to provide services under this
9 subsection continues to be subject to investigation by the Secretary and to applicable
10 license renewal fees.

11 (d) The Secretary shall withdraw the deemed status granted under subsection (c)
12 of this section to an agency or service provider if:

13 (1) The accreditation, licensure, or certification is revoked for failure to
14 meet the requirements of subsection (c) of this section, or other
15 applicable requirements under this Article, or

16 (2) If the Department imposes a penalty for a Type A violation against the
17 agency or service provider.

18 An agency or service provider that has lost deemed status under this subsection may
19 apply for renewal of deemed status after a period of six months from the date of
20 withdrawal of deemed status. Renewal of deemed status shall be granted upon
21 completion of a correction plan that has been approved by the Department and
22 implemented by the agency or service provider, and the agency or service provider
23 otherwise meets the requirements of subsection (c) of this section."

24 **SECTION 2.** G.S. 131D-10.3 is amended by adding the following new
25 subsection to read:

26 "(g) In accordance with Commission rules, a person may submit to the
27 Department documentation of compliance with the standards of a nationally recognized
28 accrediting body, and the Department on the basis of such accreditation may deem the
29 person in compliance with one or more Commission licensing rules.

30 (g1) In accordance with Commission rules, a nongovernmental agency or service
31 provider that provides services to children in therapeutic foster homes and that submits
32 proof of certification or accreditation by one or more of the following nationally
33 recognized entities, shall be deemed to meet the licensure requirements of this Article to
34 provide these services:

35 (1) The Joint Commission on the Accreditation of Healthcare
36 Organizations (JCAHO).

37 (2) The Commission on Accreditation of Rehabilitation Facilities (CARF).

38 (3) The Council on Quality and Leadership in Supports for People with
39 Disabilities (CQL).

40 (4) The Council on Accreditation of Services for Families and Children
41 (COA).

42 The Commission shall adopt rules providing for coordination of license or deemed
43 status renewal dates with accreditation renewal dates to avoid duplication in the
44 application renewal process. An agency or service provider that is deemed licensed to

1 provide services under this subsection continues to be subject to investigation by the
2 Secretary and to applicable license renewal fees.

3 (g2) The Secretary shall withdraw the deemed status granted under subsection (g1)
4 of this section to an agency or service provider if:

5 (1) The accreditation, licensure, or certification is revoked for failure to
6 meet the requirements of subsection (g1) of this section, or other
7 applicable requirements under this Article, or

8 (2) If the Department imposes a penalty for a violation against the agency
9 or service provider.

10 An agency or service provider that has lost deemed status under this subsection may
11 apply for renewal of deemed status after a period of six months from the date of
12 withdrawal of deemed status. Renewal of deemed status shall be granted upon
13 completion of a correction plan that has been approved by the Department and
14 implemented by the agency or service provider, and the agency or service provider
15 otherwise meets the requirements of subsection (g1) of this section."

16 **SECTION 3.** Part 6 of Article 2 of Chapter 108A of the General Statutes is
17 amended by adding the following new section to read:

18 **"§ 108A-55.5. Accredited providers; annual audit process.**

19 The Department shall adopt a procedure whereby in its annual audit process those
20 agencies or service providers that have been granted deemed status under
21 G.S. 122C-22(c) or G.S. 131D-10.3(g1) and that have a ten percent (10%) or less error
22 rate in their annual audit, shall be moved to a two-year audit cycle. The Department
23 may request information from the agency or service provider at any time for random file
24 audits."

25 **SECTION 4.** Part 1 of Article 3 of Chapter 143B of the General Statutes is
26 amended by adding the following new section to read:

27 **"§ 143B-139.6C. Secretary to establish lead agency for the investigation of**
28 **complaints involving multiple agencies.**

29 For the purpose of avoiding duplication of effort and paperwork by service providers
30 and the Department, to ensure a clear understanding and interpretation of compliance
31 with applicable laws and rules, and to expedite the provision of services to clients, the
32 Secretary of Health and Human Services shall establish a procedure for coordinating the
33 investigation of complaints against licensed, certified, accredited, or endorsed providers
34 of services to recipients of social services or mental health, developmental disabilities,
35 and substance abuse services. When a complaint is received by the Department and the
36 complaint requires investigation by more than one Division of the Department, the
37 Secretary shall appoint a lead agency among those involved in the complaint
38 investigation. The lead agency shall oversee and coordinate the investigation by all
39 involved Divisions, and shall be the primary contact entity for the provider that is the
40 subject of the investigation. The lead agency shall coordinate with the involved
41 Divisions to review laws and rules that impact the investigation and to provide a
42 consistent and nonconflicting report to the provider on what rules or laws have been
43 violated and the corrections needed to comply with those laws and rules. The procedure
44 shall provide for notice to service providers when a complaint is received. The notice

1 shall include the particular Divisions charged with investigating the complaint and the
2 lead agency designated by the Secretary to oversee the complaint investigation. If a
3 conflict arises among Divisions concerning the interpretation of the law or rules, the
4 conflict shall be resolved by the Secretary or, if necessary, by an amendment to rules or
5 statutory clarification by the General Assembly. The provider shall not be deemed in
6 violation of any rule the interpretation of which is in conflict, until the conflict has been
7 resolved and the provider informed of the decision."

8 **SECTION 5.** This act becomes effective October 1, 2007.