

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 368

Short Title: Fam. Therapists/Direct Payment/AB

(Public)

Sponsors: Senators Lucas, Foxx, Ballance, Edwards, and McDaniel.

Referred to: Pensions and Retirement/Insurance/State Personnel

March 14, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR DIRECT PAYMENT OF LICENSED MARRIAGE AND
2 FAMILY THERAPISTS UNDER HEALTH INSURANCE POLICIES AND
3 PLANS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 58-39-15(17) reads as rewritten:

7 "(17) 'Medical professional' means any person licensed or certified to
8 provide health care services to natural persons, including but not
9 limited to, a physician, dentist, nurse, chiropractor, optometrist,
10 physical or occupational therapist, certified clinical social worker,
11 licensed marriage and family therapist, clinical dietitian, clinical
12 psychologist, pharmacist, or speech therapist."

13 Sec. 2. G.S. 58-50-30 reads as rewritten:

14 "**§ 58-50-30. Discrimination forbidden; right to choose services of optometrist,
15 podiatrist, certified clinical social worker, licensed marriage and family
16 therapist, dentist, chiropractor, or psychologist, or advanced practice
17 registered nurse.**

18 (a) Discrimination between individuals of the same class in the amount of
19 premiums or rates charged for any policy of insurance covered by Articles 50 through 55

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

3 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
4 provides for payment of or reimbursement for any service rendered in connection with a
5 condition or complaint which is within the scope of practice of 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 licensed marriage and family
8 therapist, a duly licensed psychologist, or an advanced practice registered nurse, the
9 insured or other persons entitled to benefits under such policy shall be entitled to payment
10 of or reimbursement for such services, whether such services be performed by a duly
11 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
12 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
13 licensed marriage and family therapist, a duly licensed psychologist, or an advanced
14 practice registered nurse, notwithstanding any provision contained in such policy.
15 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
16 provides for certification of disability which is within the scope of practice of a duly
17 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
18 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
19 licensed marriage and family therapist, a duly licensed psychologist, or an advanced
20 practice registered nurse, the insured or other persons entitled to benefits under such
21 policy shall be entitled to payment of or reimbursement for such disability whether such
22 disability be certified by a duly licensed physician, a duly licensed optometrist, a duly
23 licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified
24 clinical social worker, a duly licensed marriage and family therapist, a duly licensed
25 psychologist, or an advanced practice registered nurse, notwithstanding any provisions
26 contained in such policy. The policyholder, insured, or beneficiary shall have the right to
27 choose the provider of such services notwithstanding any provision to the contrary in any
28 other statute.

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

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

42 (c) For the purposes of this section, a 'duly certified clinical social worker' is a
43 'certified clinical social worker' as defined in G.S. 90B-3(2) and certified by the North

1 Carolina Certification Board for Social Work pursuant to Chapter 90B of the General
2 Statutes.

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

5 (1) The service performed is within the nurse's lawful scope of practice;

6 (2) The policy currently provides benefits for identical services performed
7 by other licensed health care providers;

8 (3) The service is not performed while the nurse is a regular employee in an
9 office of a licensed physician;

10 (4) The service is not performed while the registered nurse is employed by
11 a nursing facility (including a hospital, skilled nursing facility,
12 intermediate care facility, or home care agency); and

13 (5) Nothing in this section is intended to authorize payment to more than
14 one provider for the same service.

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

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

20 (e) For purposes of this section, a 'duly licensed marriage and family therapist' is
21 as defined under G.S. 90-270.47 and licensed by the North Carolina Marriage and Family
22 Therapy Licensure Board pursuant to Chapter 90 of the General Statutes."

23 Sec. 3. G.S. 58-65-1 reads as rewritten:

24 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign**
25 **corporations prohibited.**

26 (a) Any corporation heretofore or hereafter organized under the general
27 corporation laws of the State of North Carolina for the purpose of maintaining and
28 operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital
29 care and/or medical and/or dental service may be provided in whole or in part by said
30 corporation or by hospitals and/or physicians and/or dentists participating in such plan, or
31 plans, shall be governed by this Article and Article 66 of this Chapter and shall be
32 exempt from all other provisions of the insurance laws of this State, heretofore enacted,
33 unless specifically designated herein, and no laws hereafter enacted shall apply to them
34 unless they be expressly designated therein.

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

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

1 obstetrical, surgical and/or any other professional services authorized or permitted to be
2 furnished by a duly licensed physician, except that in any plan in any policy of insurance
3 governed by this Article and Article 66 of this Chapter that includes services which are
4 within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a
5 duly licensed psychologist, an advanced practice registered nurse, a duly certified clinical
6 social worker, a duly licensed marriage and family therapist, and a duly licensed
7 physician, then the insured or beneficiary shall have the right to choose the provider of
8 the care or service, and shall be entitled to payment of or reimbursement for such care or
9 service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor,
10 a duly licensed psychologist, an advanced practice registered nurse, a duly certified
11 clinical social worker, a duly licensed marriage and family therapist, or a duly licensed
12 physician notwithstanding any provision to the contrary contained in such policy. The
13 term 'medical services plan' also includes the contracting for the payment of fees toward,
14 or furnishing of, professional medical services authorized or permitted to be furnished by
15 a duly licensed provider of health services licensed under Chapter 90 of the General
16 Statutes.

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

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

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

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

34 For the purposes of this section, a 'duly certified clinical social worker' is a 'certified
35 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 For the purposes of this section, a 'duly licensed psychologist' shall be defined only to
39 include a psychologist who is duly licensed in the State of North Carolina and has a
40 doctorate degree in psychology and at least two years clinical experience in a recognized
41 health setting, or has met the standards of the National Register of Health Providers in
42 Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a

1 licensed psychologist who holds permanent licensure and certification as a health
2 services provider psychologist issued by the North Carolina Psychology Board.

3 For purposes of this section, a 'duly licensed marriage and family therapist' is as
4 defined under G.S. 90-270.47 and licensed by the North Carolina Marriage and Family
5 Therapy Licensure Board pursuant to Chapter 90 of the General Statutes.

6 The term 'dental service plan' as used in this Article and Article 66 of this Chapter
7 includes contracting for the payment of fees toward, or furnishing of dental and/or any
8 other professional services authorized or permitted to be furnished by a duly licensed
9 dentist.

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

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

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

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

42 Sec. 4. G.S. 135-40.7A(c) reads as rewritten:

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

- 5 (1) The following units of a general hospital licensed under Article 5 of
6 General Statutes Chapter 131E:
7 a. Chemical dependency units in facilities licensed after October 1,
8 1984;
9 b. Medical units;
10 c. Psychiatric units; and
11 (2) The following facilities licensed after July 1, 1984, under Article 2 of
12 General Statutes Chapter 122C:
13 a. Chemical dependency units in psychiatric hospitals;
14 b. Chemical dependency hospitals;
15 c. Residential chemical dependency treatment facilities;
16 d. Social setting detoxification facilities or programs;
17 e. Medical detoxification facilities or programs; and
18 (3) Duly licensed physicians and duly licensed practicing psychologists,
19 certified clinical social workers, licensed marriage and family therapists,
20 certified clinical specialists in psychiatric and mental health nursing,
21 and certified professionals working under the direct supervision of such
22 physicians or psychologists in facilities described in (1) and (2) above
23 and in day/night programs or outpatient treatment facilities licensed
24 after July 1, 1984, under Article 2 of General Statutes Chapter 122C.

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

28 Sec. 5. G.S. 135-40.7B(c) reads as rewritten:

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

- 31 (1) Licensed psychiatrists;
32 (2) Licensed or certified doctors of psychology;
33 (3) Certified clinical social workers;
34 (3a) Licensed marriage and family therapists;
35 (4) Psychiatric nurses;
36 (5) Other social workers under the direct employment and supervision of a
37 licensed psychiatrist or licensed doctor of psychology;
38 (6) Psychological associates with a master's degree in psychology under the
39 direct employment and supervision of a licensed psychiatrist or licensed
40 or certified doctor of psychology;
41 (7) Licensed psychiatric hospitals and licensed general hospitals providing
42 psychiatric treatment programs; and

1 (8) Certified residential treatment facilities, community mental health
2 centers, and partial hospitalization facilities."

3 Sec. 6. This act becomes effective July 1, 1995, and applies to claims for
4 payment or reimbursement for services rendered on or after that date.