

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 751

Short Title: Counselor Treatment Covered.

(Public)

Sponsors: Senators Cooper, Hartsell, Davis, Forrester, Plyler, Allran, Carrington, Jordan, Hobbs, Parnell, Edwards, Albertson, Speed, Soles, Conder, Perdue, Ballance, Hoyle, Foxx, Plexico, Gulley, Sherron, Little, and Carpenter.

Referred to: Pensions and Retirement/Insurance/State Personnel

April 18, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT TREATMENT OR SERVICES RENDERED BY
2 CERTIFIED FEE-BASED PRACTICING PASTORAL COUNSELORS SHALL BE
3 REIMBURSABLE UNDER THE STATE HEALTH PLAN AND OTHER HEALTH
4 INSURANCE POLICIES UNDER CERTAIN CIRCUMSTANCES.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 135-40.7A(c) reads as rewritten:

8 "(c) Notwithstanding any other provision of this Part, provisions for benefits for
9 necessary care and treatment of chemical dependency under this Part shall provide for
10 benefit payments for the following providers of necessary care and treatment of chemical
11 dependency:

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

- 14 a. Chemical dependency units in facilities licensed after October 1,
15 1984;
16 b. Medical units;
17 c. Psychiatric units; and

- 1 (2) The following facilities licensed after July 1, 1984, under Article 2 of
2 General Statutes Chapter 122C:
3 a. Chemical dependency units in psychiatric hospitals;
4 b. Chemical dependency hospitals;
5 c. Residential chemical dependency treatment facilities;
6 d. Social setting detoxification facilities or programs;
7 e. Medical detoxification facilities or programs; and
8 (3) Duly licensed physicians and duly licensed practicing psychologists,
9 certified clinical social workers, certified fee-based practicing pastoral
10 counselors, certified clinical specialists in psychiatric and mental health
11 nursing, and certified professionals working under the direct supervision
12 of such physicians or psychologists in facilities described in (1) and (2)
13 above and in day/night programs or outpatient treatment facilities
14 licensed after July 1, 1984, under Article 2 of General Statutes Chapter
15 122C.

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

19 Sec. 2. G.S. 135-40.7B(c) reads as rewritten:

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

- 22 (1) Licensed psychiatrists;
23 (2) Licensed or certified doctors of psychology;
24 (3) Certified clinical social workers;
25 (4) Psychiatric nurses;
26 (5) Other social workers under the direct employment and supervision of a
27 licensed psychiatrist or licensed doctor of psychology;
28 (6) Psychological associates with a master's degree in psychology under the
29 direct employment and supervision of a licensed psychiatrist or licensed
30 or certified doctor of psychology;
31 (7) Licensed psychiatric hospitals and licensed general hospitals providing
32 psychiatric treatment programs; ~~and~~
33 (8) Certified residential treatment facilities, community mental health
34 centers, and partial hospitalization ~~facilities-~~facilities; and
35 (9) Certified fee-based practicing pastoral counselors."

36 Sec. 3. G.S. 58-50-30 reads as rewritten:

37 "**§ 58-50-30. Discrimination forbidden; right to choose services of optometrist,**
38 **podiatrist, certified clinical social worker, dentist, chiropractor, or**
39 **psychologist, certified fee-based practicing pastoral counselor, or**
40 **advanced practice registered nurse.**

41 (a) Discrimination between individuals of the same class in the amount of
42 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 psychologist, a duly
8 certified fee-based practicing pastoral counselor, or an advanced practice registered
9 nurse, the insured or other persons entitled to benefits under such policy shall be entitled
10 to payment of or reimbursement for such services, whether such services be performed by
11 a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly
12 licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a
13 duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an
14 advanced practice registered nurse, notwithstanding any provision contained in such
15 policy. Whenever any policy of insurance governed by Articles 1 through 64 of this
16 Chapter provides for certification of disability which is within the scope of practice of a
17 duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly
18 licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a
19 duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an
20 advanced practice registered nurse, the insured or other persons entitled to benefits under
21 such policy shall be entitled to payment of or reimbursement for such disability whether
22 such disability be certified by a duly licensed physician, a duly licensed optometrist, a
23 duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly
24 certified clinical social worker, a duly licensed psychologist, a duly certified fee-based
25 practicing pastoral counselor, or an advanced practice registered nurse, notwithstanding
26 any provisions contained in such policy. The policyholder, insured, or beneficiary shall
27 have the right to choose the provider of such services notwithstanding any provision to
28 the contrary in any 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 (c1) For purposes of this section, a 'duly certified fee-based practicing pastoral
4 counselor' shall be defined only to include fee-based practicing pastoral counselors
5 certified by the North Carolina State Board of Examiners of Fee-Based Practicing
6 Pastoral Counselors pursuant to Article 26 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 an
13 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 specialist
23 in psychiatric and mental health nursing, or nurse midwife."

24 Sec. 4. G.S. 58-65-1 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 5. G.S. 122C-3(31) reads as rewritten:

2 "(31) 'Qualified professional' means any individual with appropriate training
3 or experience as specified by the General Statutes or by rule of the
4 Commission in the fields of mental health or developmental disabilities
5 or substance abuse treatment or habilitation, including physicians,
6 psychologists, psychological associates, educators, social workers,
7 registered nurses, certified fee-based practicing pastoral counselors, and
8 certified counselors."

9 Sec. 6. This act becomes effective July 1, 1995, and applies to treatment or
10 services rendered on or after that date.