

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 700

Short Title: Professional Counselors/Right to Choose.

(Public)

Sponsors: Senator Parnell.

Referred to: Pensions and Retirement/Insurance/State Personnel

April 13, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PERMIT PATIENTS TO SELECT PROFESSIONAL LICENSED
2 COUNSELORS AS MENTAL HEALTH PROVIDERS UNDER HEALTH
3 INSURANCE POLICIES, AND TO LIMIT THE EXEMPTION FOR LICENSURE
4 OF COUNSELORS.
5

6 The General Assembly of North Carolina enacts:

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

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

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

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

19 (a) Discrimination between individuals of the same class in the amount of
20 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 professional
8 counselor, 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 professional counselor, a duly licensed psychologist, or an advanced practice
14 registered nurse, notwithstanding any provision contained in such policy. Whenever any
15 policy of insurance governed by Articles 1 through 64 of this Chapter provides for
16 certification of disability which is within the scope of practice of a duly licensed
17 physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist,
18 a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed
19 professional counselor, a duly licensed psychologist, or an advanced practice registered
20 nurse, the insured or other persons entitled to benefits under such policy shall be entitled
21 to payment of or reimbursement for such disability whether such disability be certified by
22 a duly licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly
23 licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a
24 duly licensed professional counselor, a duly licensed psychologist, or an advanced
25 practice registered nurse, notwithstanding any provisions contained in such policy. The
26 policyholder, insured, or beneficiary shall have the right to choose the provider of such
27 services notwithstanding any provision to the contrary in any other statute.

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

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

41 (c) For the purposes of this section, a 'duly certified clinical social worker' is a
42 '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 the purposes of this section, a 'duly licensed professional counselor' is a
4 'licensed professional counselor' as defined under G.S. 90-330(2).

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

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

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

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

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

23 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign**
24 **corporations prohibited.**

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

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

41 The term 'medical service plan' as used in this Article and Article 66 of this Chapter
42 includes the contracting for the payment of fees toward, or furnishing of, medical,
43 obstetrical, surgical and/or any other professional services authorized or permitted to be

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

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

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

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

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

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

37 For the purposes of this section, a 'duly licensed professional counselor' is a 'licensed
38 professional counselor' as defined under G.S. 90-330(2).

39 For the purposes of this section, a 'duly licensed psychologist' shall be defined only to
40 include a psychologist who is duly licensed in the State of North Carolina and has a
41 doctorate degree in psychology and at least two years clinical experience in a recognized
42 health setting, or has met the standards of the National Register of Health Providers in
43 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 The term 'dental service plan' as used in this Article and Article 66 of this Chapter
4 includes contracting for the payment of fees toward, or furnishing of dental and/or any
5 other professional services authorized or permitted to be furnished by a duly licensed
6 dentist.

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

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

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

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

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

40 "(c) Notwithstanding any other provision of this Part, provisions for benefits for
41 necessary care and treatment of chemical dependency under this Part shall provide for
42 benefit payments for the following providers of necessary care and treatment of chemical
43 dependency:

- 1 (1) The following units of a general hospital licensed under Article 5 of
2 General Statutes Chapter 131E:
3 a. Chemical dependency units in facilities licensed after October 1,
4 1984;
5 b. Medical units;
6 c. Psychiatric units; and
7 (2) The following facilities licensed after July 1, 1984, under Article 2 of
8 General Statutes Chapter 122C:
9 a. Chemical dependency units in psychiatric hospitals;
10 b. Chemical dependency hospitals;
11 c. Residential chemical dependency treatment facilities;
12 d. Social setting detoxification facilities or programs;
13 e. Medical detoxification facilities or programs; and
14 (3) Duly licensed physicians and duly licensed practicing psychologists,
15 certified clinical social workers, licensed professional counselors,
16 certified clinical specialists in psychiatric and mental health nursing,
17 and certified professionals working under the direct supervision of such
18 physicians or psychologists in facilities described in (1) and (2) above
19 and in day/night programs or outpatient treatment facilities licensed
20 after July 1, 1984, under Article 2 of General Statutes Chapter 122C.

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

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

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

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

41 Sec. 6. G.S. 90-338 reads as rewritten:

42 "§ 90-338. Exemptions.

1 Applicants holding certificates of registration as Registered Practicing Counselors and
2 in good standing with the Board shall be issued licenses as licensed professional
3 counselors without meeting the requirements of G.S. 90-336(b). The following applicants
4 shall be exempt from the academic qualifications required by this Article for licensed
5 professional counselors and shall be licensed upon passing the Board examination and
6 meeting the experience requirements:

7 (1) An applicant who was engaged in the practice of counseling before July
8 1, ~~1993-1993~~, and who applies to the Board prior to January 1, 1996.

9 (2) An applicant who holds a masters degree from a college or university
10 accredited by one of the regional accrediting associations or from a
11 college or university determined by the Board to have standards
12 substantially equivalent to a regionally accredited institution, provided
13 the applicant was enrolled in the masters program prior to July 1, 1994."

14 Sec. 7. This act becomes effective October 1, 1995, and applies to claims for
15 payment or reimbursement for services rendered on or after that date.