

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 415\***

Short Title: Health Insurance/Marriage & Family Therapists. (Public)

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Sponsors: Senators Purcell; Dannelly, Dorsett, Garrou, Gulley, Malone, Moore, and  
Rand.

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Referred to: Health and Human Resources.

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March 17, 2003

A BILL TO BE ENTITLED

1 AN ACT TO INCLUDE DULY LICENSED MARRIAGE AND FAMILY  
2 THERAPISTS UNDER THE INSURANCE 'FREEDOM OF CHOICE' LAW AND  
3 UNDER THE PROFESSIONAL CORPORATIONS ACT.  
4

5 The General Assembly of North Carolina enacts:

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

7 "**§ 58-50-30. Right to choose services of optometrist, podiatrist, licensed clinical**  
8 **social worker, certified substance abuse professional, licensed**  
9 **professional counselor, dentist, chiropractor, psychologist, pharmacist,**  
10 **certified fee-based practicing pastoral counselor, advanced practice**  
11 **nurse, licensed marriage and family therapist, or physician assistant.**

12 (a1) Whenever any health benefit plan, subscriber contract, or policy of insurance  
13 issued by a health maintenance organization, hospital or medical service corporation, or  
14 insurer governed by Articles 1 through 67 of this Chapter provides for coverage for,  
15 payment of, or reimbursement for any service rendered in connection with a condition  
16 or complaint that is within the scope of practice of a duly licensed optometrist, a duly  
17 licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed  
18 clinical social worker, a duly certified substance abuse professional, a duly licensed  
19 professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly  
20 certified fee-based practicing pastoral counselor, a duly licensed physician assistant, a  
21 duly licensed marriage and family therapist, or an advanced practice registered nurse,  
22 the insured or other persons entitled to benefits under the policy shall be entitled to  
23 coverage of, payment of, or reimbursement for the services, whether the services be  
24 performed by a duly licensed physician, or a provider listed in this subsection,  
25 notwithstanding any provision contained in the plan or policy limiting access to the  
26 providers. The policyholder, insured, or beneficiary shall have the right to choose the  
27 provider of services notwithstanding any provision to the contrary in any other statute,

1 subject to the utilization review, referral, and prior approval requirements of the plan  
2 that apply to all providers for that service; provided that:

3 (1) In the case of plans that require the use of network providers as a  
4 condition of obtaining benefits under the plan or policy, the  
5 policyholder, insured, or beneficiary must choose a provider of the  
6 services within the network; and

7 (2) In the case of plans that require the use of network providers as a  
8 condition of obtaining a higher level of benefits under the plan or  
9 policy, the policyholder, insured, or beneficiary must choose a  
10 provider of the services within the network in order to obtain the  
11 higher level of benefits.

12 (a2) Whenever any policy of insurance governed by Articles 1 through 64 of this  
13 Chapter provides for certification of disability that is within the scope of practice of a  
14 duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist,  
15 a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly  
16 licensed clinical social worker, a duly certified substance abuse professional, a duly  
17 licensed professional counselor, a duly licensed psychologist, a duly certified fee-based  
18 practicing pastoral counselor, a duly licensed marriage and family therapist, or an  
19 advanced practice registered nurse, the insured or other persons entitled to benefits  
20 under the policy shall be entitled to payment of or reimbursement for the disability  
21 whether the disability be certified by a duly licensed physician, or a provider listed in  
22 this subsection, notwithstanding any provisions contained in the policy. The  
23 policyholder, insured, or beneficiary shall have the right to choose the provider of the  
24 services notwithstanding any provision to the contrary in any other statute; provided that  
25 for plans that require the use of network providers either as a condition of obtaining  
26 benefits under the plan or policy or to access a higher level of benefits under the plan or  
27 policy, the policyholder, insured, or beneficiary must choose a provider of the services  
28 within the network, subject to the requirements of the plan or policy.

29 (a3) Whenever any health benefit plan, subscriber contract, or policy of insurance  
30 issued by a health maintenance organization, hospital or medical service corporation, or  
31 insurer governed by Articles 1 through 67 of this Chapter provides coverage for  
32 medically necessary treatment, the insurer shall not impose any limitation on treatment  
33 or levels of coverage if performed by a duly licensed chiropractor acting within the  
34 scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable  
35 limitation is imposed on the medically necessary treatment if performed or authorized  
36 by any other duly licensed physician.

37 (b) For the purposes of this section, a "duly licensed psychologist" is a licensed  
38 psychologist who holds permanent licensure and certification as a health services  
39 provider psychologist issued by the North Carolina Psychology Board.

40 (c) For the purposes of this section, a "duly licensed clinical social worker" is a  
41 "licensed clinical social worker" as defined in G.S. 90B-3(2) and licensed by the North  
42 Carolina Social Work Certification and Licensure Board pursuant to Chapter 90B of the  
43 General Statutes.

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

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

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

11 (c4) For purposes of this section, a "duly licensed marriage and family therapist"  
12 is a person licensed by the North Carolina Marriage and Family Therapy Licensure  
13 Board pursuant to Article 18C of Chapter 90 of the General Statutes.

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

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

26 No lack of signature, referral, or employment by any other health care provider may be  
27 asserted to deny benefits under this provision, unless these plan requirements apply to  
28 all providers for that service.

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

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

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

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

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

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

8 (2) The policy currently provides reimbursement for identical services  
9 performed by other licensed health care providers; and

10 (3) The reimbursement is made to the physician, clinic, agency, or  
11 institution employing the physician assistant.

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

15 (g) A health maintenance organization, hospital or medical service corporation,  
16 or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from  
17 participation in its provider network or from eligibility to provide particular covered  
18 services under the plan or policy any duly licensed physician or provider listed in  
19 subsection (a1) of this section, acting within the scope of the provider's license or  
20 certification under North Carolina law, solely on the basis of the provider's license or  
21 certification. Any health maintenance organization, hospital or medical service  
22 corporation, or insurer governed by Articles 1 through 67 of this Chapter that offers  
23 coverage through a network plan may condition participation in the network on  
24 satisfying written participation criteria, including credentialing, quality, and  
25 accessibility criteria. The participation criteria shall be developed and applied in a like  
26 manner consistent with the licensure and scope of practice for each type of provider.  
27 Any health maintenance organization, hospital or medical service corporation, or insurer  
28 governed by Articles 1 through 67 of this Chapter that excludes a provider listed in  
29 subsection (a1) of this section from participation in its network or from eligibility to  
30 provide particular covered services under the plan or policy shall provide the affected  
31 listed provider with a written explanation of the basis for its decision. A health  
32 maintenance organization, hospital or medical service corporation, or insurer governed  
33 by Articles 1 through 67 of this Chapter shall not exclude from participation in its  
34 provider network a provider listed in subsection (a1) of this section acting within the  
35 scope of the provider's license or certification under North Carolina law solely on the  
36 basis that the provider lacks hospital privileges, unless use of hospital services by the  
37 provider on behalf of a policy holder, insured, or beneficiary reasonably could be  
38 expected.

39 (h) Nothing in this section shall be construed as expanding the scope of practice  
40 of any duly licensed physician or provider listed in subsection (a1) of this section."

41 **SECTION 2.** G.S. 90-270.48B is repealed.

42 **SECTION 3.** G.S. 55B-2(6) reads as rewritten:

43 "(6) The term "professional service" means any type of personal or  
44 professional service of the public which requires as a condition

1 precedent to the rendering of such service the obtaining of a license  
2 from a licensing board as herein defined, and pursuant to the following  
3 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter  
4 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the  
5 following Articles in Chapter 90: Article 1, "Practice of Medicine,"  
6 Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy,"  
7 Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with  
8 regard to registered nurses, Article 11, "Veterinarians," Article 12A,  
9 "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C,  
10 "Marriage and Family Therapy Licensure," Article 18D, "Occupational  
11 Therapy," and Article 24, "Licensed Professional Counselors," ~~of~~  
12 ~~Chapter 90; Counselors";~~ Chapter 89C, "Engineering and Land  
13 Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B,  
14 "Social Worker Certification and Licensure Act" with regard to  
15 Certified [Licensed] Clinical Social Workers as defined by G.S.  
16 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and  
17 Chapter 89F, "North Carolina Soil Scientist Licensing Act."

18 **SECTION 4.** G.S. 55B-14(c)(4) reads as rewritten:

19 **"§ 55B-14. Types of professional services.**

20 ...  
21 (c) A professional corporation may also be formed by and between or among:

22 ...  
23 (4) A physician, or a licensed psychologist, or both, and a certified clinical  
24 specialist in psychiatric and mental health nursing, a licensed clinical  
25 social worker, a licensed marriage and family therapist, a licensed  
26 professional counselor, or each of them, to render psychotherapeutic  
27 and related services that the respective stockholders are licensed,  
28 certified, or otherwise approved to provide."

29 **SECTION 5.** Sections 1 and 2 of this act become effective October 1, 2003,  
30 and apply to claims for payment or reimbursement for services rendered on or after that  
31 date. The remainder of this act is effective when it becomes law.