

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 946*

Short Title: Substance Abuse/Direct Pay.

(Public)

Sponsors: Senator Martin of Guilford.

Referred to: Insurance.

April 14, 1999

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR DIRECT PAYMENT OF CERTIFIED SUBSTANCE
2 ABUSE PROFESSIONALS UNDER HEALTH INSURANCE POLICIES AND
3 PLANS.
4

5 The General Assembly of North Carolina enacts:

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

7 "**§ 58-50-30. Discrimination forbidden; right to choose services of optometrist,
8 podiatrist, certified clinical social worker, certified substance abuse
9 professional, dentist, chiropractor, psychologist, pharmacist, certified fee-
10 based practicing pastoral counselor, or advanced practice registered
11 nurse.**

12 (a) Discrimination between individuals of the same class in the amount of
13 premiums or rates charged for any policy of insurance covered by Articles 50 through 55
14 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of
15 the policy, or in any other manner whatsoever, is prohibited.

16 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
17 provides for payment of or reimbursement for any service rendered in connection with a
18 condition or complaint which is within the scope of practice of a duly licensed
19 optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed
20 chiropractor, a duly certified clinical social worker, a duly certified substance abuse

1 professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified
2 fee-based practicing pastoral counselor, or an advanced practice registered nurse, the
3 insured or other persons entitled to benefits under the policy shall be entitled to payment
4 of or reimbursement for the services, whether the services be performed by a duly
5 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
6 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
7 certified substance abuse professional, a duly licensed psychologist, a duly licensed
8 pharmacist, a duly certified fee-based practicing pastoral counselor, or an advanced
9 practice registered nurse, notwithstanding any provision contained in the policy.
10 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
11 provides for certification of disability that is within the scope of practice of a duly
12 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
13 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
14 certified substance abuse professional, a duly licensed psychologist, a duly certified fee-
15 based practicing pastoral counselor, or an advanced practice registered nurse, the insured
16 or other persons entitled to benefits under the policy shall be entitled to payment of or
17 reimbursement for the disability whether the disability be certified by a duly licensed
18 physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist,
19 a duly licensed chiropractor, a duly certified clinical social worker, a duly certified
20 substance abuse professional, a duly licensed psychologist, a duly certified fee-based
21 practicing pastoral counselor, or an advanced practice registered nurse, notwithstanding
22 any provisions contained in the policy. The policyholder, insured, or beneficiary shall
23 have the right to choose the provider of the services notwithstanding any provision to the
24 contrary in any other statute.

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

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

39 (c) For the purposes of this section, a "duly certified clinical social worker" is a
40 "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North
41 Carolina Certification Board for Social Work pursuant to Chapter 90B of the General
42 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 a
6 person certified by the North Carolina Substance Abuse Professionals Certification Board
7 pursuant to Article 5C of Chapter 90 of the General Statutes.

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

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

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

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

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

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

37 Nothing in this subsection authorizes payment to more than one provider for the same
38 service."

39 Section 2. G.S. 58-65-1 reads as rewritten:

40 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign**
41 **corporations prohibited.**

42 (a) Any corporation heretofore or hereafter organized under the general
43 corporation laws of the State of North Carolina for the purpose of maintaining and

1 operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital
2 care and/or medical and/or dental service may be provided in whole or in part by said
3 corporation or by hospitals and/or physicians and/or dentists participating in such plan, or
4 plans, shall be governed by this Article and Article 66 of this Chapter and shall be
5 exempt from all other provisions of the insurance laws of this State, heretofore enacted,
6 unless specifically designated herein, and no laws hereafter enacted shall apply to them
7 unless they be expressly designated therein.

8 The term "hospital service plan" as used in this Article and Article 66 of this Chapter
9 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
10 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
11 obstetrical equipment, accommodations and/or any and all other services authorized or
12 permitted to be furnished by a hospital under the laws of the State of North Carolina and
13 approved by the North Carolina Hospital Association and/or the American Medical
14 Association.

15 The term "medical service plan" as used in this Article and Article 66 of this Chapter
16 includes the contracting for the payment of fees toward, or furnishing of, medical,
17 obstetrical, surgical and/or any other professional services authorized or permitted to be
18 furnished by a duly licensed physician, except that in any plan in any policy of insurance
19 governed by this Article and Article 66 of this Chapter that includes services which are
20 within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a
21 duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered
22 nurse, a duly certified clinical social worker, a duly certified substance abuse
23 professional, a duly certified fee-based practicing pastoral counselor, and a duly licensed
24 physician, then the insured or beneficiary shall have the right to choose the provider of
25 the care or service, and shall be entitled to payment of or reimbursement for such care or
26 service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor,
27 a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered
28 nurse, a duly certified clinical social worker, a duly certified substance abuse
29 professional, a duly certified fee-based practicing pastoral counselor, or a duly licensed
30 physician notwithstanding any provision to the contrary contained in such policy. The
31 term "medical services plan" also includes the contracting for the payment of fees toward,
32 or furnishing of, professional medical services authorized or permitted to be furnished by
33 a duly licensed provider of health services licensed under Chapter 90 of the General
34 Statutes.

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

- 37 (1) The service performed is within the nurse's lawful scope of practice;
- 38 (2) The policy currently provides benefits for identical services performed
39 by other licensed health care providers;
- 40 (3) The service is not performed while the nurse is a regular employee in an
41 office of a licensed physician;

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

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

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

8 (b1) Payment or reimbursement is required by this section for a service performed
9 by a duly licensed pharmacist only when:

10 (1) The service performed is within the lawful scope of practice of the
11 pharmacist;

12 (2) The service performed is not initial counseling services required under
13 State or federal law or regulation of the North Carolina Board of
14 Pharmacy;

15 (3) The policy currently provides reimbursement for identical services
16 performed by other licensed health care providers; and

17 (4) The service is identified as a separate service that is performed by other
18 licensed health care providers and is reimbursed by identical payment
19 methods.

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

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

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

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

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

40 For purposes of this section, a 'duly certified substance abuse professional' is a person
41 certified by the North Carolina Substance Abuse Professionals Certification Board
42 pursuant to Article 5C of Chapter 90 of the General Statutes.

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

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

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

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

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

37 Section 3. G.S. 135-40.7B(c1) reads as rewritten:

38 "(c1) Notwithstanding any other provisions of this Part, the following providers and
39 no others may provide necessary care and treatment for chemical dependency under this
40 section:

- 41 (1) The following providers with appropriate substance abuse training and
42 experience in the field of alcohol and other drug abuse as determined by
43 the mental health case manager, in facilities described in subdivision

1 (b)(2) of this section, in day/night programs or outpatient treatment
2 facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of
3 the General Statutes or in North Carolina area programs in substance
4 abuse services are authorized to provide treatment for chemical
5 dependency under this section:

- 6 a. Licensed physicians including, but not limited to, physicians who
7 are certified in substance abuse by the American Society of
8 Addiction Medicine (ASAM);
9 b. Licensed or certified psychologists;
10 c. Psychiatrists;
11 d. Certified substance abuse counselors working under the direct
12 supervision of such physicians, psychologists, or psychiatrists;
13 e. Psychological associates with a masters degree in psychology
14 working under the direct supervision of such physicians,
15 psychologists, or psychiatrists;
16 f. Nurses working under the direct supervision of such physicians,
17 psychologists, or psychiatrists;
18 g. Certified clinical social workers;
19 h. Certified clinical specialists in psychiatric and mental health
20 nursing;
21 i. Licensed professional counselors; ~~and~~
22 j. Certified fee-based practicing pastoral counselors until July 1,
23 ~~1999~~. 1999; and
24 k. Substance abuse professionals certified under Article 5C of
25 Chapter 90 of the General Statutes.

26 (2) The following providers with appropriate substance abuse training and
27 experience in the field of alcohol and other drug abuse as determined by
28 the mental health case manager are authorized to provide treatment for
29 chemical dependency in outpatient practice settings:

- 30 a. Licensed physicians who are certified in substance abuse by the
31 American Society of Addiction Medicine (ASAM);
32 b. Licensed or certified psychologists;
33 c. Psychiatrists;
34 d. Certified substance abuse counselors working under the
35 employment and direct supervision of such physicians,
36 psychologists, or psychiatrists;
37 e. Psychological associates with a masters degree in psychology
38 working under the employment and direct supervision of such
39 physicians, psychologists, or psychiatrists;
40 f. Nurses working under the employment and direct supervision of
41 such physicians, psychologists, or psychiatrists;
42 g. Certified clinical social workers;

- 1 h. Certified clinical specialists in psychiatric and mental health
2 nursing;
3 i. Licensed professional counselors;
4 j. Licensed fee-based practicing pastoral counselors until July 1,
5 1999; ~~and~~
6 k. Substance abuse professionals certified under Article 5C of
7 Chapter 90 of the General Statutes; and
8 ~~k.l.~~ In the absence of meeting one of the criteria above, the Mental
9 Health Case Manager could consider, on a case-by-case basis, a
10 provider who supplies:
11 1. Evidence of graduate education in the diagnosis and
12 treatment of chemical dependency, and
13 2. Supervised work experience in the diagnosis and
14 treatment of chemical dependency (with supervision by an
15 appropriately credentialed provider), and
16 3. Substantive past and current continuing education in the
17 diagnosis and treatment of chemical dependency
18 commensurate with one's profession.

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

22 Section 4. This act becomes effective October 1, 1999, and applies to claims
23 for payment or reimbursement for services rendered on or after that date.