

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE DRH30179-LN-57 (3/4)

Short Title: MH Reform Waiver.

(Public)

Sponsors: Representative Insko.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TEMPORARILY WAIVE CERTAIN REQUIREMENTS OF THE MENTAL HEALTH COMMITMENT STATUTES TO FURTHER MENTAL HEALTH REFORM EFFORTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Secretary of Health and Human Services may, upon request of a phase-one local management entity, waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a), as applicable, as follows:

- (1) The Secretary has received a request from a phase-one local management entity to substitute for a physician or eligible psychologist, a licensed clinical social worker, a masters level psychiatric nurse, or a masters level certified clinical addiction specialist to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The waiver shall be implemented on a pilot-program basis. The request from the local management entity shall be submitted as part of the entity's local business plan and shall specifically describe:
 - a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
 - b. How the waiver will enable the local management entity to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.

- 1 c. How the services to be provided by the licensed clinical social
2 worker, the masters level psychiatric nurse, or the masters level
3 certified clinical addiction specialist under the waiver are within
4 each of these professional's scope of practice.
- 5 d. How the health, safety, and welfare of individuals will continue
6 to be at least as well protected under the waiver as under the
7 statutory requirement.
- 8 e. The method to be used to evaluate the effectiveness and
9 efficiency of mental health, developmental disabilities, and
10 substance abuse services and protection of health, safety, and
11 welfare under the waiver.
- 12 (2) The Secretary shall review the request and may approve it upon
13 finding that:
- 14 a. The request meets the requirements of this section.
- 15 b. The request furthers the purposes of State policy under G.S.
16 122C-2, and mental health, developmental disabilities, and
17 substance abuse services reform.
- 18 c. The request improves the delivery of mental health,
19 developmental disabilities, and substance abuse services in the
20 counties affected by the waiver and also protects the health,
21 safety, and welfare of individuals receiving these services.
- 22 d. The duties and responsibilities performed by the licensed
23 clinical social worker, the masters level psychiatric nurse, or the
24 masters level certified clinical addiction specialist are within the
25 individual's scope of practice.
- 26 (3) The waiver granted by the Secretary under this section shall be in
27 effect for a period not to exceed three years, or the period for which
28 the requesting local management entity's business plan is approved,
29 whichever is shorter.
- 30 (4) The Secretary may grant a waiver under this section only to those local
31 management entities that have been designated as phase-one entities as
32 of July 1, 2003.
- 33 (5) In no event shall the substitution of a licensed clinical social worker,
34 masters level psychiatric nurse, or masters level certified clinical
35 addiction specialist under a waiver granted under this section be
36 construed as authorization to expand the scope of practice of the
37 licensed clinical social worker, the masters level psychiatric nurse, or
38 the masters level certified clinical addiction specialist.
- 39 (6) The Department shall assure that staff performing the duties are
40 trained and privileged to perform the functions identified in the waiver.
- 41 (7) The local management entity shall assure that a psychiatrist is
42 available at all times to provide back-up services.

43 **SECTION 2.** This act becomes effective July 1, 2003, and expires July 1,

44 2006.