

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 481*

Short Title: Health Insurance: Licensed Prof'l. Counselor. (Public)

Sponsors: Senators Martin of Guilford and Soles.

Referred to: Insurance and Consumer Protection.

March 15, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR DIRECT PAYMENT OF LICENSED PROFESSIONAL
COUNSELORS UNDER HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

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

"§ 58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, certified clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, or physician assistant.

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

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the services, whether the services be performed by a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 37 (1) The service performed is within the lawful scope of practice of the
38 physician assistant in accordance with rules adopted by the North
39 Carolina Medical Board pursuant to G.S. 90-18.1;
- 40 (2) The policy currently provides reimbursement for identical services
41 performed by other licensed health care providers; and
- 42 (3) The reimbursement is made to the physician, clinic, agency, or
43 institution employing the physician assistant.

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

4 **SECTION 2.(a)** G.S. 58-65-1(a) reads as rewritten:

5 "(a) Any corporation heretofore or hereafter organized under the general
6 corporation laws of the State of North Carolina for the purpose of maintaining and
7 operating a nonprofit hospital and/or medical and/or dental service plan whereby
8 hospital care and/or medical and/or dental service may be provided in whole or in part
9 by said corporation or by hospitals and/or physicians and/or dentists participating in
10 such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and
11 shall be exempt from all other provisions of the insurance laws of this State, heretofore
12 enacted, unless specifically designated herein, and no laws hereafter enacted shall apply
13 to them unless they be expressly designated therein.

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

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

43 **SECTION 2.(b)** G.S. 58-65-1(c) reads as rewritten:

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

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

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

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

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

22 For purposes of this section, a "duly licensed professional counselor" is a person
23 licensed by the North Carolina Board of Licensed Professional Counselors pursuant to
24 Article 24 of Chapter 90 of the General Statutes.

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

29 The insured or beneficiary of every "medical service plan" and of every "dental
30 service plan," as those terms are used in this Article and Article 66 of this Chapter, or of
31 any policy of insurance issued thereunder, that includes services which are within the
32 scope of practice of both a duly licensed physician and a duly licensed dentist shall have
33 the right to choose the provider of such care or service, and shall be entitled to payment
34 of or reimbursement for such care or service, whether the provider be a duly licensed
35 physician or a duly licensed dentist notwithstanding any provision to the contrary
36 contained in any such plan or policy.

37 The term "hospital service corporation" as used in this Article and Article 66 of this
38 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
39 medical and/or dental service plan, as herein defined. Any corporation heretofore or
40 hereafter organized and coming within the provisions of this Article and Article 66 of
41 this Chapter, the certificate of incorporation of which authorizes the operation of either
42 a hospital or medical and/or dental service plan, or any or all of them, may, with the
43 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
44 approved by the Commissioner of Insurance, for the payment of either hospital or

1 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
2 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
3 them, for the furnishing of fees or services respectively under a hospital or medical
4 and/or dental service plan, or any or all of them.

5 The term "preferred provider" as used in this Article and Article 66 of this Chapter
6 with respect to contracts, organizations, policies or otherwise means a health care
7 service provider who has agreed to accept, from a corporation organized for the
8 purposes authorized by this Article and Article 66 of this Chapter or other applicable
9 law, special reimbursement terms in exchange for providing services to beneficiaries of
10 a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the
11 extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the
12 Department of Insurance not inconsistent with this Article and Article 66 of this
13 Chapter, the contractual terms and conditions for special reimbursement shall be those
14 which the corporation and preferred provider find to be mutually agreeable."

15 **SECTION 3.** This act becomes effective October 1, 2001, and applies to
16 claims for payment or reimbursement for services rendered on or after that date.