

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 954

Short Title: Ins. Payment–Clin. Social Workers.

(Public)

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Sponsors: Senators Marshall; Perdue, Basnight, and Odom.

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Referred to: Insurance.

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April 22, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT THE DIRECT PAYMENT OF CERTIFIED SOCIAL  
3 WORKERS UNDER HEALTH INSURANCE POLICIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 58-39-15 reads as rewritten:

6 **"§ 58-39-15. Definitions.**

7 As used in this Article:

8 (1) 'Adverse underwriting decision' means:

9 a. Any of the following actions with respect to insurance  
10 transactions involving insurance coverage that is individually  
11 underwritten:

12 1. A declination of insurance coverage;

13 2. A termination of insurance coverage;

14 3. Failure of an agent to apply for insurance coverage with  
15 a specific insurance institution that an agent represents  
16 and that is requested by an applicant;

17 4. In the case of a property or casualty insurance coverage:

18 I. Placement by an insurance institution or agent of  
19 a risk with a residual market mechanism or an  
20 unauthorized insurer, or

21 II. The charging of a higher rate on the basis of  
22 information that differs from that which the  
23 applicant or policyholder furnished; or



- 1 (9) 'Individual' means any natural person who:  
2 a. In the case of property or casualty insurance, is a past, present,  
3 or proposed named insured or certificate holder;  
4 b. In the case of life or accident and health insurance, is a past,  
5 present, or proposed principal insured or certificate holder;  
6 c. Is a past, present or proposed policy owner;  
7 d. Is a past or present applicant;  
8 e. Is a past or present claimant; or  
9 f. Derived, derives, or is proposed to derive insurance coverage  
10 under an insurance policy or certificate subject to this Article.
- 11 (10) 'Institutional source' means any person or governmental entity that  
12 provides information about an individual to an agent, insurance  
13 institution, or insurance-support organization, other than:  
14 a. An agent;  
15 b. The individual who is the subject of the information; or  
16 c. A natural person acting in a personal capacity rather than in a  
17 business or professional capacity.
- 18 (11) 'Insurance institution' means any corporation, association, partnership,  
19 reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit  
20 society, or other person engaged in the business of insurance,  
21 including health maintenance organizations and medical, surgical,  
22 hospital, dental, and optometric service plans, governed by Articles 65  
23 through 67 of this Chapter. 'Insurance institution' shall not include  
24 agents or insurance-support organizations.
- 25 (12) 'Insurance-support organization' means any person who regularly  
26 engages, in whole or in part, in the practice of assembling or collecting  
27 information about natural persons for the primary purpose of providing  
28 the information to an insurance institution or agent for insurance  
29 transactions, including: (i) the furnishing of consumer reports or  
30 investigative consumer reports to an insurance institution or agent for  
31 use in connection with an insurance transaction; or (ii) the collection of  
32 personal information from insurance institutions, agents, or other  
33 insurance-support organizations for the purpose of detecting or  
34 preventing fraud, material misrepresentation, or material nondisclosure  
35 in connection with insurance underwriting or insurance claim activity;  
36 provided, however, the following persons shall not be considered  
37 'insurance-support organizations' for purposes of this Article: agents,  
38 governmental institutions, insurance institutions, medical-care  
39 institutions, and medical professionals.
- 40 (13) 'Insurance transaction' means any transaction involving insurance  
41 primarily for personal, family, or household needs rather than business  
42 or professional needs that entails:  
43 a. The determination of an individual's eligibility for an insurance  
44 coverage, benefit, or payment; or

- 1                   b.     The servicing of an insurance application, policy, contract, or  
2                   certificate.
- 3           (14) 'Investigative consumer report' means a consumer report or portion  
4           thereof in which information about a natural person's character,  
5           general reputation, personal characteristics, or mode of living is  
6           obtained through personal interviews with the person's neighbors,  
7           friends, associates, acquaintances, or others who may have knowledge  
8           concerning such items of information.
- 9           (15) 'Life insurance' includes annuities.
- 10          (16) 'Medical-care institution' means any facility or institution that is  
11          licensed to provide health care services to natural persons, including  
12          but not limited to, hospitals, skilled nursing facilities, home-health  
13          agencies, medical clinics, rehabilitation agencies, public health  
14          agencies, or health-maintenance organizations.
- 15               (17) 'Medical professional' means any person licensed or  
16               certified to provide health care services to natural persons, including  
17               but not limited to, a physician, dentist, nurse, chiropractor,  
18               optometrist, physical or occupational therapist, ~~psychiatric~~-certified  
19               clinical social worker, clinical dietitian, clinical psychologist,  
20               pharmacist, or speech therapist.
- 21          (18) 'Medical-record information' means personal information that:  
22               a.     Relates to an individual's physical or mental condition, medical  
23               history, or medical treatment; and  
24               b.     Is obtained from a medical professional or medical-care  
25               institution, from the individual, or from the individual's spouse,  
26               parent, or legal guardian.
- 27          (19) 'Personal information' means any individually identifiable information  
28          gathered in connection with an insurance transaction from which  
29          judgments can be made about an individual's character, habits,  
30          avocations, finances, occupation, general reputation, credit, health, or  
31          any other personal characteristics. 'Personal information' includes an  
32          individual's name and address and medical-record information, but  
33          does not include privileged information.
- 34          (20) 'Policyholder' means any person who:  
35               a.     In the case of individual property or casualty insurance, is a  
36               present named insured;  
37               b.     In the case of individual life or accident and health insurance, is  
38               a present policy owner; or  
39               c.     In the case of group insurance that is individually underwritten,  
40               is a present group certificate holder.
- 41          (21) 'Pretext interview' means an interview whereby a person, in an attempt  
42          to obtain information about a natural person, performs one or more of  
43          the following acts:  
44               a.     Pretends to be someone he is not;

- 1                   b.     Pretends to represent a person he is not in fact representing;  
 2                   c.     Misrepresents the true purpose of the interview; or  
 3                   d.     Refuses to identify himself upon request.

4           (22) 'Privileged information' means any individually identifiable  
 5 information that (i) relates to a claim for insurance benefits or a civil or  
 6 criminal proceeding involving an individual, and (ii) is collected in  
 7 connection with or in reasonable anticipation of a claim for insurance  
 8 benefits or civil or criminal proceeding involving an individual:  
 9 Provided, however, information otherwise meeting the requirements of  
 10 this subsection shall nevertheless be considered personal information  
 11 under this Article if it is disclosed in violation of G.S. 58-39-75.

12           (23) 'Residual market mechanism' means any reinsurance facility, joint  
 13 underwriting association, assigned risk plan, or other similar plan  
 14 established under the laws of this State.

15           (24) 'Termination of insurance coverage' or 'termination of an insurance  
 16 policy' means either a cancellation or nonrenewal of an insurance  
 17 policy, in whole or in part, for any reason other than the failure to pay  
 18 a premium as required by the policy.

19           (25) 'Unauthorized insurer' means an insurance institution that has not been  
 20 granted a license by the Commissioner to transact the business of  
 21 insurance in this State."

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

23 **"§ 58-50-30. Discrimination forbidden; right to choose services of optometrist,  
 24 podiatrist, ~~dentist~~ dentist, certified clinical social worker, or chiropractor.**

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

29           Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter  
 30 provides for payment of or reimbursement for any service which is within the scope of  
 31 practice ~~of~~ of:

- 32           (1)    a duly licensed ~~optometrist, or~~ optometrist;  
 33           (2)    a duly licensed podiatrist, or ~~podiatrist~~;  
 34           (3)    a duly licensed ~~dentist, or~~ dentist;  
 35           (4)    a duly certified clinical social worker; or  
 36           (5)    a duly licensed chiropractor, or ~~chiropractor~~; or  
 37           (6)    a duly licensed practicing psychologist,

38 the insured or other persons entitled to benefits under such policy shall be entitled to  
 39 payment of or reimbursement for such services, whether such services be performed ~~by~~  
 40 by:

- 41           (1)    a duly licensed ~~physician or~~ physician;  
 42           (2)    a duly licensed ~~optometrist, or~~ optometrist;  
 43           (3)    a duly licensed ~~podiatrist, or~~ podiatrist;  
 44           (4)    a duly licensed ~~dentist or~~ dentist;

- 1           (5) a duly certified clinical social worker;  
 2           (6) a duly licensed ~~chiropractor, or chiropractor;~~ or  
 3           (7) a duly licensed practicing psychologist,  
 4 notwithstanding any provision contained in such policy.

5 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter  
 6 provides for certification of disability which is within the scope of practice ~~of~~ of:

- 7           (1) a duly licensed ~~physician, or physician;~~  
 8           (2) a duly licensed ~~optometrist, or optometrist;~~  
 9           (3) a duly licensed ~~podiatrist, or podiatrist;~~  
 10          (4) a duly licensed ~~dentist, or dentist;~~  
 11          (5) a duly certified social worker;  
 12          (6) a duly licensed ~~chiropractor, or chiropractor;~~ or  
 13          (7) a duly licensed practicing psychologist,

14 the insured or other persons entitled to benefits under such policy shall be entitled to  
 15 payment of or reimbursement for such disability whether such disability be certified ~~by~~  
 16 by:

- 17          (1) a duly licensed ~~physician, or physician;~~  
 18          (2) a duly licensed ~~optometrist, or optometrist;~~  
 19          (3) a duly licensed ~~podiatrist, or podiatrist;~~  
 20          (4) a duly licensed ~~dentist, or dentist;~~  
 21          (5) a duly certified social worker;  
 22          (6) a duly licensed ~~chiropractor, or chiropractor;~~ or  
 23          (7) a duly licensed practicing psychologist,

24 notwithstanding any provisions contained in such policy.

25 The policyholder, insured, or beneficiary shall have the right to choose the provider  
 26 of such services notwithstanding any provision to the contrary in any other statute.

27 For the purposes of this section, a 'duly licensed practicing psychologist' shall be  
 28 defined to only include a psychologist who is duly licensed or certified in the State of  
 29 North Carolina and has a doctorate degree in psychology and at least two years clinical  
 30 experience in a recognized health setting, or has met the standards of the National  
 31 Register of Health Providers in Psychology.

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

36 Sec. 3. G.S. 135-40.7B(c) reads as rewritten:

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

- 39          (1) licensed ~~psychiatrists and doctors~~ psychiatrists;  
 40          (2) licensed or certified doctors of ~~psychology~~ psychology;  
 41          (3) ~~licensed or certified in their states of practice,~~ certified clinical social  
 42          workers;  
 43          (4) psychiatric ~~nurses or nurses~~;  
 44          (5) other social workers ~~workers;~~ or

- 1           (6)   psychological associates with a master's degree in psychology under  
2           the direct employment and supervision of a licensed psychiatrist or  
3           licensed or certified doctor of ~~psychology, psychology;~~  
4           (7)   licensed psychiatric hospitals and licensed general hospitals providing  
5           psychiatric treatment ~~programs~~ programs; and  
6           (8)   certified residential treatment facilities, community mental health  
7           centers, and partial hospitalization facilities."

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

9           "(c)   Notwithstanding any other provision of this Part, provisions for benefits for  
10          necessary care and treatment of chemical dependency under this Part shall provide for  
11          benefit payments for the following providers of necessary care and treatment of  
12          chemical dependency:

- 13           (1)   The following units of a general hospital licensed under Article 5 of  
14           General Statutes Chapter 131E:  
15           a.     Chemical dependency units in facilities licensed after October  
16           1, 1984;  
17           b.     Medical units;  
18           c.     Psychiatric units; and  
19           (2)   The following facilities licensed after July 1, 1984, under Article 2 of  
20           General Statutes Chapter 122C:  
21           a.     Chemical dependency units in psychiatric hospitals;  
22           b.     Chemical dependency hospitals;  
23           c.     Residential chemical dependency treatment facilities;  
24           d.     Social setting detoxification facilities or programs;  
25           e.     Medical detoxification facilities or programs; and  
26           (3)   Duly licensed physicians and duly licensed practicing ~~psychologists~~  
27           psychologists, certified clinical social workers, and certified  
28           professionals working under the direct supervision of such physicians  
29           or psychologists in facilities described in (1) and (2) above and in  
30           day/night programs or outpatient treatment facilities licensed after July  
31           1, 1984, under Article 2 of General Statutes Chapter 122C.

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

35          Sec. 5. This act becomes effective October 1, 1993.