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SENATE BILL 954
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Short Title: Ins. Payment–Clin. Social Workers.

(Public)

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

Referred to: Insurance.

April 22, 1993

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

The General Assembly of North Carolina enacts:

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

"§ 58-39-15. Definitions.

As used in this Article:

(1) 'Adverse underwriting decision' means:

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

1. A declination of insurance coverage;
2. A termination of insurance coverage;
3. Failure of an agent to apply for insurance coverage with a specific insurance institution that an agent represents and that is requested by an applicant;
4. In the case of a property or casualty insurance coverage:
 - I. Placement by an insurance institution or agent of a risk with a residual market mechanism or an unauthorized insurer, or
 - II. The charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished; or

- 1 5. In the case of a life or accident and health insurance
2 coverage, an offer to insure at higher than standard rates.
- 3 b. Notwithstanding subdivision (1)a of this section, the following
4 actions shall not be considered adverse underwriting decisions,
5 but the insurance institution or agent responsible for their
6 occurrence shall nevertheless provide the applicant or
7 policyholder with the specific reason or reasons for their
8 occurrence:
- 9 1. The termination of an individual policy form on a class
10 or statewide basis;
- 11 2. A declination of insurance coverage solely because such
12 coverage is not available on a class or statewide basis; or
- 13 3. The rescission of a policy.
- 14 (2) 'Affiliate' or 'affiliated' means a person that directly, or indirectly
15 through one or more intermediaries, controls, is controlled by, or is
16 under common control with another person.
- 17 (3) 'Agent' shall have the meaning as set forth in Article 33 of this Chapter
18 and shall include limited representatives, surplus lines licensees,
19 salesmen, or representatives of a medical, surgical, hospital, dental, or
20 optometric service plan, and salesmen or representatives of a health
21 maintenance organization.
- 22 (4) 'Applicant' means any person who seeks to contract for insurance
23 coverage other than a person seeking group insurance that is not
24 individually underwritten.
- 25 (5) 'Consumer report' means any written, oral, or other communication of
26 information bearing on a natural person's credit worthiness, credit
27 standing, credit capacity, character, general reputation, personal
28 characteristics, or mode of living that is used or expected to be used in
29 connection with an insurance transaction.
- 30 (6) 'Consumer reporting agency' means any person who:
- 31 a. Regularly engages, in whole or in part, in the practice of
32 assembling or preparing consumer reports for a monetary fee;
- 33 b. Obtains information primarily from sources other than
34 insurance institutions; and
- 35 c. Furnishes consumer reports to other persons.
- 36 (7) 'Control,' including the terms 'controlled by' or 'under common control
37 with,' means the possession, direct or indirect, of the power to direct or
38 cause the direction of the management and policies of a person,
39 whether through the ownership of voting securities, by contract other
40 than a commercial contract for goods or nonmanagement services, or
41 otherwise, unless the power is the result of an official position with or
42 corporate office held by the person.
- 43 (8) 'Declination of insurance coverage' means a denial, in whole or in part,
44 by an insurance institution or agent of requested insurance coverage.

- 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;
- 41 (3) ~~licensed or certified in their states of practice,~~ certified clinical social
42 workers;
- 43 (4) psychiatric nurses under the direct employment and supervision of a
44 licensed psychiatrist or licensed doctor of psychology; ~~or~~

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

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

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

- 15 (1) The following units of a general hospital licensed under Article 5 of
16 General Statutes Chapter 131E:
17 a. Chemical dependency units in facilities licensed after October
18 1, 1984;
19 b. Medical units;
20 c. Psychiatric units; and
21 (2) The following facilities licensed after July 1, 1984, under Article 2 of
22 General Statutes Chapter 122C:
23 a. Chemical dependency units in psychiatric hospitals;
24 b. Chemical dependency hospitals;
25 c. Residential chemical dependency treatment facilities;
26 d. Social setting detoxification facilities or programs;
27 e. Medical detoxification facilities or programs; and
28 (3) Duly licensed physicians and duly licensed practicing psychologists
29 psychologists, certified clinical social workers, and certified
30 professionals working under the direct supervision of such physicians
31 or psychologists in facilities described in (1) and (2) above and in
32 day/night programs or outpatient treatment facilities licensed after July
33 1, 1984, under Article 2 of General Statutes Chapter 122C.

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

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