

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 883
Committee Substitute Favorable 4/28/03
Committee Substitute #2 Favorable 4/29/03
Senate Health & Human Resources Committee Substitute Adopted 5/15/03**

Short Title: MH Reform Waiver.

(Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN
2 SERVICES TO TEMPORARILY WAIVE CERTAIN REQUIREMENTS OF THE
3 MENTAL HEALTH COMMITMENT STATUTES TO FURTHER MENTAL
4 HEALTH REFORM EFFORTS.
5

6 The General Assembly of North Carolina enacts:

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

- 13 (1) The Secretary has received a request from a phase-one local
14 management entity to substitute for a physician or eligible
15 psychologist, a licensed clinical social worker, a masters level
16 psychiatric nurse, or a masters level certified clinical addictions
17 specialist to conduct the initial (first-level) examinations of individuals
18 meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). The
19 waiver shall be implemented on a pilot-program basis. The request
20 from the local management entity shall be submitted as part of the
21 entity's local business plan and shall specifically describe:
- 22 a. How the purpose of the statutory requirement would be better
23 served by waiving the requirement and substituting the
24 proposed change under the waiver.
 - 25 b. How the waiver will enable the local management entity to
26 improve the delivery or management of mental health,
27 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 addictions specialist under the waiver are
4 within 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 (2) The Secretary shall review the request and may approve it upon
9 finding that:
- 10 a. The request meets the requirements of this section.
- 11 b. The request furthers the purposes of State policy under G.S.
12 122C-2 and mental health, developmental disabilities, and
13 substance abuse services reform.
- 14 c. The request improves the delivery of mental health,
15 developmental disabilities, and substance abuse services in the
16 counties affected by the waiver and also protects the health,
17 safety, and welfare of individuals receiving these services.
- 18 d. The duties and responsibilities performed by the licensed
19 clinical social worker, the masters level psychiatric nurse, or the
20 masters level certified clinical addictions specialist are within
21 the individual's scope of practice.
- 22 (3) The Secretary shall evaluate the effectiveness, quality, and efficiency
23 of mental health, developmental disabilities, and substance abuse
24 services and protection of health, safety, and welfare under the waiver.
25 The Secretary shall send a report on the evaluation to the Joint
26 Legislative Oversight Committee on Mental Health, Developmental
27 Disabilities, and Substances Abuse Services on or before July 1, 2006.
- 28 (4) The waiver granted by the Secretary under this section shall be in
29 effect for a period not to exceed three years, or the period for which
30 the requesting local management entity's business plan is approved,
31 whichever is shorter.
- 32 (5) The Secretary may grant a waiver under this section to up to five local
33 management entities that have been designated as phase-one entities as
34 of July 1, 2003.
- 35 (6) In no event shall the substitution of a licensed clinical social worker,
36 masters level psychiatric nurse, or masters level certified clinical
37 addictions specialist under a waiver granted under this section be
38 construed as authorization to expand the scope of practice of the
39 licensed clinical social worker, the masters level psychiatric nurse, or
40 the masters level certified clinical addictions specialist.
- 41 (7) The Department shall assure that staff performing the duties are
42 trained and privileged to perform the functions identified in the waiver.
43 The Department shall involve stakeholders including, but not limited
44 to, the North Carolina Psychiatric Association, The North Carolina

- 1 Nurses Association, National Association of Social Workers, The
2 North Carolina Substance Abuse Professional Certification Board,
3 North Carolina Psychological Association, The North Carolina Society
4 for Clinical Social Work, and the North Carolina Medical Society in
5 developing required staff competencies.
6 (8) The local management entity shall assure that a physician is available
7 at all times to provide backup support to include telephone
8 consultation and face-to-face evaluation, if necessary.
9 **SECTION 2.** This act becomes effective July 1, 2003, and expires July 1,
10 2006.