

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 248
Health Care Committee Substitute Adopted 4/17/13
Third Edition Engrossed 5/14/13

Short Title: Choice of Hearing Aid Specialist.

(Public)

Sponsors:

Referred to:

March 12, 2013

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT PATIENTS HAVE THE RIGHT TO CHOOSE THEIR HEARING AID SPECIALIST UNDER THEIR HEALTH BENEFIT PLANS, TO AUTHORIZE THE NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES, AND TO MAKE TECHNICAL CHANGES TO THE STATUTE ON CHOOSING SERVICES OF PROVIDERS.

The General Assembly of North Carolina enacts:

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

"§ 58-50-30. **Right to choose services of ~~optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, physical therapist, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.~~ certain providers.**

(a) Repealed by Session Laws 2001-297, s. 1, effective January 1, 2001.

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage 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 licensed physical therapist, a duly licensed 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, a duly licensed marriage and family therapist, or an advanced practice registered nurse, a provider listed in subsection (b) of this section,~~ the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in ~~this subsection,~~ subsection (b) of this section, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

(1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and



1 (2) In the case of plans that require the use of network providers as a condition
2 of obtaining a higher level of benefits under the plan or policy, the
3 policyholder, insured, or beneficiary must choose a provider of the services
4 within the network in order to obtain the higher level of benefits.

5 (a2) Whenever any policy of insurance governed by Articles 1 through 64 of this
6 Chapter provides for certification of disability that is within the scope of practice of a ~~duly~~
7 ~~licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly~~
8 ~~licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed~~
9 ~~physical therapist, a duly licensed clinical social worker, a duly certified substance abuse~~
10 ~~professional, a duly licensed professional counselor, a duly licensed psychologist, a duly~~
11 ~~certified fee based practicing pastoral counselor, a duly licensed marriage and family therapist,~~
12 ~~or an advanced practice registered nurse, a provider listed in subsection (b) of this section,~~ the
13 insured or other persons entitled to benefits under the policy shall be entitled to payment of or
14 reimbursement for the disability whether the disability be certified by a duly licensed physician,
15 or a provider listed in ~~this subsection,~~ subsection (b) of this section, notwithstanding any
16 provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right
17 to choose the provider of the services notwithstanding any provision to the contrary in any
18 other statute; provided that for plans that require the use of network providers either as a
19 condition of obtaining benefits under the plan or policy or to access a higher level of benefits
20 under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the
21 services within the network, subject to the requirements of the plan or policy.

22 (a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued
23 by a health maintenance organization, hospital or medical service corporation, or insurer
24 governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary
25 treatment, the insurer shall not impose any limitation on treatment or levels of coverage if
26 performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice
27 as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary
28 treatment if performed or authorized by any other duly licensed physician.

29 (b) ~~For the purposes of this section, This section applies to the following provider types:~~

30 (1) A duly licensed optometrist.

31 (2) A duly licensed dentist.

32 (3) A duly licensed podiatrist.

33 (4) A duly licensed chiropractor.

34 (5) An advanced practice registered nurse, subject to subsection (d) of this
35 section. For purposes of this section, an "advanced practice registered nurse"
36 means only a registered nurse who is duly licensed or certified as a nurse
37 practitioner, clinical specialist in psychiatric and mental health nursing, or
38 nurse midwife.

39 (6) ~~a "duly licensed psychologist" is a:~~ A psychologist who is one of the
40 following:

41 (1)a. ~~Licensed~~ A licensed psychologist who holds permanent licensure and
42 certification as a health services provider psychologist issued by the
43 North Carolina Psychology ~~Board; or~~ Board.

44 (2)b. ~~Licensed~~ A licensed psychological associate who holds permanent
45 licensure.

46 (c)(7) ~~For the purposes of this section, a "duly licensed clinical social worker" is a~~
47 ~~"licensed clinical social worker"~~ A licensed clinical social worker, as defined
48 in G.S. 90B-3(2) and G.S. 90B-3(2) who is licensed by the North Carolina
49 Social Work Certification and Licensure Board pursuant to Chapter 90B of
50 the General Statutes.

1 (8) A duly licensed pharmacist, subject to the provisions of subsection (e) of this
2 section.

3 ~~(e1)(9) For purposes of this section, a "duly certified fee-based practicing pastoral~~
4 ~~counselor" shall be defined only to include~~A fee-based practicing pastoral
5 ~~counselors~~counselor certified by the North Carolina State Board of
6 Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article
7 26 of Chapter 90 of the General Statutes.

8 ~~(e2)(10) For purposes of this section, a "duly certified substance abuse~~
9 ~~professional" is a person~~A substance abuse professional certified by the
10 North Carolina Substance Abuse Professional Certification Board pursuant
11 to Article 5C of Chapter 90 of the General Statutes.

12 (11) A physician assistant, as defined by G.S. 90-18.1 and subject to subsection
13 (f) of this section.

14 ~~(e3)(12) For purposes of this section, a "duly licensed professional counselor" is a~~
15 ~~person~~A professional counselor licensed by the North Carolina Board of
16 Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the
17 General Statutes.

18 ~~(e4)(13) For purposes of this section, a "duly licensed marriage and family~~
19 ~~therapist" is a person~~A marriage and family therapist licensed by the North
20 Carolina Marriage and Family Therapy Licensure Board pursuant to Article
21 18C of Chapter 90 of the General Statutes.

22 ~~(e5)(14) For purposes of this section, a "duly licensed physical therapist" is a~~
23 ~~person~~A physical therapist licensed by the North Carolina Board of Physical
24 Therapy Examiners pursuant to Article 18B of Chapter 90 of the General
25 Statutes.

26 (15) A hearing aid specialist licensed by the North Carolina State Hearing Aid
27 Dealers and Fitters Board under Chapter 93D of the General Statutes to
28 engage in fitting or selling hearing aids. For purposes of this subdivision, the
29 term "fitting and selling hearing aids" has the same meaning as defined in
30 G.S. 93D-1.

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

33 (1) The service performed is within the nurse's lawful scope of practice;

34 (2) The policy currently provides benefits for identical services performed by
35 other licensed health care providers;

36 (3) The service is not performed while the nurse is a regular employee in an
37 office of a licensed physician;

38 (4) The service is not performed while the registered nurse is employed by a
39 nursing facility (including a hospital, skilled nursing facility, intermediate
40 care facility, or home care agency); and

41 (5) Nothing in this section is intended to authorize payment to more than one
42 provider for the same service.

43 No lack of signature, referral, or employment by any other health care provider may be asserted
44 to deny benefits under this provision, unless these plan requirements apply to all providers for
45 that service.

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

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

- 1 (1) The service performed is within the lawful scope of practice of the
2 pharmacist;
- 3 (2) The service performed is not initial counseling services required under State
4 or federal law or regulation of the North Carolina Board of Pharmacy;
- 5 (3) The policy currently provides reimbursement for identical services
6 performed by other licensed health care providers; and
- 7 (4) The service is identified as a separate service that is performed by other
8 licensed health care providers and is reimbursed by identical payment
9 methods.

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

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

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

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

24 (g) A health maintenance organization, hospital or medical service corporation, or
25 insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation
26 in its provider network or from eligibility to provide particular covered services under the plan
27 or policy any duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section,
28 acting within the scope of the provider's license or certification under North Carolina law,
29 solely on the basis of the provider's license or certification. Any health maintenance
30 organization, hospital or medical service corporation, or insurer governed by Articles 1 through
31 67 of this Chapter that offers coverage through a network plan may condition participation in
32 the network on satisfying written participation criteria, including credentialing, quality, and
33 accessibility criteria. The participation criteria shall be developed and applied in a like manner
34 consistent with the licensure and scope of practice for each type of provider. Any health
35 maintenance organization, hospital or medical service corporation, or insurer governed by
36 Articles 1 through 67 of this Chapter that excludes a provider listed in subsection ~~(a1)~~(b) of this
37 section from participation in its network or from eligibility to provide particular covered
38 services under the plan or policy shall provide the affected listed provider with a written
39 explanation of the basis for its decision. A health maintenance organization, hospital or medical
40 service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not
41 exclude from participation in its provider network a provider listed in subsection ~~(a1)~~(b) of this
42 section acting within the scope of the provider's license or certification under North Carolina
43 law solely on the basis that the provider lacks hospital privileges, unless use of hospital services
44 by the provider on behalf of a policy holder, insured, or beneficiary reasonably could be
45 expected.

46 (h) Nothing in this section shall be construed as expanding the scope of practice of any
47 duly licensed physician or provider listed in subsection ~~(a1)~~(b) of this section."

48 **SECTION 2.** G.S. 93D-5 reads as rewritten:

49 **"§ 93D-5. Requirements for registration; examinations; licenses.**

50 (a) No person shall begin the fitting and selling of hearing aids in this State unless the
51 person has been issued a license by the Board or is an apprentice working under the supervision

1 of a Registered Sponsor. Except as hereinafter provided, each applicant for a license shall pay a
2 fee set by the Board, not to exceed ~~two hundred fifty dollars (\$250.00)~~, five hundred dollars
3 (\$500.00), which fee may be prorated by the Board, and shall show to the satisfaction of the
4 Board that the applicant:

- 5 (1) Is a person of good moral character.
- 6 (2) Is 18 years of age or older.
- 7 (3) Has an education equivalent to a four-year course in an accredited high
8 school.

9"

10 **SECTION 3.** G.S. 135-48.51(12) reads as rewritten:

11 "(12) G.S. 58-50-30, Right to choose services of ~~optometrist, podiatrist, licensed~~
12 ~~clinical social worker, certified substance abuse professional, licensed~~
13 ~~professional counselor, dentist, physical therapist, chiropractor,~~
14 ~~psychologist, pharmacist, certified fee based practicing pastoral counselor,~~
15 ~~advanced practice nurse, licensed marriage and family therapist, or physician~~
16 ~~assistant.certain providers."~~

17 **SECTION 4.** This act becomes effective October 1, 2013.