GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 569
SENATE BILL 803

AN ACT TO CLARIFY THE LAWS RELATING TO THE STATE'S JURISDICTION OVER PROVIDERS OF HEALTH CARE BENEFITS, TO MAKE TECHNICAL AND OTHER AMENDMENTS TO THE PROVISIONS OF THE HEALTH CARE REFORM ACT OF 1993 CONCERNING SMALL EMPLOYER HEALTH PLANS, AND TO MAKE TECHNICAL AMENDMENTS TO AND DELAY THE IMPLEMENTATION OF THE DISTRICT DIVERSITY REQUIREMENT UNDER THE PSYCHOLOGY PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-49-1 reads as rewritten:

"**§ 58-49-1. Purposes.**

The purposes of this ~~Article~~ section and G.S. 58-49-5 through G.S. 58-49-25 are: To give the State jurisdiction over providers of health care benefits; to indicate how each provider of health care benefits may show under what jurisdiction it falls; to allow for examinations by the State if the provider of health care benefits is unable to show it is subject to the exclusive jurisdiction of another ~~jurisdiction;~~ governmental agency; to make such a provider of health care benefits subject to the laws of the State if it cannot show that it is subject to the exclusive jurisdiction of another ~~jurisdiction;~~ governmental agency; and to disclose the purchasers of such health care benefits whether or not the plans are fully insured."

Sec. 2. G.S. 58-49-5 reads as rewritten:

"**§ 58-49-5. Authority and jurisdiction of Commissioner.**

Notwithstanding any other provision of law, and except as provided in this Article, any person that provides coverage in this State for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, ~~prefessional~~ professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the exclusive jurisdiction of the Commissioner, unless the person shows that while providing such services it is subject to the jurisdiction of another agency or subdivision of this State or of the federal government."

Sec. 3. G.S. 58-49-10 reads as rewritten:

"**§ 58-49-10. How to show jurisdiction.**

A person may show that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or the federal government, by providing to the Commissioner the appropriate certificate, license, or other document issued by the other governmental agency that permits or qualifies it to provide those services. If no

documentation is issued by that other agency, the person may provide a certification by an official of that agency that states that the person is under the exclusive jurisdiction of that agency."

Sec. 4. G.S. 58-49-15 reads as rewritten:

"**§ 58-49-15. Examination.**

Any person that is unable to show under G.S. 58-49-10 that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or of the federal government, shall submit to an examination by the Commissioner to determine the organization and solvency of the person, and to determine whether or not such person complies with the applicable provisions of ~~Articles 1 through 64 or 65 and 66 or 67 of~~ this Chapter."

Sec. 5. G.S. 58-49-20 reads as rewritten:

"**§ 58-49-20. Subject to State laws.**

Any person unable to show that it is subject to the exclusive jurisdiction of another agency or subdivision of this State or the federal government, shall be subject to all appropriate provisions of ~~Articles 1 through 64 or 65 and 66 or 67 of~~ this Chapter regarding the conduct of its business."

Sec. 6. G.S. 58-50-110 is amended by adding a new subdivision to read:

"(5a) 'Case characteristics' means the demographic factors age, gender, family size, and geographic location."

Sec. 7. G.S. 58-50-130(a) is amended by adding a new subdivision to read:

"(4a) A carrier may continue to enforce reasonable employer participation and contribution requirements on small employers applying for coverage; however, participation and contribution requirements may vary among small employers only by the size of the small employer group and shall not differ because of the health benefit plan involved. In applying minimum participation requirements to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether an applicable participation level is met. 'Qualifying existing coverage' means benefits or coverage provided under: (i) Medicare, Medicaid, and other government funded programs; or (ii) an employer-based health insurance or health benefit arrangement, including a self-insured plan, that provides benefits similar to or in excess of benefits provided under the basic health care plan. An accountable health carrier shall not enforce participation or contribution requirements on member small employers, as defined in G.S. 143-622(18), unless those requirements meet with the standards adopted by the North Carolina Health Purchasing Alliance Board."

Sec. 8. G.S. 58-50-130(b) reads as rewritten:

"(b) For all small employer health benefit plans that are subject to this section and are issued on or after January 1, 1995, premium rates for health benefit plans subject to this section are subject to the following provisions:

(1) Small employer carriers shall use an adjusted-community rating methodology in which the premium for each small employer can vary only on the basis of the eligible employee's or dependent's age as determined in accordance with subdivision (6) of this subsection, the gender of the eligible employee or dependent, number of family members covered, or geographic area as determined under subdivision (7) of this subsection;

(2) Rating factors related to age, gender, number of family members covered, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to the Commissioner's review;

(3) Small employer carriers shall not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changed by twenty percent (20%) or more or benefits are changed;

(4) Carriers participating in an Alliance in accordance with the Health Care Purchasing Alliance Act may apply a different community rate to business written in that Alliance;

(5) In the case of health benefit plans issued before January 1, 1995, a premium rate for a rating period, adjusted pro rata for any rating period of less than one year, may vary from the adjusted community ~~rating index line,~~ rate, as determined by the small employer carrier and in accordance with subdivisions (1), (2), (3), and (4) of this subsection, for a period of two years after January 1, 1995, as follows:

a. On January 1, 1995, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system ~~for that class of business~~ shall not vary from the adjusted community rate by more than twenty percent ~~(20%) of the index rate,~~ (20%), adjusted pro rata for any rating period of less than one year;

b. On January 1, 1996, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system ~~for that class of business~~ shall not vary from the adjusted community rate by more than ten percent ~~(10%) of the index rate,~~ (10%), adjusted pro rata for any rating period of less than one year; and

c. On January 1, 1997, all small employer benefit plans that are subject to this section and are issued by small employer carriers before January 1, ~~1997,~~ 1995, and that are renewed on or after January 1, 1997, renewal rates shall be based on the same adjusted community rating standard applied to new business.

(6) For the purposes of subsection (b) of this section, a small employer carrier shall not use age brackets of less than five years;

(7) For the purposes of subsection (b) of this section, a carrier shall not apply different geographic rating factors to the rates of small employers located within the same county; and

(8) The Department ~~of Insurance may, by rule, establish regulations~~ may adopt rules to administer this subsection and to assure that rating practices used by small employer carriers are consistent with the purposes of this subsection. Those ~~regulations~~ rules shall include consideration of differences based on the following:

a. Health benefit plans that use different provider network arrangements may be considered separate plans for the purposes of determining the rating in subdivision (1) of this subsection, provided that the different arrangements are expected to result in substantial differences in claims costs;

b. Except as provided for in sub-subdivision a. ~~above,~~ of this subdivision, differences in premium rates charged for different health benefit plans shall be reasonable and reflect objective differences in plan design, but shall not permit differences in premium rates ~~due to~~ because of the demographics of groups assumed to select particular health benefit plans; and

c. Small employer carriers shall apply allowable rating factors consistently with respect to all small employers. Adjustments in rates for age, gender, and geography shall not be applied individually. Any such adjustment shall be applied uniformly to the rate charged for all employee enrollees of the small employer."

Sec. 9. G.S. 58-53-50(5) reads as rewritten:

"(5) He failed to continue his insurance for the entire maximum period of ~~three consecutive months~~ one year following termination of active employment as provided for in Part 1 of this Article, unless that failure to continue was ~~due to a~~ because of change of insurer by the employer and ~~said~~ the change of insurer was consummated during the ~~three-month~~ one year continuation period. In that event the employee or member shall be entitled to be issued a converted policy by the insurer that provided the group policy to the employer ~~prior to~~ before the change of insurer."

Sec. 10. G.S. 58-53-55 reads as rewritten:

"**§ 58-53-55. Time limit.**

In order to be eligible for conversion, written application and the first premium payment for the converted policy must be made to the insurer not later than 31 days after the date of termination of insurance provided under Part 1 of this Article. The effective date of the converted policy shall be the day following the later of:

(1) The termination of insurance under the group policy when it is not replaced by one providing similar coverage within 31 days of the termination date of the immediately prior group plan; or

(2) The termination of the ~~three months~~ one year of continued coverage under the group policy or policies."

Sec. 11. G.S. 143-623 reads as rewritten:

"**§ 143-623. Health benefit plans subject to Article.**

A health benefit plan is subject to this Article if it provides health benefits for small employers in accordance with the criteria set forth in G.S. 58-50-115 and is issued through an alliance pursuant to G.S. 143-628. ~~and if any of the following conditions are met:~~

~~(1) Any part of the premiums or benefits is paid by a small employer, or any covered individual is reimbursed, whether through wage or adjustments or otherwise, by a small employer for any portion of the premium;~~

~~(2) The health benefit plan is treated by the employer or any of the covered self-employed individuals as part of a plan or program for the purposes of Sections 106, 125, or 162 of the United States Internal Revenue Code; or~~

~~(3) The small employer has permitted payroll deductions for the eligible enrollees for the health benefit plans~~."

Sec. 12. G.S. 143-625 is amended by adding a new subsection to read:

"(k) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the Board, or its employees or agents, for any action taken in good faith by them in the performance of their powers and duties as defined under G.S. 143-626."

Sec. 13. G.S. 90-270.20(a) reads as rewritten:

"(a) Health services, as defined in ~~G.S. 90-270.2(e) and G.S. 90-270.2(h),~~ G.S. 90-270.2(4) and G.S. 90-270.2(8), may be provided by qualified licensed psychological associates, qualified licensed psychologists holding provisional, temporary, or permanent licenses, or qualified applicants. Qualified licensed psychological associates, qualified licensed psychologists holding provisional or temporary licenses, or qualified applicants may provide health services only under supervision as specified in the duly adopted rules of the Board."

Sec. 14. G.S. 90-270.2(5) reads as rewritten:

"(5) Institution of higher education. – A university, a college, a professional school, or another institution of higher learning that:

a. In the United States, is regionally accredited by bodies approved by the ~~Council on~~ Commission on Recognition of Postsecondary ~~Accreditation.~~ Accreditation or its successor.

b. In Canada, holds a membership in the Association of Universities and Colleges of Canada.

c. In another country, is accredited by the comparable official organization having this authority."

Sec. 15. Section 7 of Chapter 375 of the Session Laws of 1993 reads as rewritten:

"Sec. 7. This act becomes effective October 1, 1993. The Governor shall implement the requirement under G.S. 90-270.6 that Board members reside in different congressional districts by taking this factor into account when ~~vacancies occur in the current terms or the current terms expire.~~ filling vacancies on or after July 1, 1995, and when making appointments to terms that commence on or after July 1, 1995."

Sec. 16. Sections 6 through 8 of this act become effective January 1, 1995. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 1994.

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Dennis A. Wicker
President of the Senate

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Daniel Blue, Jr.
Speaker of the House of Representatives