

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 678
Committee Substitute Favorable 4/26/99

Short Title: Acupuncturist Reimbursement.

(Public)

Sponsors:

Referred to:

March 29, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR EQUAL TREATMENT FOR ACUPUNCTURISTS
3 WITH RESPECT TO INSURANCE REIMBURSEMENT.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 58-50-30. (Effective July 1, 1999) Discrimination forbidden; right to choose**
7 **services of optometrist, podiatrist, certified clinical social worker, dentist,**
8 **chiropractor, psychologist, pharmacist, ~~or~~ advanced practice registered**
9 **nurse, nurse, or acupuncturist.**

10 (a) Discrimination between individuals of the same class in the amount of
11 premiums or rates charged for any policy of insurance covered by Articles 50 through 55
12 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of
13 the policy, or in any other manner whatsoever, is prohibited.

14 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
15 provides for payment of or reimbursement for any service rendered in connection with a
16 condition or complaint that is within the scope of practice of a duly licensed optometrist,
17 a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly
18 certified clinical social worker, a duly licensed psychologist, a duly licensed pharmacist,
19 ~~or~~ an advanced practice registered nurse, or a duly licensed acupuncturist, the insured or

1 other persons entitled to benefits under the policy shall be entitled to payment of or
2 reimbursement for the services, whether the services be performed by a duly licensed
3 physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist,
4 a duly licensed chiropractor, a duly certified clinical social worker, a duly licensed
5 psychologist, a duly licensed pharmacist, ~~or~~ an advanced practice registered nurse, or a
6 duly licensed acupuncturist, notwithstanding any provision contained in the policy.
7 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
8 provides for certification of disability that is within the scope of practice of a duly
9 licensed physician, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed
10 dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly
11 licensed psychologist, ~~or~~ an advanced practice registered nurse, or a duly licensed
12 acupuncturist, the insured or other persons entitled to benefits under the policy shall be
13 entitled to payment of or reimbursement for the disability whether the disability be
14 certified by a duly licensed physician, a duly licensed optometrist, a duly licensed
15 podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical
16 social worker, a duly licensed psychologist, ~~or~~ an advanced practice registered nurse, or a
17 duly licensed acupuncturist, notwithstanding any provisions contained in the policy. The
18 policyholder, insured, or beneficiary shall have the right to choose the provider of the
19 services notwithstanding any provision to the contrary in any other statute.

20 Whenever any policy of insurance provides coverage for medically necessary
21 treatment, the insurer shall not impose any limitation on treatment or levels of coverage if
22 performed by a duly licensed chiropractor acting within the scope of the chiropractor's
23 practice as defined in G.S. 90-151 or a duly licensed acupuncturist acting within the
24 scope of the acupuncturist's practice as defined in Article 30 of Chapter 90 of the General
25 Statutes unless a comparable limitation is imposed on such medically necessary treatment
26 if performed or authorized by any other duly licensed physician.

27 (b) For the purposes of this section, a "duly licensed psychologist" shall be defined
28 only to include a psychologist who is duly licensed in the State of North Carolina and has
29 a doctorate degree in psychology and at least two years clinical experience in a
30 recognized health setting, or has met the standards of the National Register of Health
31 Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist
32 shall be defined as a licensed psychologist who holds permanent licensure and
33 certification as a health services provider psychologist issued by the North Carolina
34 Psychology Board.

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

39 (c1) Expired.

40 (c2) For purposes of this section, a "duly licensed acupuncturist" means an
41 acupuncturist licensed by the Acupuncture Licensing Board pursuant to Article 30 of
42 Chapter 90 of the General Statutes.

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

- 3 (1) The service performed is within the nurse's lawful scope of practice;
4 (2) The policy currently provides benefits for identical services performed
5 by other licensed health care providers;
6 (3) The service is not performed while the nurse is a regular employee in an
7 office of a licensed physician;
8 (4) The service is not performed while the registered nurse is employed by
9 a nursing facility (including a hospital, skilled nursing facility,
10 intermediate care facility, or home care agency); and
11 (5) Nothing in this section is intended to authorize payment to more than
12 one provider for the same service.

13 No lack of signature, referral, or employment by any other health care provider may be
14 asserted to deny benefits under this provision.

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

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

- 20 (1) The service performed is within the lawful scope of practice of the
21 pharmacist;
22 (2) The service performed is not initial counseling services required under
23 State or federal law or regulation of the North Carolina Board of
24 Pharmacy;
25 (3) The policy currently provides reimbursement for identical services
26 performed by other licensed health care providers; and
27 (4) The service is identified as a separate service that is performed by other
28 licensed health care providers and is reimbursed by identical payment
29 methods.

30 Nothing in this subsection authorizes payment to more than one provider for the same
31 service."

32 Section 2. G.S. 58-65-1 reads as rewritten:
33 **"§ 58-65-1. (Effective July 1, 1999) Regulation and definitions; application of other**
34 **laws; profit and foreign corporations prohibited.**

35 (a) Any corporation heretofore or hereafter organized under the general
36 corporation laws of the State of North Carolina for the purpose of maintaining and
37 operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital
38 care and/or medical and/or dental service may be provided in whole or in part by said
39 corporation or by hospitals and/or physicians and/or dentists participating in such plan, or
40 plans, shall be governed by this Article and Article 66 of this Chapter and shall be
41 exempt from all other provisions of the insurance laws of this State, heretofore enacted,
42 unless specifically designated herein, and no laws hereafter enacted shall apply to them
43 unless they be expressly designated therein.

1 The term "hospital service plan" as used in this Article and Article 66 of this Chapter
2 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
3 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
4 obstetrical equipment, accommodations and/or any and all other services authorized or
5 permitted to be furnished by a hospital under the laws of the State of North Carolina and
6 approved by the North Carolina Hospital Association and/or the American Medical
7 Association.

8 The term "medical service plan" as used in this Article and Article 66 of this Chapter
9 includes the contracting for the payment of fees toward, or furnishing of, medical,
10 obstetrical, surgical and/or any other professional services authorized or permitted to be
11 furnished by a duly licensed physician, except that in any plan in any policy of insurance
12 governed by this Article and Article 66 of this Chapter that includes services which are
13 within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a
14 duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered
15 nurse, a duly certified clinical social worker, a duly licensed acupuncturist, and a duly
16 licensed physician, then the insured or beneficiary shall have the right to choose the
17 provider of the care or service, and shall be entitled to payment of or reimbursement for
18 such care or service, whether the provider be a duly licensed optometrist, a duly licensed
19 chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced
20 practice registered nurse, a duly certified clinical social worker, a duly licensed
21 acupuncturist, or a duly licensed physician notwithstanding any provision to the contrary
22 contained in such policy. The term "medical services plan" also includes the contracting
23 for the payment of fees toward, or furnishing of, professional medical services authorized
24 or permitted to be furnished by a duly licensed provider of health services licensed under
25 Chapter 90 of the General Statutes.

26 (b) Payment or reimbursement is required by this section for a service performed
27 by an advanced practice registered nurse only when:

- 28 (1) The service performed is within the nurse's lawful scope of practice;
- 29 (2) The policy currently provides benefits for identical services performed
30 by other licensed health care providers;
- 31 (3) The service is not performed while the nurse is a regular employee in an
32 office of a licensed physician;
- 33 (4) The service is not performed while the registered nurse is employed by
34 a nursing facility (including a hospital, skilled nursing facility,
35 intermediate care facility, or home care agency); and
- 36 (5) Nothing in this section is intended to authorize payment to more than
37 one provider for the same service.

38 No lack of signature, referral, or employment by any other health care provider may be
39 asserted to deny benefits under this provision.

40 (b1) Payment or reimbursement is required by this section for a service performed
41 by a duly licensed pharmacist only when:

- 42 (1) The service performed is within the lawful scope of practice of the
43 pharmacist;

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

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

11 (c) For purposes of this section, an "advanced practice registered nurse" means
12 only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical
13 specialist in psychiatric and mental health nursing, or nurse midwife.

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

18 For the purposes of this section, a "duly licensed psychologist" shall be defined only to
19 include a psychologist who is duly licensed in the State of North Carolina and has a
20 doctorate degree in psychology and at least two years clinical experience in a recognized
21 health setting, or has met the standards of the National Register of Health Providers in
22 Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a
23 licensed psychologist who holds permanent licensure and certification as a health
24 services provider psychologist issued by the North Carolina Psychology Board.

25 For purposes of this section, a "duly licensed acupuncturist" means an acupuncturist
26 licensed by the Acupuncture Licensing Board pursuant to Article 30 of Chapter 90 of the
27 General Statutes.

28 The term "dental service plan" as used in this Article and Article 66 of this Chapter
29 includes contracting for the payment of fees toward, or furnishing of dental and/or any
30 other professional services authorized or permitted to be furnished by a duly licensed
31 dentist.

32 The insured or beneficiary of every "medical service plan" and of every "dental service
33 plan," as those terms are used in this Article and Article 66 of this Chapter, or of any
34 policy of insurance issued thereunder, that includes services which are within the scope
35 of practice of both a duly licensed physician and a duly licensed dentist shall have the
36 right to choose the provider of such care or service, and shall be entitled to payment of or
37 reimbursement for such care or service, whether the provider be a duly licensed physician
38 or a duly licensed dentist notwithstanding any provision to the contrary contained in any
39 such plan or policy.

40 The term "hospital service corporation" as used in this Article and Article 66 of this
41 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
42 medical and/or dental service plan, as herein defined. Any corporation heretofore or
43 hereafter organized and coming within the provisions of this Article and Article 66 of this

1 Chapter, the certificate of incorporation of which authorizes the operation of either a
2 hospital or medical and/or dental service plan, or any or all of them, may, with the
3 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
4 approved by the Commissioner of Insurance, for the payment of either hospital or
5 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
6 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
7 them, for the furnishing of fees or services respectively under a hospital or medical
8 and/or dental service plan, or any or all of them.

9 The term "preferred provider" as used in this Article and Article 66 of this Chapter
10 with respect to contracts, organizations, policies or otherwise means a health care service
11 provider who has agreed to accept, from a corporation organized for the purposes
12 authorized by this Article and Article 66 of this Chapter or other applicable law, special
13 reimbursement terms in exchange for providing services to beneficiaries of a plan
14 administered pursuant to this Article and Article 66 of this Chapter. Except to the extent
15 prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of
16 Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual
17 terms and conditions for special reimbursement shall be those which the corporation and
18 preferred provider find to be mutually agreeable.

19 (d) No foreign or alien hospital or medical and/or dental service corporation as
20 herein defined shall be authorized to do business in this State."

21 Section 3. Article 30 of Chapter 90 of the General Statutes is amended by
22 adding the following new section:

23 "**§ 90-460. Free choice by patient guaranteed.**

24 No agency of the State, county, or municipality, nor any commission or clinic, nor
25 any board administering relief, social security, health insurance, or health service under
26 the laws of the State of North Carolina shall deny to the recipients or beneficiaries of
27 their aid or services the freedom to choose a duly licensed acupuncturist as the provider
28 of care or services which are within the scope of practice of the profession of acupuncture
29 as defined in this Article."

30 Section 4. G.S. 90-459 is repealed.

31 Section 5. G.S. 135-40.6(8) is amended by adding a new sub-subdivision to
32 read:

33 "u. Acupuncture: Allowable charges for the treatment of pain and the
34 production of regional anesthesia when performed by a medical
35 doctor or an acupuncturist licensed or certified in the state in
36 which he or she practices."

37 Section 6. This act becomes effective January 1, 2000. Sections 1, 2, and 3
38 apply to plans issued, amended, or renewed on or after that date. Section 5 applies to
39 treatment and services provided on or after January 1, 2000.