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HOUSE BILL 678
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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 AND TO INCREASE
4 THE LATE RENEWAL FEE FOR AN ACUPUNCTURIST LICENSE.

5 The General Assembly of North Carolina enacts:

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

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

15 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
16 provides for payment of or reimbursement for any service rendered in connection with a
17 condition or complaint that is within the scope of practice of a duly licensed optometrist,

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

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

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

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

42 (c1) Expired.

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

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

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

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

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

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

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

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

35 Section 2. G.S. 58-65-1 reads as rewritten:

36 **"§ 58-65-1. (Effective July 1, 1999) Regulation and definitions; application of other**
37 **laws; profit and foreign corporations prohibited.**

38 (a) Any corporation heretofore or hereafter organized under the general
39 corporation laws of the State of North Carolina for the purpose of maintaining and
40 operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital
41 care and/or medical and/or dental service may be provided in whole or in part by said
42 corporation or by hospitals and/or physicians and/or dentists participating in such plan, or
43 plans, shall be governed by this Article and Article 66 of this Chapter and shall be

1 exempt from all other provisions of the insurance laws of this State, heretofore enacted,
2 unless specifically designated herein, and no laws hereafter enacted shall apply to them
3 unless they be expressly designated therein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 The term "hospital service corporation" as used in this Article and Article 66 of this
2 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
3 medical and/or dental service plan, as herein defined. Any corporation heretofore or
4 hereafter organized and coming within the provisions of this Article and Article 66 of this
5 Chapter, the certificate of incorporation of which authorizes the operation of either a
6 hospital or medical and/or dental service plan, or any or all of them, may, with the
7 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
8 approved by the Commissioner of Insurance, for the payment of either hospital or
9 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
10 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
11 them, for the furnishing of fees or services respectively under a hospital or medical
12 and/or dental service plan, or any or all of them.

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

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

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

27 **"§ 90-460. Free choice by patient guaranteed.**

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

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

35 Section 4.1. Article 30 of Chapter 90 of the General Statutes is amended by
36 adding the following new section:

37 **"§ 90-459.1. Physician examination for direct reimbursement.**

38 An acupuncturist shall be eligible for direct insurance reimbursement for treatment or
39 services provided to a patient only if the patient has consulted with a physician and has
40 been examined by a physician for the related medical conditions. Nothing in this section
41 shall be construed to require physician supervision of an acupuncturist."

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

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

5 Section 5.1. G.S. 90-457 reads as rewritten:

6 **"§ 90-457. Fees.**

7 The Board may establish fees, not to exceed the following amounts, to cover the cost
8 of services rendered:

9 (1) For an application and an examination, one hundred dollars (\$100.00).

10 (2) For issuance of a license, five hundred dollars (\$500.00).

11 (3) For renewal of a license, three hundred dollars (\$300.00).

12 (4) For the late renewal of a license, an additional late fee of ~~seventy-five~~
13 ~~dollars (\$75.00)-~~one hundred dollars (\$100.00)."

14 Section 5.2. Article 30 of Chapter 90 of the General Statutes is amended by
15 adding the following:

16 **"§ 90-459.2. Reimbursement; minors.**

17 Notwithstanding G.S. 58-50-30, 58-65-1, 90-460, and 135-40.6(8), third-party
18 reimbursement is not required for a patient under the age of 18 except upon referral of
19 that patient by a physician."

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