

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1797

Short Title: Extend and Expand First Commit Pilot. (Public)

Sponsors: Representatives Insko, England, Farmer-Butterfield, Brisson (Primary Sponsors); M. Alexander, Gill, Harrison, Parfitt, and Pierce.

Referred to: Mental Health Reform, if favorable, Appropriations.

May 19, 2010

A BILL TO BE ENTITLED

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2 AN ACT TO AUTHORIZE THE SECRETARY OF HEALTH AND HUMAN SERVICES TO
3 WAIVE TEMPORARILY CERTAIN REQUIREMENTS OF THE MENTAL HEALTH
4 COMMITMENT STATUTES FOR PARTICIPANTS IN THE FIRST EVALUATION
5 PILOT PROGRAM AND TO DIRECT THE DEPARTMENT OF HEALTH AND
6 HUMAN SERVICES TO STUDY CERTAIN ISSUES RELATING TO THE PROGRAM,
7 AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
8 MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE
9 SERVICES.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** S.L. 2003-178, as amended by Section 10.27 of S.L. 2006-66, as
12 amended by Section 1.1(a)(5) of S.L. 2007-504, and as further amended by Section 3 of S.L.
13 2009-340 reads as rewritten:

14 **"SECTION 1.** The Secretary of Health and Human Services may, upon request of an LME,
15 waive temporarily the requirements of G.S. 122C-261 through G.S. 122C-263 and
16 G.S. 122C-281 through G.S. 122C-283 pertaining to initial (first-level) examinations by a
17 physician or eligible psychologist of individuals meeting the criteria of G.S. 122C-261(a) or
18 G.S. 122C-281(a), as applicable, as follows:

- 19 (1) The Secretary has received a request from an LME to substitute for an
20 physician or eligible psychologist, a licensed clinical social worker, a
21 masters level psychiatric nurse, or a masters level certified clinical
22 addictions specialist to conduct the initial (first-level) examinations of
23 individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a).
24 The waiver shall be implemented on a pilot-program basis. The request from
25 the LME shall specifically describe:
- 26 a. How the purpose of the statutory requirement would be better served
27 by waiving the requirement and substituting the proposed change
28 under the waiver.
 - 29 b. How the waiver will enable the LME to improve the delivery or
30 management of mental health, developmental disabilities, and
31 substance abuse services.
 - 32 c. How the services to be provided by the licensed clinical social
33 worker, the masters level psychiatric nurse, or the masters level
34 certified clinical addictions specialist under the waiver are within
35 each of these professional's scope of practice.



- 1 d. How the health, safety, and welfare of individuals will continue to be
2 at least as well protected under the waiver as under the statutory
3 requirement.
- 4 (2) The Secretary shall review the request and may approve it upon finding that:
5 a. The request meets the requirements of this section.
6 b. The request furthers the purposes of State policy under G.S. 122C-2
7 and mental health, developmental disabilities, and substance abuse
8 services reform.
9 c. The request improves the delivery of mental health, developmental
10 disabilities, and substance abuse services in the counties affected by
11 the waiver and also protects the health, safety, and welfare of
12 individuals receiving these services.
13 d. The duties and responsibilities performed by the licensed clinical
14 social worker, the masters level psychiatric nurse, or the masters
15 level certified clinical addictions specialist are within the individual's
16 scope of practice.
- 17 (3) The Secretary shall evaluate the effectiveness, quality, and efficiency of
18 mental health, developmental disabilities, and substance abuse services and
19 protection of health, safety, and welfare under the waiver. The Secretary
20 shall send a report on the evaluation to the Joint Legislative Oversight
21 Committee on Mental Health, Developmental Disabilities, and Substances
22 Abuse Services by October 1, 2009. The report shall include data gathered
23 from all participating LMEs since the beginning of the pilot.
- 24 (4) The waiver granted by the Secretary under this section shall be in effect until
25 October 1, 2010.
- 26 (5) The Secretary may grant a waiver under this section to up to ~~15~~20 LMEs.
- 27 (6) In no event shall the substitution of a licensed clinical social worker, masters
28 level psychiatric nurse, or masters level certified clinical addictions
29 specialist under a waiver granted under this section be construed as
30 authorization to expand the scope of practice of the licensed clinical social
31 worker, the masters level psychiatric nurse, or the masters level certified
32 clinical addictions specialist.
- 33 (7) The Department shall assure that staff performing the duties are trained and
34 privileged to perform the functions identified in the waiver. The Department
35 shall involve stakeholders including, but not limited to, the North Carolina
36 Psychiatric Association, The North Carolina Nurses Association, National
37 Association of Social Workers, The North Carolina Substance Abuse
38 Professional Certification Board, North Carolina Psychological Association,
39 The North Carolina Society for Clinical Social Work, and the North Carolina
40 Medical Society in developing required staff competencies.
- 41 (8) The LME shall assure that a physician is available at all times to provide
42 backup support to include telephone consultation and face-to-face
43 evaluation, if necessary.

44 **SECTION 2.** This act becomes effective July 1, 2003, and expires ~~October 1,~~
45 2010-October 1, 2012."

46 **SECTION 2.** The Division of Mental Health, Developmental Disabilities, and Substance
47 Abuse Services shall expand its standardized certification training program to include refresher
48 training for all certified providers and shall report to the Legislative Oversight Committee on
49 Mental Health, Developmental Disabilities, and Substance Abuse Services on the participation
50 rate of licensed clinical social worker, the master's level psychiatric nurse, or the master's level

- 1 certified clinical addictions specialist in the pilot program and whether the program should
2 include other licensed or certified health care professionals.
3 **SECTION 3.** This act is effective when it becomes law.