In 2011, the North Carolina General Assembly granted authority to the Secretary of DHHS to allow licensed clinical social workers, master’s level psychiatric nurses, and master’s level certified clinical addiction specialists the ability to conduct first evaluations for involuntary commitment, upon request by an LME (now MCO).

This new law (GS 122C-263.1), which followed a pilot program, failed to include masters and doctorate level Licensed Professional Counselors (LPCs) and Licensed Marriage and Family Therapists (LMFTs) even though this type of evaluation is included in the scope of practices of both mental health professions. Assessing for danger to self or others is part of LPCs core training and is a part of the curriculum for LMFTs.

In a letter dated 2007 from the Department of Health and Human Services to the lobbyist for the LMFTs (see attached), DHHS stated that “[i]f the pilot indeed demonstrates the efficacy and safety of this IVC [involuntary commitment] process, an expansion to all providers licensed in the state would be favorably considered.”

The Department of Health and Human Services has recently recognized, as shown in the attached email (November 24, 2014) from DHHS to the Licensed Professional Counselors Association of North Carolina Executive Director John Shuford that “Border and rural areas in our state still remain largely uncovered with minimal capacity for First Commitment evaluations. An expansion of other qualified, trained and certified licensed individuals would be to the benefit of the state, notably as we look to enhance our Crisis response capability.”

Only 58 people have been designated under the DHHS waiver authorized by current law to provide these services. The inclusion of LPCs and LMFTs would be a simple legislative fix that could enhance crisis response capability and help meet the needs of underserved areas that is recognized by DHHS.

There are over 5,500 Licensed Professional Counselors and 1,058 Licensed Marriage and Family Therapists in North Carolina.

The scope of practices for LPCs and LMFTs, as well as the scope of practice for a licensed clinical social worker, are attached. We are not aware of any public policy reason, or legal reason, why a licensed clinical social worker can conduct these evaluations but other providers with substantially the same experience, education and with a scope of practice that authorizes these examinations cannot. LPCs and LMFTs are authorized Medicaid providers under current law.

62% of LPCs provide services in the rural areas. Even though LPCs and LMFTs are a valuable resource to North Carolina, they are seriously underutilized to the point that many are leaving the state or mental health field because of a lack of opportunities. 42% of LPCs surveyed last year stated they knew of LPCs who have left the field because of this.

There is a need for additional professional mental health providers who are able to conduct first evaluations. Reports show that 27 counties in North Carolina do not have a psychiatrist and that 31 counties in North Carolina have only 1 or 2 psychiatrists. Sixteen counties have between 3-5 psychiatrists. Reports also show that 22 counties in North Carolina do not have a psychologist and 44 counties in North Carolina have less than one psychologist per 10,000.

For more information, contact:
Ashley Perkinson, lobbyist, Licensed Professional Counselors Association of NC
Jon Carr, lobbyist, NC Association for Marriage and Family Therapy
From: Odonnell, Mark [mailto:mark.odonnell@dhhs.nc.gov]
Sent: Monday, November 24, 2014 3:44 PM
To: 'John Shuford'
Subject: RE: First Commitment

From the 2009 report to the General Assembly regarding First Commitment expansion, DMHSASDD indicated the following:

A review of mental health and substance abuse professionals across the state of North Carolina in 2006 showed that there were 30 counties across the state where there were no registered Psychiatrists and 25 counties that did not have a Psychologist (see Appendix B, Maps of Professions across the State). All but four counties in the state had one or more Licensed Clinical Social Workers (LCSWs). The NC Nursing Board reports that there was only 34 Master’s level Psychiatric Nurses in the state. There are 1,107 registered and active Psychiatrists in the state of North Carolina and 1,801 PhD level Psychologists in the State (http://www.shepscenter.unc.edu/hp/prof07.htm). At one level then, noting these numbers, there was a perception that a strategy was required to develop and supplement the workforce in order to meet the needs of individuals with mental health and substance abuse challenges who were in periodic need of first commitment evaluations across the state. Building competence among Master’s level licensed, qualified professionals (Nurses, Social Workers and Clinical Addiction Specialists), who were trained, tested and certified, was expected to create humane and timely options via the first commitment/involuntary commitment process that would extend the ability of the system to respond to consumer needs when and as needed.

The above stated perception has not significantly changed. We have added capacity via LCSWs and to a much lesser extent LCASs (noting the limitation imposed on LCASs which effectively prevents them from doing any FC evaluations) and Master’s level psychiatric nurses. Again, the perceived need has not significantly changed. Border and rural areas in our state still remain largely uncovered with minimal capacity for First Commitment evaluations. An expansion of other qualified, trained and certified licensed individuals would be to the benefit of the state, notably as we look to enhance our Crisis response capability.
Licensed Marriage and Family Therapist:
§ 90-270.47. Definitions.

(3b) "Marriage and family therapy" is the clinical practice, within the context of individual, couple, and marriage and family systems, of the diagnosis and treatment of psychosocial aspects of mental and emotional disorders. Marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to families, couples, and individuals for the purpose of treating these diagnosed mental and emotional disorders. Marriage and family therapy includes referrals to and collaboration with health care and other professionals when appropriate.

Licensed Professional Counselor:

§ 90-330. Definitions; practice of counseling.

(3) The "practice of counseling" means holding oneself out to the public as a professional counselor offering counseling services that include, but are not limited to, the following:
   a. Counseling. – Assisting individuals, groups, and families through the counseling relationship by evaluating and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.
   b. Appraisal Activities. – Administering and interpreting tests for assessment of personal characteristics.
   c. Consulting. – Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.
   d. Referral Activities. – Identifying problems requiring referral to other specialists.
   e. Research Activities. – Designing, conducting, and interpreting research with human subjects.

The "practice of counseling" does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

Licensed Clinical Social Worker:

§ 90B-3. Definitions.

The following definitions apply in this Chapter:

(6) Clinical Social Work Practice. – The professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. Clinical social work practice shall not include the provision of supportive daily living services to persons with severe and persistent mental illness as defined in G.S. 122C-3(33a).
§ 122C-263.1. Secretary's authority to waive requirement of first examination by physician or eligible psychologist; training of certified providers performing first examinations.

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

(1) The Secretary has received a request from an LME to substitute for a physician or eligible psychologist, a licensed clinical social worker, a master's level psychiatric nurse, a licensed professional counselor, licensed marriage and family therapist, a physician’s assistant, or a master's level certified clinical addictions specialist in accordance with subdivision (8) of this subsection to conduct the initial (first-level) examinations of individuals meeting the criteria of G.S. 122C-261(a) or G.S. 122C-281(a). In making this type of request, the LME shall specifically describe all of the following:

a. How the purpose of the statutory requirement would be better served by waiving the requirement and substituting the proposed change under the waiver.
b. How the waiver will enable the LME to improve the delivery or management of mental health, developmental disabilities, and substance abuse services.
c. How the health, safety, and welfare of individuals will continue to be at least as well protected under the waiver as under the statutory requirement.

(2) The Secretary shall review the request and may approve it upon finding all of the following:

a. The request meets the requirements of this section.
b. The request furthers the purposes of State policy under G.S. 122C-2 and mental health, developmental disabilities, and substance abuse services reform.
c. The request improves the delivery of mental health, developmental disabilities, and substance abuse services in the counties affected by the
waiver and also protects the health, safety, and welfare of individuals receiving these services.

(3) The Secretary shall evaluate the effectiveness, quality, and efficiency of mental health, developmental disabilities, and substance abuse services and protection of health, safety, and welfare under the waiver.

(4) A waiver granted by the Secretary under this section shall be in effect for a period of up to three years and may be rescinded at any time within this period if the Secretary finds the LME has failed to meet the requirements of this section.

(5) In no event shall the substitution of a licensed clinical social worker, master's level psychiatric nurse, licensed professional counselor, licensed marriage and family therapist, a physician’s assistant, or master's level certified clinical addictions specialist under a waiver granted under this section be construed as authorization to expand the scope of practice of the licensed clinical social worker, the master's level psychiatric nurse, licensed professional counselor, licensed marriage and family therapist, a physician’s assistant, or the master's level certified clinical addictions specialist.

(6) The Department shall require that individuals performing initial examinations under the waiver have successfully completed the Department's standardized training program and examination. The Department shall maintain a list of these individuals on its Web site.

(7) As part of its waiver request, the LME shall document the availability of a physician to provide backup support.

(8) A master's level certified clinical addiction specialist shall only be authorized to conduct the initial examination of individuals meeting the criteria of G.S. 122C-281(a).

(b) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall expand its standardized certification training program to include refresher training for all certified providers performing initial examinations pursuant to subsection (a) of this section. (2011-346, s. 1.)