

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 915

Short Title: Psychologists' Conduct Code.

(Public)

Sponsors: Representatives Barnes; and Warner.

Referred to: State Government.

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A CODE OF CONDUCT FOR PRACTICING
3 PSYCHOLOGISTS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 90-270.15 reads as rewritten:

6 "**§ 90-270.15. Refusal, Denial, suspension, or revocation of licenses, licenses, and**
7 **other disciplinary and remedial actions; unprofessional conduct;**
8 **relinquishing of license.**

9 (a) ~~A license applied for, or issued under this Article may be refused, suspended,~~
10 ~~revoked, or otherwise limited, as provided in subsection (e) below, by the Board upon~~
11 ~~proof that the person to whom the license was issued: Any applicant for licensure and~~
12 ~~any person licensed under this Article shall have behaved in conformity with the ethical~~
13 ~~and professional standards specified in this section and in the rules and regulations of~~
14 ~~the Board. The Board may deny, suspend, revoke, discipline, place on probation, limit,~~
15 ~~or require remediation or rehabilitation, all as provided for in subsection (f) below, upon~~
16 ~~proof that the applicant or the person to whom the licenses was issued:~~

- 17 (1) ~~Has been convicted of a felony; or felony or entered a plea of guilty or~~
18 ~~**nolo contendere** to any felony charge;~~
19 (2) ~~Has been convicted of a or entered a plea of guilty or **nolo contendere**~~
20 ~~to any misdemeanor involving moral turpitude or involving turpitude,~~
21 ~~misrepresentation or fraud in dealing with the public or public, or~~
22 ~~conduct otherwise relevant to his fitness to practice psychology; or~~
23 ~~psychology, or a misdemeanor charge reflecting the inability to~~

- 1 practice psychology with due regard to the health and safety of clients
2 or patients;
- 3 (3) Has engaged in fraud or deceit in securing or attempting to secure a
4 license under this Article or the renewal thereof or has willfully
5 concealed from the Board material information in connection with
6 application for or renewal of a license under this Article or the renewal
7 ~~thereof; or Article;~~
- 8 (4) ~~Is a habitual drunkard or is addicted to the use of deleterious habit-~~
9 ~~forming drugs; or~~
- 10 (4a) Has demonstrated an inability to practice psychology with reasonable
11 skill and safety by reason of illness, inebriation, misuse of drugs,
12 narcotics, alcohol, chemicals, or any other substance affecting mental
13 or physical functioning, or as a result of any mental or physical
14 condition;
- 15 (5) Has practiced any fraud, deceit, or misrepresentation upon the ~~public~~
16 public, the Board, or upon any individual in connection with the
17 practice of ~~psychology or~~ psychology, the offer of psychological
18 services ~~or~~ services, the filing of Medicare, Medicaid, or other claims
19 to any third party payor, or in any manner otherwise relevant to his
20 fitness for the practice of psychology; or
- 21 (6) Has made ~~fraudulent or misleading~~ fraudulent, misleading, or
22 intentionally or materially false statements pertaining to his education,
23 licensure, professional credentials, or related to his qualifications or
24 fitness for the practice of psychology to the public, any individual, the
25 Board, or any other organization; or
- 26 (7) Has had a license or certification for the practice of psychology in any
27 other state, or territory of the United States, or any other country,
28 suspended or ~~revoked; or~~ revoked, or has been disciplined by any other
29 state or territorial licensing or certification board for conduct which
30 would subject him to discipline under this Article;
- 31 (8) Has been guilty of ~~unprofessional~~ immoral, dishonorable,
32 unprofessional, or unethical conduct as defined by in this subsection,
33 in subsection (a1) below, or in the then-current code of ethics
34 ~~published by of the American Psychological Association; or~~
35 Association, except as the provisions of such code of ethics may be
36 inconsistent and in conflict with the provisions of this Article, in which
37 case, the provisions of this Article control;
- 38 (9) Has violated any provision of this Article or of the duly adopted rules
39 and regulations of the Board; or
- 40 (10) ~~Has employed a psychologist who has no valid license or temporary~~
41 ~~license issued under this Article.~~
- 42 (10a) Has aided or abetted the unlawful practice of psychology by any
43 person not licensed by the Board.

1 (a1) The Board may deny licensure, and discipline or require remediation and
2 rehabilitation, or any combination thereof, as specified in subsections (a) above and (e)
3 below, upon proof of immoral, dishonorable, unprofessional, or unethical conduct.
4 Immoral, dishonorable, unprofessional, or unethical conduct, has occurred whenever
5 any person who has applied for or has been issued a license under this Article has
6 engaged in any of the following acts or offenses:

- 7 (1) Practiced psychology in such a manner as to endanger the welfare of
8 clients or patients;
- 9 (2) Harassed or abused, sexually or otherwise, a client, patient, student,
10 supervisee, or trainee;
- 11 (3) Exercised undue influence in such a manner as to exploit the client,
12 patient, student, supervisee, or trainee for the financial or other
13 personal advantage or gratification of the psychologist or a third party;
- 14 (4) Refused to appear before the Board after having been ordered to do so
15 in writing by the Chair;
- 16 (5) Failed to cooperate with or to respond promptly, completely, and
17 honestly to any of the following entities or organizations having
18 jurisdiction: (i) ethics committees of professional psychological
19 associations, health care organizations, institutional review boards, and
20 educational institutions; (ii) professional standards review
21 organizations; (iii) credentials committees; or (iv) the Board;
- 22 (6) Failed to maintain a clear and accurate case record which documents
23 the following for each patient or client:
 - 24 a. Presenting problems, diagnosis, or purpose of the evaluation,
25 counseling, treatment, or other services provided;
 - 26 b. Fees and itemized charges;
 - 27 c. Date and summary content of each session of evaluation,
28 counseling, treatment, or other service;
 - 29 d. Test results or other findings, including basic test data; and
 - 30 e. Copies of all reports prepared;
- 31 (7) Failed to competently use, administer, score, or interpret psychological
32 assessment techniques, including interviewing and observation, or
33 provided findings or recommendations which do not accurately reflect
34 the assessment data, or exceed what can be inferred, predicted, or
35 determined from test, interview, or observational data;
- 36 (8) Failed to provide competent diagnosis, counseling, treatment,
37 consultation, or supervision, in keeping with standards of usual and
38 customary practice in this State;
- 39 (9) In the absence of established standards, failed to take all reasonable
40 steps to ensure the competence of services;
- 41 (10) Failed to cooperate with other psychologists or other professionals to
42 the potential or actual detriment of clients, patients, or other recipients
43 of service, or behaved in ways which substantially impede or impair

- 1 other psychologists' or other professionals' abilities to perform
2 professional duties; or
3 (11) Practiced psychology or conducted research outside the boundaries of
4 demonstrated competence or the limitations of education, training, or
5 supervised experience.

6 (b) A license issued under this Article ~~shall be~~ is automatically suspended by the
7 ~~Board~~ operation of law after failure to renew a license for a period of more than three
8 months after the annual renewal date. The Board may reinstate a license suspended
9 under this subsection upon payment of a special fee of fifteen dollars (\$15.00), and may
10 require that the applicant file a new application, furnish new supervisory reports or
11 references or otherwise update his credentials, or submit to reexamination for
12 reinstatement. Notwithstanding any provision to the contrary, the Board retains full
13 jurisdiction to investigate alleged violations of this Article by any person whose license
14 is suspended under this subsection and, upon proof of any violation of this Article by
15 any such person, the Board may take disciplinary action as authorized by this section.

16 (c) Except as provided otherwise in this Article, the procedure for revocation,
17 suspension, ~~refusal, or other denial,~~ limitations of the license—license, or other
18 disciplinary, remedial, or rehabilitative actions, shall be in accordance with the
19 provisions of Chapter 150B of the General Statutes. The Board is required to provide
20 the opportunity for a hearing under Chapter 150B to any applicant whose license is
21 denied or to whom licensure is offered subject to any restrictions, probation,
22 disciplinary action, remediation, or other conditions or limitations, or to any licensee
23 before revoking, suspending, or restricting a license or imposing any other disciplinary
24 action or remediation. If the applicant or licensee waives the opportunity for a hearing,
25 the Board's denial, revocation, suspension, or other proposed action becomes final
26 without a hearing having been conducted. Notwithstanding the foregoing, no applicant
27 or licensee is entitled to a hearing for failure to pass an examination. In any proceeding
28 before the Board, in any record of any hearing before the Board, in any complaint or
29 notice of charges against any licensee or applicant for licensure, and in any decision
30 rendered by the Board, the Board may withhold from public disclosure the identity of
31 any clients or patients who have not consented to the public disclosure of treatment by
32 the licensee or ~~psychologist~~ applicant. The Board may close a hearing to the public and
33 receive in executive session evidence involving or concerning the treatment or delivery
34 of psychological services to a client or a patient who has not consented to the public
35 disclosure of such treatment or services as may be necessary for the protection and
36 rights of such patient or client of the accused ~~psychologist~~ applicant or licensee and the
37 full presentation of relevant evidence. All records, papers and other documents
38 containing information collected and compiled by or on behalf of the Board, as a result
39 of investigations, inquiries or interviews conducted in connection with licensing or
40 disciplinary matters will not be considered public records within the meaning of Chapter
41 132 of the General Statutes; provided, however, that any notice or statement of charges
42 against any licensee or applicant, or any notice to any licensee or applicant of a hearing
43 in any proceeding, or any decision rendered in connection with a hearing in any
44 proceeding, shall be a public record within the meaning of Chapter 132 of the General

1 Statutes, notwithstanding that it may contain information collected and compiled as a
2 result of such investigation, inquiry, or hearing except that identifying information
3 concerning the treatment or delivery of services to a patient or client who has not
4 consented to the public disclosure of such treatment or services may be deleted; and
5 provided, further, that if any such record, paper or other document containing
6 information theretofore collected and compiled by or on behalf of the Board, as
7 hereinbefore provided, is received and admitted in evidence in any hearing before the
8 Board, it shall thereupon be a public record within the meaning of Chapter 132 of the
9 General Statutes, subject to any deletions of identifying information concerning the
10 treatment or delivery of psychological services to a patient or client who has not
11 consented to the public disclosure of such treatment or services.

12 (d) A person whose license has been ~~refused or revoked~~ denied or revoked, under
13 the terms of this section may reapply to the Board for licensure after the passage of one
14 calendar year from the date of such revocation. ~~The Board may reinstate a suspended~~
15 ~~license upon payment of a special fee of fifteen dollars (\$15.00), and may require that~~
16 ~~the applicant file a new application, furnish new supervisory reports or references or~~
17 ~~otherwise update his credentials, or submit to reexamination for reinstatement.~~

18 (e) Upon proof that an applicant or licensee under this Article has engaged in any
19 of the prohibited actions specified in ~~subsection (a)~~ subsections (a) and (a1) above, the
20 Board may, in lieu of ~~refusal, denial,~~ suspension, or revocation, issue a formal
21 reprimand or formally censure the applicant or licensee, may place the applicant or
22 licensee upon probation with such appropriate conditions upon the continued practice as
23 the Board may deem advisable, ~~or may require remediation or rehabilitation for the~~
24 applicant or licensee, including care, counseling, or treatment by a professional or
25 professionals designated or approved by the Board, the expense to be borne by the
26 applicant or licensee, may require supervision for the services provided by the applicant
27 or licensee by a licensee designated or approved by the Board, the expense to be borne
28 by the applicant or licensee, may limit or circumscribe the professional psychological
29 services provided by the applicant or licensee with respect to the extent, nature, or
30 location of his practice as the Board deems advisable. ~~advisable, or may discipline and~~
31 ~~impose any appropriate combination of the foregoing.~~ In addition, ~~the~~ The Board may
32 impose such conditions of probation or restrictions upon continued practice at the
33 conclusion of a period of suspension or as requirements for the restoration of a revoked
34 or suspended license. In lieu of or in connection with any disciplinary proceedings or
35 investigation, the Board may enter into a consent order relative to the discipline,
36 ~~censure, probation~~ supervision, probation, remediation or rehabilitation, or limitation of
37 a licensee or applicant for a license.

38 (f) The Board may assess costs of disciplinary action against an applicant or
39 licensee found to be in violation of this Article.

40 (g) When considering the issue of whether or not an applicant or licensee is
41 physically or mentally capable of practicing psychology with reasonable skill and safety
42 to patients or clients, then, upon a showing of probable cause to the Board that the
43 applicant or licensee is not capable of practicing psychology with reasonable skill and
44 safety to patients or clients, the Board may petition a court of competent jurisdiction to

1 order the applicant or licensee in question to submit to a psychological examination by a
2 psychologist to determine psychological status or a physical examination by a physician
3 to determine physical condition, or both. Such psychologist or physician, shall be
4 designated by the court. The expenses of such examinations shall be borne by the
5 Board. Where the applicant or licensee raises the issue of mental or physical
6 competence or appeals a decision regarding mental or physical competence, the
7 applicant or licensee shall be permitted to obtain an evaluation at the applicant or
8 licensee's expenses. If the Board suspects the objectivity or adequacy of the
9 examination, the Board may compel an examination by its designated practitioners at its
10 own expense.

11 (h) A licensee may, with the consent of the Board, voluntarily relinquish his
12 license at any time. The Board may delay or refuse the granting of its consent as it may
13 deem necessary in order to investigate any pending complaint, allegation, or issue
14 regarding violation of any provision of this Article by the licensee.

15 (i) The Board may adopt such rules and regulations as it deems reasonable and
16 appropriate to interpret and implement the provisions of this section."

17 Sec. 2. This act is effective upon ratification.