

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 218*
Committee Substitute Favorable 6/7/93

Short Title: Counselor Licensing.

(Public)

Sponsors:

Referred to:

February 19, 1993

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF
COUNSELING AND THE LICENSURE OF COUNSELORS.

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 90 of the General Statutes reads as rewritten:

"ARTICLE 24.

**"REGISTERED PRACTICING LICENSED PROFESSIONAL COUNSELORS
ACT.**

"§ 90-329. Declaration of policy.

It is declared to be the public policy of this State that the activities of persons using the title 'Registered Practicing Counselor' who render counseling services to the public be regulated to insure the protection of the public health, safety and welfare.

"§ 90-330. Definitions; practice of law; practice of marriage and family therapy.

(a) Definitions. As used in this Article certain terms are defined as follows:

(1) A 'counselor' is a person engaged in the practice of counseling who is not a Registered Practicing Counselor as defined in this Article.

(1a) The 'Board' means the Board of Licensed Professional Counselors.

(2) A 'Registered Practicing Licensed Professional Counselor' is a person engaged in the practice of counseling who holds a certificate-license as a Registered Practicing Licensed Professional Counselor issued to him under the provisions of this Article.

1 (3) The 'practice of counseling' means holding oneself out to the public as
2 a ~~practicing~~ professional counselor offering counseling services which
3 include, but are not limited to the following:

- 4 a. Counseling. Assisting an individual, individuals, groups, and
5 families through the counseling relationship, using a
6 combination of clinical mental health and/or human
7 development principles, methods, diagnostic procedures,
8 treatment plans, and other psychotherapeutic techniques, to
9 develop understanding of personal problems, to define goals
10 and to plan action reflecting his or her the client's interests,
11 abilities, aptitudes and mental health needs as these are related
12 to personal-social-personal-social-emotional concerns, education
13 progress and occupations and careers.
14 b. Appraisal Activities. Administering and interpreting tests for
15 assessment of personal characteristics.
16 c. Consulting. Interpreting scientific data and providing guidance
17 and personnel services to individuals, groups or organizations.
18 d. Referral Activities. Identifying problems requiring referral to
19 other specialists.
20 e. Research Activities. Designing, conducting and interpreting
21 research with human subjects.

22 (4) A 'supervisor' means any licensed professional counselor, or when one
23 is inaccessible, an equivalently credentialed mental health
24 professional, as determined by the Board, with a minimum of five
25 years of counseling experience who meets the qualifications
26 established by the Board.

27 (b) ~~Practice of Law. Nothing in this Article shall be construed as authorizing~~
28 ~~Registered Practicing Counselors to engage in the practice of law, and such person shall~~
29 ~~not engage in the practice of law unless duly licensed so to do.~~

30 (c) ~~Practice of Marriage and Family Therapy, Psychology or Social Work. No~~
31 ~~person hereafter registered-licensed as a Practicing-Licensed Professional Counselor~~
32 ~~under the provisions of this Article shall be allowed to hold himself or herself out to the~~
33 ~~public as having specialized training or experience as an expert or specializing in the field of a~~
34 ~~Certified Marriage and Family Therapy, Psychology-Therapist, Licensed Practicing~~
35 ~~Psychologist, Psychological Associate, or Social Work-Certified Clinical Social Worker~~
36 ~~unless specifically authorized by other provisions of law.~~

37 "**§ 90-331. Unlawful use of title 'Registered Practicing Licensed Professional**
38 **Counselor.'**

39 ~~It shall be unlawful for any person who has not received a certificate of~~
40 ~~qualification as a Registered Practicing Counselor to assume or use such a title, or to use~~
41 ~~any words or other means of identification indicating that the person has been certified~~
42 ~~as a Registered Practicing Counselor, but such person may use the term 'counselor' in~~
43 ~~connection with his name relating to his services as a counselor. It shall be unlawful for~~
44 ~~any person who is not licensed under this Article to engage in the practice of counseling~~

1 or use the title 'Licensed Professional Counselor', or use the letters 'LPC', or any
2 facsimile or combination of any words or letters, abbreviations, or insignia or to indicate
3 or imply orally or in writing or in any way that the person is a licensed counselor.

4 **"§ 90-332. Use of title by firm.**

5 It shall be unlawful for any firm, partnership, corporation, association or other
6 business or professional entity to assume or use the title of ~~Registered Practicing Licensed~~
7 Professional Counselor, unless each of the members of such firm, partnership or
8 association first shall have received a ~~certificate of qualification~~ license from the State
9 Board of ~~Registered Practicing Licensed~~ Professional Counselors.

10 **"§ 90-332.1. Exemptions.**

11 (a) It is not the intent of this Article to regulate members of other regulated
12 professions who do counseling in the normal course of the practice of their profession.
13 Accordingly, this Article does not apply to:

- 14 (1) Any person registered, certified, or licensed by the State to practice
15 any other occupation or profession while rendering counseling services
16 in the performance of the occupation or profession for which he is
17 registered, certified, or licensed.
- 18 (2) School counselors certified by the State Board of Education while
19 counseling within the scope of their employment by a board of
20 education or private school.
- 21 (3) Student interns or trainees in counseling pursuing a course of study in
22 counseling in a regionally accredited institution of higher learning or
23 training institution if activities and services constitute a part of the
24 supervised course of study; provided, that these persons be designated
25 'Counselor Intern'.
- 26 (4) Ordained ministers or clergy while in their ministerial capacity.
- 27 (5) Any nonresident temporarily employed in this State to render
28 counseling services for not more than 30 days in a year, if the person
29 holds a license or certificate required for counselors in another state.
- 30 (6) Persons employed by State, federal, county, and municipal
31 governments while counseling within the scope of their employment.
- 32 (7) Persons performing mental health counseling solely as an employee of
33 an area facility, as defined in G.S. 122C-3(14)a., provided that
 - 34 a. The mental health services are provided by a qualified mental
35 health professional who meets or exceeds the minimum
36 educational qualifications for licensure as a licensed
37 professional counselor under this Article; and
 - 38 b. The hospital, health care facility, or agency under contract to
39 provide counseling services has obtained written verification
40 from the following boards that the employee has not had his or
41 her license, registration, or certification revoked, rescinded, or
42 suspended: the North Carolina Board of Licensed Professional
43 Counselors, the Board of Examiners in Psychology, the North

1 Carolina Certification Board for Social Work, and the North
2 Carolina Marital and Family Therapy Certification Board.

3 (b) Persons claiming benefit of any of these exemptions are prohibited from
4 advertising or offering themselves as 'Licensed Professional Counselors'.

5 (c) Persons licensed under this Article are exempt from rules pertaining to
6 counseling adopted by other occupational licensing boards.

7 **"§ 90-333. North Carolina Board of Registered Practicing Licensed Professional**
8 **Counselors; appointments; terms; composition.**

9 (a) For the purpose of carrying out the provisions of this Article, there is hereby
10 created the North Carolina Board of ~~Registered Practicing Licensed Professional~~
11 Counselors which shall consist of seven members appointed by the Governor in the
12 manner hereinafter prescribed. Any nationally recognized association representing
13 professional counselors may submit recommendations to the Governor for Board
14 membership. The Governor may remove any member of the Board for neglect of duty
15 or malfeasance or conviction of a felony or other crime of moral turpitude, but for no
16 other reason.

17 (b) At least five members of the Board shall be ~~Registered Practicing Licensed~~
18 Professional Counselors except that initial appointees shall be persons who meet the
19 educational and experience requirements for ~~registration as Registered Practicing licensure~~
20 as Licensed Professional Counselors under the provisions of this Article; and two
21 members shall be ~~appointed from the public at large.~~ at-large members appointed from the
22 general public. Composition of the Board as to the race and sex of its members shall
23 reflect the composition of the population of the State of North Carolina.

24 (c) At all times the Board shall include at least ~~two counselors~~ one counselor
25 primarily engaged in counselor education, at least one counselor primarily engaged in
26 the public sector, ~~and at least two counselors~~ one counselor primarily engaged in the
27 private ~~sector.~~ sector, and two licensed professional counselors at large.

28 (d) All members of the Board shall be residents of the State of North Carolina,
29 ~~and after the establishment of the initial Board, all members, and~~ with the exception of the
30 public ~~members~~ at-large members, shall be ~~registered~~ licensed by the Board under the
31 provisions of this Article. Professional members of the Board must be actively engaged
32 in the practice of counseling or in the education and training of students in counseling,
33 and have been for at least three years prior to their appointment to the Board. Such
34 activity during the two years preceding the appointment shall have occurred primarily in
35 this State.

36 (e) The term of office of each member of the Board shall be three years;
37 provided, however, that of the members first appointed, three shall be appointed for
38 terms of one year, two for terms of two years, and two for terms of three years. No
39 member shall serve more than two consecutive three-year terms.

40 (f) Each term of service on the Board shall expire on the 30th day of June of the
41 year in which the term expires. As the term of a member expires, the Governor shall
42 make the appointment for a full term, or, if a vacancy occurs for any other reason, for
43 the remainder of the unexpired term.

1 (g) Members of the Board shall receive compensation for their services and
2 reimbursement for expenses incurred in the performance of duties required by this
3 Article, at the rates prescribed in G.S. 93B-5.

4 (h) The Board may employ, subject to the provisions of Chapter 126 of the
5 General Statutes, the necessary personnel for the performance of its functions, and fix
6 their compensation within the limits of funds available to the Board.

7 **"§ 90-334. Functions and duties of the Board.**

8 (a) The Board shall administer and enforce the provisions of this Article.

9 (b) The Board shall elect from its membership, a chairperson, a vice-chairperson,
10 and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the
11 membership shall constitute a quorum for all Board meetings.

12 (c) The Board shall examine and pass on the qualifications of all applicants for
13 ~~certificates~~licenses under this Article, and shall issue a ~~certificate~~license or renewal of
14 license to each successful applicant therefor.

15 (d) The Board may adopt a seal which may be affixed to all ~~certificates~~licenses
16 issued by the Board.

17 (e) The Board may authorize expenditures deemed necessary to carry out the
18 provisions of this Article from the fees which it collects, but in no event shall
19 expenditures exceed the revenues of the Board during any fiscal year. No State
20 appropriations shall be subject to the administration of the Board.

21 (f) The Board shall establish and receive fees not to exceed ~~seventy-five dollars~~
22 ~~(\$75.00)~~one hundred dollars (\$100.00) for initial or renewal application, not to exceed
23 ~~seventy-five dollars (\$75.00)~~one hundred dollars (\$100.00) for examination, and not to
24 exceed ~~fifteen dollars (\$15.00)~~twenty-five dollars (\$25.00) for late renewal; maintain
25 Board accounts of all receipts, and make expenditures from Board receipts for any
26 purpose which is reasonable and necessary for the proper performance of its duties
27 under this Article.

28 (g) The Board shall have the power to establish or approve study or training
29 courses and to establish reasonable standards for ~~registration~~licensure and ~~certificate~~
30 license renewal, including but not limited to the power to adopt or use examination
31 materials and accreditation standards of any recognized counselor accrediting agency
32 and the power to establish reasonable standards for continuing counselor ~~education;~~
33 ~~provided that for certificate renewal no examination shall be required.~~education.

34 (h) Subject to the provisions of Chapter 150B of the General Statutes, the Board
35 shall have the power to adopt, amend, or repeal rules and regulations to carry out the
36 purposes of this Article, including but not limited to the power to adopt ethical and
37 disciplinary standards.

38 (i) ~~The Board shall not adopt rules to regulate individuals who do not use the title~~
39 ~~'Registered Practicing Counselor.'~~The Board shall establish by rule the criteria for
40 determining the qualifications constituting 'supervised experience'.

41 (j) The Board may examine for, approve, issue, deny, revoke, suspend, and renew
42 the licenses of counselor applicants and licensees under this Article and conduct
43 hearings in connection with these actions.

1 (k) The Board shall conduct investigations, subpoena individuals and records,
2 and do all other things necessary and proper to discipline persons licensed under this
3 Article and to enforce this Article.

4 **"§ 90-335. Board general provisions.**

5 The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

6 **"§ 90-336. Title and qualifications for ~~registration~~-licensure.**

7 (a) Each person desiring to be ~~registered by the Board~~ a Licensed Professional
8 Counselor shall make application to the Board upon such forms and in such manner as
9 the Board shall prescribe, together with the required application fee ~~established by the~~
10 ~~Board~~ fee.

11 (b) The Board shall issue a ~~certificate as 'Registered Practicing~~ license as 'Licensed
12 Professional Counselor' to an applicant who:

13 (1) Has earned a

14 a. Masters degree in counseling from a regionally accredited
15 institution of higher education, which includes a minimum of
16 48 semester hours, or

17 Holds a Master's degree from a college or university accredited by one
18 of the regional accrediting associations or from a college or university
19 determined by the Board to have standards substantially equivalent to
20 a regionally accredited institution, and

21 (2) Has a

22 b. Graduate degree in a related field including a concentration in
23 subject matter directly related to the practice of counseling as
24 defined in G.S. 90-330(a)(3) or a degree supplemented with
25 courses that the Board determines to be substantially equivalent,
26 and equivalent;

27 (3) (2) Provides satisfactory evidence of the completion of two years'
28 experience in the practice of counseling under the direct supervision
29 of a Registered Practicing Counselor. A doctoral degree in
30 counseling from an accredited college or university may be
31 substituted for two years of experience. Has had no less than two
32 years of masters or post-masters counseling experience, or of both,
33 in a professional setting, including a minimum of 2,000 hours of
34 supervised professional practice as defined by the Board; and

35 (3) Has passed an examination as adopted by the Board.

36 **"§ 90-337. Persons ~~certified~~-credentialed in other states.**

37 ~~A counselor who holds a valid and unrevoked certificate as a Registered Practicing~~
38 ~~Counselor, or its equivalent, issued under authority of any state, or the District of~~
39 ~~Columbia, and who resides within the State of North Carolina, may perform work~~
40 ~~within the State: Provided, that he register with the State Board of Registered Practicing~~
41 ~~Counselors and comply with its rules regarding such registration. Such person may use~~
42 ~~the term 'Counselor' in connection with his name, but may not use the term 'Registered~~
43 ~~Practicing Counselor' without registering with the Board. The Board may license any~~
44 ~~person who is currently licensed, certified, or registered by another state if the~~

1 individual has met requirements determined by the Board to be substantially similar to
2 or exceeding those established under this Article.

3 **"§ 90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.**

4 Applicants who were engaged in the practice of counseling before ~~January 1, 1984,~~
5 July 1, 1993, shall be exempt from the academic qualifications required by this Article
6 for ~~Registered Practicing Licensed Professional Counselors~~ and shall be ~~registered~~
7 licensed upon passing the Board examination and meeting the experience requirements.
8 Applicants holding certificates of registration as Registered Practicing Counselors and
9 in good standing with the Board shall be issued licenses as Licensed Professional
10 Counselors without meeting the requirements of G.S. 90-336(b).

11 **"§ 90-339. ~~Renewal of certificates of registration.~~ licenses.**

12 (a) All ~~certificates of registration~~ licenses shall be effective upon date of issuance
13 by the Board, and shall expire on the second June 30 thereafter.

14 (b) All ~~certificates of registration~~ licenses issued hereunder shall be renewed at the
15 times and in the manner provided by this section. At least 45 days prior to expiration of
16 each ~~certificate of registration,~~ license, the Board shall mail a notice for ~~certificate~~ license
17 renewal to the person ~~certified~~ licensed for the current ~~certification~~ licensure period. At
18 least 10 days before the current ~~certificate~~ license expires, the applicant must return the
19 notice properly completed, together with a renewal fee established by the ~~Board,~~ Board
20 and evidence of continuing counselor education as approved by the Board, upon receipt
21 of which the Board shall issue to the person to be ~~registered~~ licensed the renewed
22 ~~certificate of registration~~ license for the period stated on the ~~said certificate.~~ license.

23 (c) Any person ~~certified~~ licensed who allows his ~~certificate~~ license to lapse for
24 failure to apply for renewal within 45 days after notice shall be subject to a late renewal
25 fee as established herein. Failure to apply for renewal of a ~~certificate of registration~~
26 license within one year after the ~~certificate's~~ license's expiration date will require that a
27 ~~certificate of registration~~ license be reissued only upon application as for an original
28 ~~certificate.~~ license.

29 **"§ 90-340. ~~Disciplinary procedures.~~ Protection of the public.**

30 The Board may, in accordance with the provisions of Chapter 150B of the General
31 Statutes, refuse to grant or to renew, may suspend, or may revoke the ~~certificate~~ license
32 of any person ~~certified~~ licensed under this Article on the following grounds:

- 33 (1) Conviction of a misdemeanor under this Article; or
- 34 (2) Conviction of a felony under the laws of the United States or of any
35 state of the United States; or
- 36 (3) Gross unprofessional conduct, dishonest practice or incompetence in
37 the practice of counseling; or
- 38 (4) Procuring or attempting to procure a ~~certificate of registration~~ license by
39 fraud, deceit, or misrepresentation; or
- 40 (5) Any fraudulent or dishonest conduct in counseling; or
- 41 (6) Inability of the person to perform the functions for which a ~~certificate~~
42 of registration license has been issued due to impairment of mental or
43 physical faculties; or

- 1 (7) Violations of any of the provisions of this Article or rules of the ~~Board~~
2 Board; or
3 (8) Violations of the American Counseling Association Ethical Standards
4 adopted by the Board.

5 **"§ 90-341. Violation a misdemeanor.**

6 Any person violating any provision of this Article is guilty of a misdemeanor and,
7 upon conviction thereof, may be punishable by fine, by imprisonment, or by both fine
8 and imprisonment.

9 **"§ 90-342. Injunction.**

10 As an additional remedy, the Board may proceed in a superior court to enjoin and
11 restrain any person from violating the prohibitions of this Article. The Board shall not
12 be required to post bond in connection with such proceeding.

13 **"§ 90-343. Disclosure.**

14 Any individual, or employer of an individual, who is licensed under this Article may
15 not charge a client or receive remuneration for professional counseling services unless,
16 prior to the performance of those services, the client is furnished a copy of a
17 Professional Disclosure Statement which includes the licensee's professional
18 credentials, the services offered, the fee schedule, and other provisions required by the
19 Board."

20 Sec. 2. G.S. 8-53.8 reads as rewritten:

21 **"§ 8-53.8. Counselor privilege.**

22 No person, duly ~~registered~~-licensed pursuant to Chapter 90, Article 24, of the General
23 Statutes, shall be required to disclose any information which he or she may have
24 acquired in rendering professional counseling services, and which information was
25 necessary to enable him or her to render professional counseling services: Provided, that
26 the presiding judge of a superior or district court may compel such disclosure, if in the
27 court's opinion the same is necessary to a proper administration of justice and such
28 disclosure is not prohibited by other statute or regulation."

29 Sec. 3. G.S. 7A-551 reads as rewritten:

30 **"§ 7A-551. Privileges not grounds for excluding evidence.**

31 Neither the physician-patient privilege, the psychologist-client privilege, the licensed
32 professional counselor-client privilege, nor the husband-wife privilege shall be grounds
33 for excluding evidence of abuse or neglect in any judicial proceeding (civil, criminal, or
34 juvenile) in which a juvenile's abuse or neglect is in issue nor in any judicial proceeding
35 resulting from a report submitted under this Article, both as said privileges relate to the
36 competency of the witness and to the exclusion of confidential communications."

37 Sec. 4. If any portion of this act is declared invalid or unconstitutional, that
38 declaration shall not affect the validity and constitutionality of the remaining portions.

39 Sec. 5. This act becomes effective July 1, 1994, except that the Board's rule-
40 making authority under this act is effective upon ratification of the act.