

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 218*
Committee Substitute Favorable 6/7/93
Committee Substitute #2 Favorable 6/21/93

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~~ 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 Counselor~~' 'licensed professional counselor' is a
person engaged in the practice of counseling who holds a ~~certificate~~
license as a Registered Practicing Counselor—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 that include, but are not limited ~~to 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 human development
7 principles, methods, diagnostic procedures, treatment plans, and
8 other psychotherapeutic techniques, to develop an
9 understanding of personal problems, to define ~~goals~~ goals, and
10 to plan action reflecting ~~his or her~~ the client's interests, abilities,
11 aptitudes, and mental health needs as these are related to
12 ~~personal-social~~ personal-social-emotional concerns, ~~education~~
13 ~~progress~~ educational 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
17 guidance and personnel services to individuals, ~~groups~~ groups,
18 or organizations.
- 19 d. Referral Activities. – Identifying problems requiring referral to
20 other specialists.
- 21 e. Research Activities. – ~~Designing, conducting~~ conducting, and
22 interpreting research with human subjects.

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

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

31 (c) ~~Practice of Marriage and Family Therapy, Psychology, or Social~~
32 ~~Work. – No person hereafter registered~~ licensed as a ~~Practicing Counselor~~ licensed
33 professional counselor under the provisions of this Article shall be allowed to hold
34 himself or herself out to the public as ~~having specialized training or experience as an expert~~
35 ~~or specializing in the field of a Marriage and Family Therapy, Psychology or Social Work~~
36 certified marriage and family therapist, licensed practicing psychologist, psychological
37 associate, or certified clinical social worker unless specifically authorized by other
38 provisions of law.

39 **"§ 90-331. Unlawful use of title '~~Registered Practicing Counselor.~~' 'licensed**
40 **professional counselor'.**

41 ~~It shall be unlawful for any person who has not received a certificate of~~
42 ~~qualification as a Registered Practicing Counselor to assume or use such a title, or to use~~
43 ~~any words or other means of identification indicating that the person has been certified~~
44 ~~as a Registered Practicing Counselor, but such person may use the term 'counselor' in~~

1 ~~connection with his name relating to his services as a counselor. It shall be unlawful for~~
2 ~~any person who is not licensed under this Article to engage in the practice of~~
3 ~~counseling, use the title 'licensed professional counselor', use the letters 'LPC', use any~~
4 ~~facsimile or combination of these words or letters, abbreviations, or insignia, or indicate~~
5 ~~or imply orally, in writing, or in any other way that the person is a licensed professional~~
6 ~~counselor.~~

7 **"§ 90-332. Use of title by firm.**

8 It shall be unlawful for any firm, partnership, corporation, ~~association~~-association, or
9 other business or professional entity to assume or use the title of ~~Registered Practicing~~
10 ~~Counselor, licensed professional counselor~~ unless each of the members of such ~~the~~ firm,
11 ~~partnership~~-partnership, or association first shall have received a certificate of qualification
12 ~~from~~ is licensed by the State Board of Registered Practicing Counselors. ~~Board.~~

13 **"§ 90-332.1. Exemptions from licensure.**

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

- 17 (1) Any person registered, certified, or licensed by the State to practice
18 any other occupation or profession while rendering counseling services
19 in the performance of the occupation or profession for which the
20 person is registered, certified, or licensed.
- 21 (2) Any school counselor certified by the State Board of Education while
22 counseling within the scope of employment by a board of education or
23 private school.
- 24 (3) Any student intern or trainee in counseling pursuing a course of study
25 in counseling in a regionally accredited institution of higher learning
26 or training institution, if the intern or trainee is a designated 'counselor
27 intern' and the activities and services constitute a part of the supervised
28 course of study.
- 29 (4) Any ordained minister or other member of the clergy while acting in a
30 ministerial capacity.
- 31 (5) Any nonresident temporarily employed in this State to render
32 counseling services for not more than 30 days in a year, if the person
33 holds a license or certificate required for counselors in another state.
- 34 (6) Any person employed by State, federal, county, or municipal
35 government while counseling within the scope of employment.
- 36 (7) Any person performing mental health counseling solely as an
37 employee of an area facility, as defined in G.S. 122C-3(14)a., if both
38 of the following apply:
 - 39 a. The mental health services are provided by a qualified mental
40 health professional who meets or exceeds the minimum
41 educational qualifications for licensure as a licensed
42 professional counselor under this Article.
 - 43 b. The area facility has obtained written verification from the
44 following boards that the employee has not had his or her

1 license, registration, or certification revoked, rescinded, or
2 suspended: the North Carolina Board of Licensed Professional
3 Counselors, the North Carolina State Board of Examiners of
4 Practicing Psychologists, the North Carolina Certification
5 Board for Social Work, and the North Carolina Marital and
6 Family Therapy Certification Board.

7 (b) Persons who claim to be exempt under subsection (a) of this section are
8 prohibited from advertising or offering themselves as 'licensed professional counselors'.

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

11 **"§ 90-333. North Carolina Board of Registered Practicing Licensed Professional**
12 **Counselors; appointments; terms; composition.**

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

21 (b) At least five members of the Board shall be ~~Registered Practicing Counselors~~
22 licensed professional counselors except that initial appointees shall be persons who
23 meet the educational and experience requirements for ~~registration as Registered Practicing~~
24 licensure as licensed professional counselors under the provisions of this Article; and
25 two members shall be ~~appointed from the public at large. public-at-large members~~
26 appointed from the general public. Composition of the Board as to the race and sex of
27 its members shall reflect the composition of the population of the ~~State of North Carolina.~~
28 State and each member shall reside in a different congressional district.

29 (c) At all times the Board shall include at least ~~two counselors one counselor~~
30 primarily engaged in counselor education, at least one counselor primarily engaged in
31 the public sector, and at least two counselors one counselor primarily engaged in the
32 private sector. sector, and two licensed professional counselors at large.

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

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

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

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

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

11 **"§ 90-334. Functions and duties of the Board.**

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

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

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

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

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

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

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

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

42 (i) ~~The Board shall not adopt rules to regulate individuals who do not use the title~~
43 ~~'Registered Practicing Counselor.'~~ The Board shall establish the criteria for determining the
44 qualifications constituting 'supervised professional practice'.

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

4 (k) The Board shall investigate, subpoena individuals and records, and take
 5 necessary appropriate action to properly discipline persons licensed under this Article
 6 and to enforce this Article.

7 **"§ 90-335. Board general provisions.**

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

9 **"§ 90-336. Title and qualifications for registration-licensure.**

10 (a) ~~Each person desiring to be registered by the Board a licensed professional~~
 11 ~~counselor shall make application to the Board upon such forms and in such manner as~~
 12 ~~the Board shall prescribe, together with the required application fee established by the~~
 13 ~~Board-fee.~~

14 (b) ~~The Board shall issue a certificate as 'Registered Practicing Counselor'-license as~~
 15 ~~'licensed professional counselor' to an applicant who-who meets all of the following~~
 16 ~~criteria:~~

17 (1) Has earned one of the following:

18 a. A masters degree in counseling from a regionally accredited
 19 institution of higher education, which includes a minimum of
 20 48 semester hours.

21 ~~Holds a Master's degree from a college or university accredited by one~~
 22 ~~of the regional accrediting associations or from a college or university~~
 23 ~~determined by the Board to have standards substantially equivalent to~~
 24 ~~a regionally accredited institution, and~~

25 (2) ~~Has a~~

26 b. A graduate degree in a related field including a concentration in
 27 subject matter directly related to the practice of counseling as
 28 defined in G.S. 90-330(a)(3) or a degree supplemented with
 29 courses that the Board determines to be substantially equivalent,
 30 and equivalent.

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

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

40 **"§ 90-337. Persons ~~certified~~-credentialed in other states.**

41 ~~A counselor who holds a valid and unrevoked certificate as a Registered Practicing~~
 42 ~~Counselor, or its equivalent, issued under authority of any state, or the District of~~
 43 ~~Columbia, and who resides within the State of North Carolina, may perform work~~
 44 ~~within the State: Provided, that he register with the State Board of Registered Practicing~~

1 Counselors and comply with its rules regarding such registration. Such person may use
 2 the term 'Counselor' in connection with his name, but may not use the term 'Registered
 3 Practicing Counselor' without registering with the Board. The Board may license any
 4 person who is currently licensed, certified, or registered by another state if the
 5 individual has met requirements determined by the Board to be substantially similar to
 6 or exceeding those established under this Article.

7 **"§ 90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.**

8 Applicants holding certificates of registration as Registered Practicing Counselors
 9 and 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). ~~Applicants who were~~
 11 ~~engaged in the practice of counseling before January 1, 1984,~~ The following applicants shall
 12 be exempt from the academic qualifications required by this Article for Registered
 13 ~~Practicing Counselors~~ licensed professional counselors and shall be registered ~~licensed~~
 14 upon passing the Board examination and meeting the experience requirements.
 15 requirements:

16 (1) An applicant who was engaged in the practice of counseling before
 17 July 1, 1993.

18 (2) An applicant who holds a masters degree from a college or university
 19 accredited by one of the regional accrediting associations or from a
 20 college or university determined by the Board to have standards
 21 substantially equivalent to a regionally accredited institution, provided
 22 the applicant was enrolled in the masters program prior to July 1,
 23 1994.

24 **"§ 90-339. ~~Renewal of certificates of registration.~~ licenses.**

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

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

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

42 **"§ 90-340. ~~Disciplinary procedures.~~ Protection of the public.**

43 The Board may, in accordance with the provisions of Chapter 150B of the General
 44 Statutes, refuse to grant or to renew, may suspend, or may revoke the ~~certificate~~ license

1 of any person ~~certified~~licensed under this Article on one or more of the following
2 grounds:

- 3 (1) Conviction of a misdemeanor under this ~~Article;~~Article.
- 4 (2) Conviction of a felony under the laws of the United States or of any
5 state of the United States;~~or States.~~
- 6 (3) Gross unprofessional conduct, dishonest practice or incompetence in
7 the practice of ~~counseling;~~counseling.
- 8 (4) Procuring or attempting to procure a ~~certificate of registration~~license by
9 fraud, deceit, or ~~misrepresentation;~~misrepresentation.
- 10 (5) Any fraudulent or dishonest conduct in ~~counseling;~~counseling.
- 11 (6) Inability of the person to perform the functions for which a ~~certificate~~
12 ~~of registration~~license has been issued due to impairment of mental or
13 physical ~~faculties;~~faculties.
- 14 (7) Violations of any of the provisions of this Article or rules of the Board.
- 15 (8) Violations of the American Counseling Association Ethical Standards
16 adopted by the Board.

17 **"§ 90-341. Violation a misdemeanor.**

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

21 **"§ 90-342. Injunction.**

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

25 **"§ 90-343. Disclosure.**

26 Any individual, or employer of an individual, who is licensed under this Article may
27 not charge a client or receive remuneration for professional counseling services unless,
28 prior to the performance of those services, the client is furnished a copy of a
29 Professional Disclosure Statement that includes the licensee's professional credentials,
30 the services offered, the fee schedule, and other provisions required by the Board."

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

32 **"§ 8-53.8. Counselor privilege.**

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

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

41 **"§ 7A-551. Privileges not grounds for excluding evidence.**

42 Neither the physician-patient privilege, the psychologist-client privilege, the licensed
43 professional counselor-client privilege, nor the husband-wife privilege shall be grounds
44 for excluding evidence of abuse or neglect in any judicial proceeding (civil, criminal, or

1 juvenile) in which a juvenile's abuse or neglect is in issue nor in any judicial proceeding
2 resulting from a report submitted under this Article, both as said privileges relate to the
3 competency of the witness and to the exclusion of confidential communications."

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

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