

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 255*

Introduced and Referred 3/11/93

Children and Human Resources Committee Substitute Adopted 4/29/93

Short Title: Counselor Licensing.

(Public)

Sponsors:

Referred to: Finance.

February 19, 1993

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

4 The General Assembly of North Carolina enacts:

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

6 "ARTICLE 24.

7 "~~REGISTERED PRACTICING~~ LICENSED PROFESSIONAL COUNSELORS
8 ACT.

9 "§ 90-329. Declaration of policy.

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

13 "§ 90-330. Definitions; practice of law; practice of marriage and family therapy.

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

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

17 (1a) The 'Board' means the Board of Licensed Professional Counselors.

18 (2) ~~A 'Registered Practicing Licensed Professional Counselor' is a person~~
19 ~~engaged in the practice of counseling who holds a certificate-license as~~
20 ~~a Registered Practicing Licensed Professional Counselor issued to him~~
21 ~~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 (b) Persons claiming benefit of any of these exemptions are prohibited from
33 advertising or offering themselves as 'Licensed Professional Counselors'.

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

36 **"§ 90-333. North Carolina Board of ~~Registered Practicing Licensed Professional~~**
37 **Counselors; appointments; terms; composition.**

38 (a) For the purpose of carrying out the provisions of this Article, there is hereby
39 created the North Carolina Board of ~~Registered Practicing Licensed Professional~~
40 Counselors which shall consist of seven members appointed by the Governor in the
41 manner hereinafter prescribed. Any nationally recognized association representing
42 professional counselors may submit recommendations to the Governor for Board
43 membership. The Governor may remove any member of the Board for neglect of duty

1 or malfeasance or conviction of a felony or other crime of moral turpitude, but for no
2 other reason.

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

10 (c) At all times the Board shall include at least ~~two counselors~~ one counselor
11 primarily engaged in counselor education, at least one counselor primarily engaged in
12 the public sector, ~~and at least two counselors~~ one counselor primarily engaged in the
13 private ~~sector.~~ sector, and two licensed professional counselors at large.

14 (d) All members of the Board shall be residents of the State of North Carolina,
15 ~~and after the establishment of the initial Board, all members, and~~ with the exception of the
16 public ~~members at-large members,~~ shall be ~~registered~~ licensed by the Board under the
17 provisions of this Article. Professional members of the Board must be actively engaged
18 in the practice of counseling or in the education and training of students in counseling,
19 and have been for at least three years prior to their appointment to the Board. Such
20 activity during the two years preceding the appointment shall have occurred primarily in
21 this State.

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

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

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

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

36 **"§ 90-334. Functions and duties of the Board.**

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

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

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

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

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

7 (f) The Board shall establish and receive fees not to exceed ~~seventy-five dollars~~
8 ~~(\$75.00)~~ one hundred dollars (\$100.00) for initial or renewal application, not to exceed
9 ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00) for examination, and not to
10 exceed ~~fifteen dollars (\$15.00)~~ twenty-five dollars (\$25.00) for late renewal; maintain
11 Board accounts of all receipts, and make expenditures from Board receipts for any
12 purpose which is reasonable and necessary for the proper performance of its duties
13 under this Article.

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

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

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

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

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

33 **"§ 90-335. Board general provisions.**

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

35 **"§ 90-336. Title and qualifications for ~~registration~~ licensure.**

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

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

42 (1) Has earned a

1 a. Masters degree in counseling from a regionally accredited
 2 institution of higher education, which includes a minimum of
 3 48 semester hours, or

4 ~~Holds a Master's degree from a college or university accredited by one~~
 5 ~~of the regional accrediting associations or from a college or university~~
 6 ~~determined by the Board to have standards substantially equivalent to~~
 7 ~~a regionally accredited institution, and~~

8 (2) Has a

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

14 (3) ~~(2)~~ ~~Provides satisfactory evidence of the completion of two years'~~
 15 ~~experience in the practice of counseling under the direct supervision~~
 16 ~~of a Registered Practicing Counselor. A doctoral degree in~~
 17 ~~counseling from an accredited college or university may be~~
 18 ~~substituted for two years of experience. Has had no less than two~~
 19 ~~years of masters or post-masters counseling experience, or of both,~~
 20 ~~in a professional setting, including a minimum of 2,000 hours of~~
 21 ~~supervised professional practice as defined by the Board; and~~

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

23 **"§ 90-337. Persons ~~certified~~ credentialed in other states.**

24 ~~A counselor who holds a valid and unrevoked certificate as a Registered Practicing~~
 25 ~~Counselor, or its equivalent, issued under authority of any state, or the District of~~
 26 ~~Columbia, and who resides within the State of North Carolina, may perform work~~
 27 ~~within the State: Provided, that he register with the State Board of Registered Practicing~~
 28 ~~Counselors and comply with its rules regarding such registration. Such person may use~~
 29 ~~the term 'Counselor' in connection with his name, but may not use the term 'Registered~~
 30 ~~Practicing Counselor' without registering with the Board. The Board may license any~~
 31 ~~person who is currently licensed, certified, or registered by another state if the~~
 32 ~~individual has met requirements determined by the Board to be substantially similar to~~
 33 ~~or exceeding those established under this Article.~~

34 **"§ 90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.**

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

42 **"§ 90-339. ~~Renewal of certificates of registration.~~ licenses.**

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

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

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

16 **"§ 90-340. ~~Disciplinary procedures.~~ Protection of the public.**

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

- 20 (1) Conviction of a misdemeanor under this Article; or
- 21 (2) Conviction of a felony under the laws of the United States or of any
 22 state of the United States; or
- 23 (3) Gross unprofessional conduct, dishonest practice or incompetence in
 24 the practice of counseling; or
- 25 (4) Procuring or attempting to procure a ~~certificate of registration license~~ by
 26 fraud, deceit, or misrepresentation; or
- 27 (5) Any fraudulent or dishonest conduct in counseling; or
- 28 (6) Inability of the person to perform the functions for which a ~~certificate~~
 29 ~~of registration license~~ has been issued due to impairment of mental or
 30 physical faculties; or
- 31 (7) Violations of any of the provisions of this Article or rules of the ~~Board.~~
 32 Board; or
- 33 (8) Violations of the American Counseling Association Ethical Standards
 34 adopted by the Board.

35 **"§ 90-341. Violation a misdemeanor.**

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

39 **"§ 90-342. Injunction.**

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

43 **"§ 90-343. Disclosure.**

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

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

8 **"§ 8-53.8. Counselor privilege.**

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

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

17 **"§ 7A-551. Privileges not grounds for excluding evidence.**

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

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

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