

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1142*
Committee Substitute Favorable 5/7/93

Short Title: Substance Abuse Cert. Act.

(Public)

Sponsors:

Referred to:

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA SUBSTANCE ABUSE
3 PROFESSIONALS CERTIFICATION ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 90 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 5C.**
8 **"NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONALS**
9 **CERTIFICATION ACT.**

10 **"§ 90-113.30. Declaration of purpose.**

11 The North Carolina Substance Abuse Professionals Certification Board, established
12 by G.S. 90-113.32, is recognized as the certifying authority for certified substance abuse
13 counselors and certified substance abuse prevention consultants in order to safeguard
14 the public health, safety, and welfare, to protect the public from being harmed by
15 unqualified persons, to assure the highest degree of professional care and conduct on the
16 part of certified substance abuse counselors and certified substance abuse prevention
17 consultants, to provide for the establishment of standards for the education of substance
18 abuse counselors and substance abuse prevention consultants, and to ensure the
19 availability of substance abuse counseling services and substance abuse prevention
20 services of high quality to persons in need of these services. It is the purpose of this
21 Article to provide for the regulation of Board-certified persons offering substance abuse
22 counseling services, substance abuse prevention services, or any other substance abuse
23 services for which the Board may grant certification.

1 **"§ 90-113.31. Definitions.**

2 In this Article, unless the context clearly requires otherwise, the following
3 definitions apply:

- 4 (1) 'Board' means the North Carolina Substance Abuse Professionals
5 Certification Board.
- 6 (2) 'Certified substance abuse counselor' means any person who practices
7 substance abuse counseling in accordance with the provisions of this
8 Article.
- 9 (3) 'Substance abuse counseling' means the assessment, evaluation, or
10 provision of counseling to persons suffering from substance abuse or
11 dependency, alcohol abuse or dependency, or drug abuse or
12 dependency.
- 13 (4) 'Certified substance abuse prevention consultant' means any person
14 who practices substance abuse prevention in accordance with the
15 provisions of this Article.
- 16 (5) 'Prevention' means the reduction, delay, or avoidance of alcohol and of
17 other drug use behavior. 'Prevention' includes the promotion of
18 positive environments and individual strengths that contribute to
19 personal health and well-being over an entire life and the development
20 of strategies that encourage individuals, families, and communities to
21 take part in assessing and changing their lifestyle and environments.

22 **"§ 90-113.32. Board.**

23 (a) The Board is created as the certifying authority for substance abuse
24 counselors and substance abuse prevention consultants in North Carolina.

25 (b) Until the full Board is elected or appointed pursuant to subsection (c) of this
26 section, the Board shall consist of 16 members with two appointed by the General
27 Assembly, one upon recommendation of the Speaker of the House of Representatives,
28 and one upon recommendation of the President Pro Tempore of the Senate. The
29 remaining 14 shall be those members of the current North Carolina Substance Abuse
30 Professionals Certification Board, Inc., who have terms that are unexpired as of the
31 effective date of this Article. The initial Board shall appoint an initial Nominating and
32 Elections Committee to fill immediate vacancies on the Board, using the process
33 established in subsection (d) of this section. The election and appointment process of
34 the initial Board shall result in a Board of 19 members by April 1, 1994. As these initial
35 members' terms expire, their successors shall be appointed as described in subsection (c)
36 of this section, until the permanent Board is established, as described in subsection (c)
37 of this section. Time spent as an initial member counts in determining the limitation on
38 consecutive terms prescribed in subsection (e) of this section.

39 (c) After the initial Board members' terms expire, the Board shall consist of 19
40 members, all of whom shall reside in North Carolina, appointed or elected as follows:

- 41 (1) Eleven professionals certified pursuant to this Article and elected by
42 the certified professionals, at least two of whom shall serve each of the
43 four Division of Mental Health, Developmental Disabilities, and
44 Substance Abuse Services regions of the State;

- 1 (2) Three members at large chosen from laypersons or other professional
2 disciplines who have shown a special interest in the field of substance
3 abuse, nominated by the Nominations and Elections Committee
4 established by subsection (d) of this section and elected by the Board;
5 (3) Two members from the Division of Mental Health, Developmental
6 Disabilities, and Substance Abuse Services, Department of Human
7 Resources, appointed by the Chief of Substance Abuse Services
8 Section, Division of Mental Health, Developmental Disabilities, and
9 Substance Abuse Services, Department of Human Resources, at least
10 one of whom is from the Substance Abuse Services Section;
11 (4) One member of the public at large appointed by the Governor; and
12 (5) Two members of the public at large appointed by the General
13 Assembly, one upon recommendation of the Speaker of the House of
14 Representatives and one upon recommendation of the President Pro
15 Tempore of the Senate.

16 No members of the General Assembly shall serve on the Board.

17 (d) The Board shall appoint five professionals from the field of substance abuse
18 counseling and substance abuse prevention consulting to serve on the Nominating and
19 Elections Committee. Of these five, at least three shall not be members of the Board.
20 The Board shall appoint a member of the Nominating and Elections Committee to serve
21 as chair. The Committee's purpose is to accept nominations from professionals certified
22 by the Board to fill vacancies on the Board in membership categories prescribed by
23 subdivisions (1) and (2) of subsection (c) of this section and to conduct the election of
24 Board members. The Committee shall solicit nominations from all professionals it has
25 certified under this Article whenever such a vacancy occurs and when elected members'
26 terms are due to expire. The certified professionals shall submit to the Committee all
27 nominations within 90 days before the election of new Board members. The Committee
28 shall furnish all certified professionals with a ballot containing all the nominees for each
29 electd Board member vacancy. In soliciting and making nominations for this process,
30 the Committee shall give consideration to factors that promote representation on the
31 Board by professionals certified by the Board. The Committee shall serve for a two-
32 year term, its successors to be appointed for the same term by the Board.

33 (e) Members of the Board shall serve for three-year terms. No Board member
34 shall serve for more than two consecutive terms but a person who has been a member
35 for two consecutive terms may be reappointed after being off the Board for a period of
36 at least one year. When a vacancy occurs in an unexpired term, the Board shall appoint
37 temporary members to serve until the next membership election. Time spent as a
38 temporary member does not count in determining the limitation on consecutive terms.

39 **"§ 90-113.33. Board; powers and duties.**

40 The Board shall:

- 41 (1) Examine and determine the qualifications and fitness of applicants for
42 certification to practice in this State as substance abuse counselors and
43 as substance abuse prevention consultants;

- 1 (2) Issue, renew, deny, suspend, or revoke certification to practice in this
2 State or reprimand or otherwise discipline substance abuse counselors
3 and substance abuse prevention consultants in this State;
- 4 (3) Deal with issues concerning reciprocity;
- 5 (4) Conduct investigations for the purpose of determining whether
6 violations of this Article or grounds for disciplining exist;
- 7 (5) Employ the professional and clerical personnel necessary to carry out
8 the provisions of this Article. The Board may purchase or rent
9 necessary office space, equipment, and supplies;
- 10 (6) Conduct administrative hearings in accordance with Chapter 150B of
11 the General Statutes when a 'contested case', as defined in Chapter
12 150B, arises;
- 13 (7) Appoint from its own membership one or more members to act as
14 representatives of the Board at any meeting in which it considers this
15 representation is desirable;
- 16 (8) Establish fees for applications for examination, certificates of
17 certification and renewal, administrative hearings requested by the
18 members, and other services provided by the Board; and
- 19 (9) Adopt any rules necessary to carry out the purpose of this Article and
20 its duties and responsibilities pursuant to this Article.

21 The powers and duties enumerated in this section are granted for the purposes of
22 enabling the Board to safeguard the public health, safety, and welfare against
23 unqualified or incompetent practitioners and are to be liberally construed to accomplish
24 this objective. In instances in which the Board makes a decision to discipline under the
25 powers and duties set out in subdivisions (2) through (5) of this section, it may, as
26 part of its decision, charge the reasonable costs of investigations and the hearing to the
27 person disciplined.

28 **"§ 90-113.34. Records to be kept; copies of records.**

29 The Board shall obtain documentation of all proceedings under this Article and a
30 record of all persons certified under it. The record shall show the name, last known
31 place of business, last known place of residence, and date and number of the certificate
32 of certification as a certified substance abuse counselor or certified substance abuse
33 prevention consultant for every living certified person. Any interested person in the
34 State is entitled to obtain a copy of that record on application to the Board and upon
35 payment of a reasonable charge that is based on the costs involved in providing the
36 copy. The Board shall keep a hard copy of all records.

37 **"§ 90-113.35. Disposition of funds.**

38 All fees and other moneys collected and received by the Board shall be used to
39 implement this Article. The financial records of the Board shall be subjected to an
40 annual audit and paid for out of the funds of the Board.

41 **"§ 90-113.36. Certificates of certification.**

42 (a) The Board shall furnish a certificate of certification to each applicant
43 successfully completing the requirements for certification.

1 (b) The Board may furnish a certificate of certification to any person in another
2 state or territory if the individual's qualifications were, at the date of registration or
3 certification, substantially equal to the requirements under this Article. However, an
4 out-of-state applicant shall first file application and pay any required fees.

5 **"§ 90-113.37. Renewal of certification; lapse; revival.**

6 (a) Every person certified pursuant to this Article who desires to maintain
7 certification status shall apply to the Board for a renewal of certification every other
8 year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is
9 subject to completion of those continuing education requirements established by the
10 Board. Certification that is not renewed automatically lapses, unless the Board provides
11 for the late renewal of certification upon the payment of a late fee. No late renewal
12 shall be granted more than five years after a certification expires. A suspended
13 certification is subject to this section's renewal requirements and may be renewed as
14 provided in this section. This renewal does not entitle the certified person to engage in
15 the certified activity or in any other conduct or activity in violation of the order or
16 judgment by which the certification was suspended, until the certification is reinstated.
17 If a certification revoked on disciplinary grounds is reinstated and requires renewal, the
18 certified person shall pay the renewal fee and any applicable late fee.

19 (b) The Board shall establish the manner in which lapsed certification may be
20 revived or extended.

21 **"§ 90-113.38. Fees.**

22 The Board may establish reasonable fees not to exceed two hundred seventy-five
23 dollars (\$275.00) for applications for certification, renewal, and other processes
24 prescribed by G.S. 90-113.33(8).

25 **"§ 90-113.39. Standards for certification.**

26 The Board shall establish standards for certification of substance abuse professionals
27 consistent with the certification standards of the International Certification Reciprocity
28 Consortium/Alcohol and Other Drug Abuse and of the National Association of
29 Alcoholism and Drug Abuse Counselors. The Board shall publish these required
30 standards separately from its rules so as to provide easy access to the standards.

31 **"§ 90-113.40. Requirements for certification.**

32 Any person desiring to obtain certification from the Board shall make application to
33 the Board upon the forms and in the manner prescribed by the Board, together with the
34 required application fee.

35 The Board shall issue a certificate certifying an applicant as a 'Certified Substance
36 Abuse Counselor' or as a 'Certified Substance Abuse Prevention Consultant' if:

- 37 (1) The applicant is of good moral character;
- 38 (2) The applicant is not and has not engaged in any practice or conduct
39 that would be a ground for denial, revocation, or suspension under
40 G.S. 90-270.60;
- 41 (3) The applicant is qualified for certification pursuant to the requirements
42 of this Article and any rules adopted pursuant to it; and
- 43 (4) The applicant has, at a minimum, a high school diploma or a high
44 school equivalency certificate.

1 The Board shall publish from time to time information in order to provide specifics
2 for potential applicants of an acceptable educational curriculum and the terms of
3 acceptable supervised fieldwork experience.

4 **"§ 90-113.41. Examination.**

5 (a) Applicants for certification under this Article shall file an application at least
6 60 days prior to the date of examination and upon the forms and in the manner
7 prescribed by the Board. The application shall be accompanied by the appropriate fee.
8 No portion of this fee is refundable. Applicants who fail an examination may apply for
9 reexamination upon the payment of another examination fee.

10 (b) Each applicant for certification under this Article shall be examined in an
11 examination that is consistent with the examination requirements of the International
12 Certification Reciprocity Consortium/Alcohol and Other Drug Abuse.

13 (c) Applicants for certification shall be examined at a time and place and under
14 the supervision that the Board determines. Examinations shall be given in this State at
15 least twice each year.

16 (d) Applicants may obtain their examination scores and may review their
17 examination papers in accordance with rules the Board adopts.

18 **"§ 90-113.41A. Exemptions.**

19 It is not the intent of this Article to regulate members of other regulated professions
20 who provide substance abuse services or consultation in the normal course of the
21 practice of their profession. Accordingly, this Article does not apply to any person
22 registered, certified, or licensed by the State to practice any other occupation or
23 profession while rendering substance abuse services or consultation in the performance
24 of the occupation or profession for which he is registered, certified, or licensed. Only
25 individuals certified under Article 5C of Chapter 90 may use the title 'certified
26 substance abuse counselor' or 'certified substance abuse prevention consultant'.

27 **"§ 90-113.42. Illegal practice; misdemeanor penalty.**

28 Except as otherwise authorized in this Article, no person shall:

29 (1) Practice, attempt to practice, or supervise as a certified substance
30 abuse counselor or a certified substance abuse prevention consultant
31 without first having obtained a certificate of certification or
32 authorization from the Board;

33 (2) Use in connection with any name any letters, words, numerical codes,
34 or insignia indicating or implying that this person is a certified
35 substance abuse counselor or a certified substance abuse prevention
36 counselor unless this person is certified or otherwise authorized
37 pursuant to this Article;

38 (3) Practice or attempt to practice as a certified substance abuse counselor
39 or certified substance abuse prevention consultant with a revoked,
40 lapsed, or suspended certification;

41 (4) Aid, abet, or assist any uncertified person to practice as a certified
42 substance abuse counselor or certified substance abuse prevention
43 consultant in violation of this Article;

1 (5) Knowingly serve in a position required by State law or rule or federal
2 law or regulation to be filled by a certified substance abuse counselor
3 or a certified substance abuse prevention consultant unless that person
4 is so certified or authorized under this Article; or

5 (6) Otherwise violates any of the provisions of this Article or any of the
6 rules adopted pursuant to it.

7 A person who engages in any of the illegal practices enumerated by this section is
8 guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned, or both.
9 Each act of unlawful practice constitutes a distinct and separate offense.

10 **"§ 90-113.43. Grounds for disciplinary action.**

11 Grounds for disciplinary action include:

12 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
13 attempting to obtain certification or renewal of certification;

14 (2) The use of drugs or alcoholic beverages to the extent that professional
15 competency is affected, until proof of rehabilitation consistent with
16 adopted rules can be established;

17 (3) Conviction of an offense under any municipal, State, or federal
18 narcotic or controlled substance law, until proof of rehabilitation can
19 be established;

20 (4) Conviction of a felony or other public offense involving moral
21 turpitude, until proof of rehabilitation can be established;

22 (5) An adjudication of insanity or incompetency, until proof of recovery
23 from this condition can be established;

24 (6) Engaging in any act or practice violative of any of the provisions of
25 this Article or any of the rules adopted pursuant to it, or aiding,
26 abetting, or assisting any other person in such a violation;

27 (7) The commission of an act of malpractice, gross negligence, or
28 incompetence in the practice of substance abuse counseling or in
29 substance abuse prevention consulting;

30 (8) Practice as a certified substance abuse counselor or as a certified
31 substance abuse prevention consultant without a valid certificate; and

32 (9) Engaging in conduct that could result in harm or injury to the public.

33 **"§ 90-113.44. Enjoining illegal practices.**

34 (a) The Board may, if it finds that any person is violating any of the provisions of
35 this Article or of the rules adopted pursuant to it, apply in its own name to the superior
36 court for a temporary or permanent restraining order or injunction to restrain that person
37 from continuing these illegal practices. The court may grant injunctive relief regardless
38 of whether criminal prosecution or other action has been or may be instituted as a result
39 of the violation. In the court's consideration of the issue of whether to grant or continue
40 an injunction sought by the Board, a showing of conduct in violation of the terms of
41 this Article shall be sufficient to meet any requirement of general North Carolina
42 injunction law for irreparable damage.

43 (b) The venue for actions brought under this section is the superior court of any
44 county in which the illegal acts are alleged to have been committed, in the county in

1 which the defendants in these actions reside, or in the county in which the Board
2 maintains its offices and records.

3 **"§ 90-113.45. Application of requirements of Article.**

4 All persons certified by the North Carolina Substance Abuse Professionals
5 Certification Board, Inc., as of the effective date of this Article are considered certified
6 pursuant to this Article. All the professionals considered certified pursuant to this
7 section shall file application with the Board within six months of this effective date
8 requesting certification and showing evidence of their prior certification. These persons
9 are subject to all the other requirements of this Article and of the rules adopted pursuant
10 to it."

11 Sec. 2. This act becomes effective December 1, 1993, and applies to
12 requirements imposed on or after that date, and to causes of action, whether civil,
13 criminal, or administrative, arising on or after that date.