

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 255*

Short Title: Counselor Licensing.

(Public)

Sponsors: Senators Tally; Seymour, Gunter, Lee, Walker, Hoyle, Warren, Edwards, Perdue, Hunt, and Martin of Guilford.

Referred to: Held for New Licensing Assessment per G.S. 149-3.

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. The
17 '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) (b) Practice of Marriage and Family Therapy, Psychology or Social Work.~~
31 ~~No 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 **"§ 90-333. North Carolina Board of ~~Registered Practicing Licensed~~ Professional**
11 **Counselors; appointments; terms; composition.**

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

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

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

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

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

43 (f) Each term of service on the Board shall expire on the 30th day of June of the
44 year in which the term expires. As the term of a member expires, the Governor shall

1 make the appointment for a full term, or, if a vacancy occurs for any other reason, for
2 the remainder of the unexpired term.

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

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

9 **"§ 90-334. Functions and duties of the Board.**

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

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

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

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

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

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

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

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

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

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

4 (k) The Board shall conduct investigations, subpoena individuals and records,
 5 and do all other things necessary and proper to discipline persons licensed under this
 6 Article 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~~ license as 'Licensed
 15 Professional Counselor' to an applicant who:

16 (1) Has earned a

17 a. Masters degree in counseling from a regionally accredited
 18 institution of higher education, which includes a minimum of
 19 48 semester hours, or

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

24 (2) Has a

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

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

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

39 **"§ 90-337. Persons ~~certified~~ credentialed in other states.**

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

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

6 **"§ 90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.**

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

14 **"§ 90-339. ~~Renewal of certificates of registration.~~ licenses.**

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

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

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

32 **"§ 90-340. ~~Disciplinary procedures.~~ Protection of the public.**

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

- 36 (1) Conviction of a misdemeanor under this Article; or
- 37 (2) Conviction of a felony under the laws of the United States or of any
38 state of the United States; or
- 39 (3) Gross unprofessional conduct, dishonest practice or incompetence in
40 the practice of counseling; or
- 41 (4) Procuring or attempting to procure a ~~certificate of registration~~ license by
42 fraud, deceit, or misrepresentation; or
- 43 (5) Any fraudulent or dishonest conduct in counseling; or

- 1 (6) Inability of the person to perform the functions for which a ~~certificate~~
2 of ~~registration~~-license has been issued due to impairment of mental or
3 physical faculties; or
4 (7) Violations of any of the provisions of this Article or rules of the ~~Board~~.
5 Board; or
6 (8) Violations of the American Counseling Association Ethical Standards
7 adopted by the Board.

8 **"§ 90-341. Violation a misdemeanor.**

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

12 **"§ 90-342. Injunction.**

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

16 **"§ 90-343. Disclosure.**

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

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

24 **"§ 8-53.8. Counselor privilege.**

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

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

33 **"§ 7A-551. Privileges not grounds for excluding evidence.**

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

40 Sec. 4. This act becomes effective July 1, 1994; provided, however, that the
41 Board's rule-making authority under this act is effective upon ratification of the act.