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Short Title: Substance Abuse Cert. Act.

(Public)

Sponsors:

Referred to: Finance.

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA SUBSTANCE ABUSE
3 PROFESSIONALS CERTIFICATION ACT AND TO MAKE AMENDMENTS TO
4 THE LAWS GOVERNING LICENSED PROFESSIONAL COUNSELORS.

5 The General Assembly of North Carolina enacts:

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

8 **"ARTICLE 5C.**

9 **"NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONALS**
10 **CERTIFICATION ACT.**

11 **"§ 90-113.30. Declaration of purpose.**

12 The North Carolina Substance Abuse Professionals Certification Board, established
13 by G.S. 90-113.32, is recognized as the certifying authority for certified substance abuse
14 counselors and certified substance abuse prevention consultants in order to safeguard
15 the public health, safety, and welfare, to protect the public from being harmed by
16 unqualified persons, to assure the highest degree of professional care and conduct on the
17 part of certified substance abuse counselors and certified substance abuse prevention
18 consultants, to provide for the establishment of standards for the education of substance
19 abuse counselors and substance abuse prevention consultants, and to ensure the
20 availability of substance abuse counseling services and substance abuse prevention

1 services of high quality to persons in need of these services. It is the purpose of this
2 Article to provide for the regulation of Board-certified persons offering substance abuse
3 counseling services, substance abuse prevention services, or any other substance abuse
4 services for which the Board may grant certification.

5 **"§ 90-113.31. Definitions.**

6 In this Article, unless the context clearly requires otherwise, the following
7 definitions apply:

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

26 **"§ 90-113.32. Board.**

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

29 (b) Until the full Board is elected or appointed pursuant to subsection (c) of this
30 section, the Board shall consist of 16 members with one member appointed by the
31 Speaker of the House of Representatives, and one member appointed by the President
32 Pro Tempore of the Senate. The remaining 14 shall be those members of the current
33 North Carolina Substance Abuse Professionals Certification Board, Inc., who have
34 terms that are unexpired as of the effective date of this Article. The initial Board shall
35 appoint an initial Nominating and Elections Committee to fill immediate vacancies on
36 the Board, using the process established in subsection (d) of this section. The election
37 and appointment process of the initial Board shall result in a Board of 19 members by
38 April 1, 1995. As these initial members' terms expire, their successors shall be
39 appointed as described in subsection (c) of this section, until the permanent Board is
40 established, as described in subsection (c) of this section. Time spent as an initial
41 member counts in determining the limitation on consecutive terms prescribed in
42 subsection (e) of this section.

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

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

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

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

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

42 **"§ 90-113.33. Board; powers and duties.**

43 The Board shall:

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

24 The powers and duties enumerated in this section are granted for the purposes of
25 enabling the Board to safeguard the public health, safety, and welfare against
26 unqualified or incompetent practitioners and are to be liberally construed to accomplish
27 this objective. When the Board exercises its authority under this Article to discipline a
28 person, it may, as part of the decision imposing the discipline, charge the costs of
29 investigations and the hearing to the person disciplined.

30 **"§ 90-113.34. Records to be kept; copies of records.**

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

39 **"§ 90-113.35. Disposition of funds.**

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

43 **"§ 90-113.36. Certificates of certification.**

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

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

7 **"§ 90-113.37. Renewal of certification; lapse; revival.**

8 (a) Every person certified pursuant to this Article who desires to maintain
9 certification status shall apply to the Board for a renewal of certification every other
10 year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is
11 subject to completion of 60 hours of those continuing education requirements
12 established by the Board. Certification that is not renewed automatically lapses, unless
13 the Board provides for the late renewal of certification upon the payment of a late fee.
14 No late renewal shall be granted more than five years after a certification expires. A
15 suspended certification is subject to this section's renewal requirements and may be
16 renewed as provided in this section. This renewal does not entitle the certified person to
17 engage in the certified activity or in any other conduct or activity in violation of the
18 order or judgment by which the certification was suspended, until the certification is
19 reinstated. If a certification revoked on disciplinary grounds is reinstated and requires
20 renewal, the certified person shall pay the renewal fee and any applicable late fee.

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

23 **"§ 90-113.38. Maximums for certain fees.**

24 The combined fees to obtain a certificate of certification may not exceed three
25 hundred dollars (\$300.00). The fee to renew a certificate may not exceed one hundred
26 dollars (\$100.00).

27 **"§ 90-113.39. Standards for certification.**

28 The Board shall establish standards for certification of substance abuse
29 professionals. The certification standards of the International Certification Reciprocity
30 Consortium/Alcohol and Other Drug Abuse and of the National Association of
31 Alcoholism and Drug Abuse Counselors may be used as guidelines for the Board's
32 standards. The Board shall publish these required standards separately from its rules so
33 as to provide easy access to the standards.

34 **"§ 90-113.40. Requirements for certification.**

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 grounds for disciplinary action under G.S. 90-113.44;
- 40 (3) The applicant is qualified for certification pursuant to the requirements
41 of this Article and any rules adopted pursuant to it;
- 42 (4) The applicant has, at a minimum, a high school diploma or a high
43 school equivalency certificate;

- 1 (5) The applicant has signed a form attesting to the intention to adhere
2 fully to the ethical standards adopted by the Board;
3 (6) The applicant has completed 270 hours of Board-approved education;
4 (7) The applicant has documented completion of a minimum of 300 hours
5 of Supervised Practical Training and has provided a Board-approved
6 supervision contract between the applicant and an approved
7 supervisor;
8 (8) The applicant has completed either a total of three years of supervised
9 experience in the field, whether paid or volunteer, or, if a graduate of a
10 Board-approved masters degree program, a total of 18 months of
11 supervised experience in the field, whether paid or volunteer; and
12 (9) The applicant has successfully completed a written examination and an
13 oral examination promulgated and administered by the Board.

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

17 **§ 90-113.41. Examination.**

18 (a) Applicants for certification under this Article shall file an application at least
19 60 days prior to the date of examination and upon the forms and in the manner
20 prescribed by the Board. The application shall be accompanied by the appropriate fee.
21 No portion of this fee is refundable. Applicants who fail an examination may apply for
22 reexamination upon the payment of another examination fee.

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

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

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

31 **§ 90-113.42. Exemptions.**

32 It is not the intent of this Article to regulate members of other regulated professions
33 who provide substance abuse services or consultation in the normal course of the
34 practice of their profession. Accordingly, this Article does not apply to any person
35 registered, certified, or licensed by the State to practice any other occupation or
36 profession while rendering substance abuse services or consultation in the performance
37 of the occupation or profession for which he is registered, certified, or licensed. Only
38 individuals certified under this Article may use the title 'certified substance abuse
39 counselor' or 'certified substance abuse prevention consultant'.

40 **§ 90-113.43. Illegal practice; misdemeanor penalty.**

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

- 42 (1) Practice, attempt to practice, or supervise while holding out to be a
43 certified substance abuse counselor or a certified substance abuse

- 1 prevention consultant without first having obtained a certificate of
 2 certification from the Board;
 3 (2) Use in connection with any name any letters, words, numerical codes,
 4 or insignia indicating or implying that this person is a certified
 5 substance abuse counselor or a certified substance abuse prevention
 6 consultant unless this person is certified pursuant to this Article;
 7 (3) Practice or attempt to practice as a certified substance abuse counselor
 8 or certified substance abuse prevention consultant with a revoked,
 9 lapsed, or suspended certification;
 10 (4) Aid, abet, or assist any uncertified person to practice as a certified
 11 substance abuse counselor or certified substance abuse prevention
 12 consultant in violation of this Article;
 13 (5) Knowingly serve in a position required by State law or rule or federal
 14 law or regulation to be filled by a certified substance abuse counselor
 15 or a certified substance abuse prevention consultant unless that person
 16 is so certified under this Article; or
 17 (6) Otherwise violate any of the provisions of this Article or any of the
 18 rules adopted pursuant to it.

19 A person who engages in any of the illegal practices enumerated by this section is
 20 guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct
 21 and separate offense.

22 **"§ 90-113.44. Grounds for disciplinary action.**

23 Grounds for disciplinary action include:

- 24 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
 25 attempting to obtain certification or renewal of certification;
 26 (2) The use of drugs or alcoholic beverages to the extent that professional
 27 competency is affected, until proof of rehabilitation can be established;
 28 (3) Conviction of an offense under any municipal, State, or federal
 29 narcotic or controlled substance law, until proof of rehabilitation can
 30 be established;
 31 (4) Conviction of a felony or other public offense involving moral
 32 turpitude, until proof of rehabilitation can be established;
 33 (5) An adjudication of insanity or incompetency, until proof of recovery
 34 from this condition can be established;
 35 (6) Engaging in any act or practice violative of any of the provisions of
 36 this Article or any of the rules adopted pursuant to it, or aiding,
 37 abetting, or assisting any other person in such a violation;
 38 (7) The commission of an act of malpractice, gross negligence, or
 39 incompetence in the practice of substance abuse counseling or in
 40 substance abuse prevention consulting;
 41 (8) Practicing as a certified substance abuse counselor or as a certified
 42 substance abuse prevention consultant without a valid certificate; and
 43 (9) Engaging in conduct that could result in harm or injury to the public.

44 **"§ 90-113.45. Enjoining illegal practices.**

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

10 (b) The venue for actions brought under this section is the superior court of any
11 county in which the illegal acts are alleged to have been committed or in the county
12 where the defendant resides.

13 **"§ 90-113.46. Application of requirements of Article.**

14 All persons certified by the North Carolina Substance Abuse Professionals
15 Certification Board, Inc., as of the effective date of this Article shall be certified by the
16 Board pursuant to this Article. All these persons are subject to all the other
17 requirements of this Article and of the rules adopted pursuant to it."

18 Sec. 2. G.S. 90-332.1 is amended by adding a new subsection to read:

19 "(d) Nothing in this Article shall prevent a person from performing substance
20 abuse counseling or substance abuse prevention consulting as defined in Article 5C of
21 this Chapter."

22 Sec. 3. G.S. 90-338 reads as rewritten:

23 **"§ 90-338. Exemptions.**

24 Applicants holding certificates of registration as Registered practicing Counselors
25 and in good standing with the Board shall be issued licenses as licensed professional
26 counselors without meeting the requirements of G.S. 90-336(b). The following
27 applicants shall be exempt from the academic qualifications required by this Article for
28 licensed professional counselors and shall be licensed upon passing the Board
29 examination ~~and or~~ meeting the experience requirements:

- 30 (1) An applicant who was engaged in the practice of counseling before
31 July 1, 1993.
- 32 (2) An applicant who holds a masters degree from a college or university
33 accredited by one of the regional accrediting associations or from a
34 college or university determined by the Board to have standards
35 substantially equivalent to a regionally accredited institution, provided
36 the applicant was enrolled in the masters program prior to July 1,
37 1994."

38 Sec. 4. This act becomes effective July 1, 1994 and applies to requirements
39 imposed on or after that date, and to causes of action, whether civil, criminal, or
40 administrative, arising on or after that date.