

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 685
HOUSE BILL 1142

AN ACT TO ESTABLISH THE NORTH CAROLINA SUBSTANCE ABUSE
PROFESSIONALS CERTIFICATION ACT AND TO MAKE AMENDMENTS TO
THE LAWS GOVERNING LICENSED PROFESSIONAL COUNSELORS.

The General Assembly of North Carolina enacts:

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

"ARTICLE 5C.

"North Carolina Substance Abuse Professionals Certification Act.

"§ 90-113.30. Declaration of purpose.

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

"§ 90-113.31. Definitions.

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

- (1) 'Board' means the North Carolina Substance Abuse Professionals Certification Board.
- (2) 'Certified substance abuse counselor' means any person certified to practice substance abuse counseling in accordance with the provisions of this Article.
- (3) 'Substance abuse counseling' means the assessment, evaluation, or provision of counseling to persons suffering from substance abuse or dependency, alcohol abuse or dependency, or drug abuse or dependency.

- (4) 'Certified substance abuse prevention consultant' means any person certified to practice substance abuse prevention in accordance with the provisions of this Article.
- (5) 'Prevention' means the reduction, delay, or avoidance of alcohol and of other drug use behavior. 'Prevention' includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.

"§ 90-113.32. Board.

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

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

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

- (1) Eleven professionals certified pursuant to this Article and elected by the certified professionals, at least two of whom shall serve each of the four Division of Mental Health, Developmental Disabilities, and Substance Abuse Services regions of the State;
- (2) Three members at large chosen from laypersons or other professional disciplines who have shown a special interest in the field of substance abuse, nominated by the Nominations and Elections Committee established by subsection (d) of this section and elected by the Board;
- (3) Two members from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, appointed by the Chief of Substance Abuse Services Section, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Human Resources, at least one of whom is from the Substance Abuse Services Section;
- (4) One member of the public at large appointed by the Governor; and

- (5) One member of the public at large appointed by the Speaker of the House of Representatives and one member of the public at large appointed by the President Pro Tempore of the Senate.

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

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

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

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

The Board shall:

- (1) Examine and determine the qualifications and fitness of applicants for certification to practice in this State as substance abuse counselors and as substance abuse prevention consultants;
- (2) Issue, renew, deny, suspend, or revoke certification to practice in this State or reprimand or otherwise discipline substance abuse counselors and substance abuse prevention consultants in this State;
- (3) Deal with issues concerning reciprocity;
- (4) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining exist;
- (5) Employ the professional and clerical personnel necessary to carry out the provisions of this Article. The Board may purchase or rent necessary office space, equipment, and supplies;
- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a 'contested case', as defined in Chapter 150B, arises;

- (7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is desirable;
- (8) Establish fees for applications for examination, certificates of certification and renewal, and other services provided by the Board; and
- (9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.

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

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

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

"§ 90-113.35. Disposition of funds.

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

"§ 90-113.36. Certificates of certification.

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

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

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

(a) Every person certified pursuant to this Article who desires to maintain certification status shall apply to the Board for a renewal of certification every other year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is subject to completion of 60 hours of those continuing education requirements established by the Board. Certification that is not renewed automatically lapses, unless the Board provides for the late renewal of certification upon the payment of a late fee. No late renewal shall be granted more than five years after a certification expires. A suspended certification is subject to this section's renewal requirements and may be renewed as provided in this section. This renewal does not entitle the certified person to

engage in the certified activity or in any other conduct or activity in violation of the order or judgment by which the certification was suspended, until the certification is reinstated. If a certification revoked on disciplinary grounds is reinstated and requires renewal, the certified person shall pay the renewal fee and any applicable late fee.

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

"§ 90-113.38. Maximums for certain fees.

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

"§ 90-113.39. Standards for certification.

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

"§ 90-113.40. Requirements for certification.

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

- (1) The applicant is of good moral character;
- (2) The applicant is not and has not engaged in any practice or conduct that would be grounds for disciplinary action under G.S. 90-113.44;
- (3) The applicant is qualified for certification pursuant to the requirements of this Article and any rules adopted pursuant to it;
- (4) The applicant has, at a minimum, a high school diploma or a high school equivalency certificate;
- (5) The applicant has signed a form attesting to the intention to adhere fully to the ethical standards adopted by the Board;
- (6) The applicant has completed 270 hours of Board-approved education;
- (7) The applicant has documented completion of a minimum of 300 hours of Supervised Practical Training and has provided a Board-approved supervision contract between the applicant and an approved supervisor;
- (8) The applicant has completed either a total of three years of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved masters degree program, a total of 18 months of supervised experience in the field, whether paid or volunteer; and
- (9) The applicant has successfully completed a written examination and an oral examination promulgated and administered by the Board.

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

"§ 90-113.41. Examination.

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

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

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

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

"§ 90-113.42. Exemptions.

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

"§ 90-113.43. Illegal practice; misdemeanor penalty.

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

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

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

"§ 90-113.44. Grounds for disciplinary action.

Grounds for disciplinary action include:

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

"§ 90-113.45. Enjoining illegal practices.

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

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

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

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

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

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

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

"§ 90-338. Exemptions.

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

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

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

In the General Assembly read three times and ratified this the 6th day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives