

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 218\*  
Committee Substitute Favorable 6/7/93  
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Short Title: Counselor Licensing.

(Public)

Sponsors:

Referred to:

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~~ 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 Counselor'~~ 'licensed professional counselor' is a  
19 person engaged in the practice of counseling who holds a ~~certificate~~

1 ~~license as a Registered Practicing Counselor~~ licensed professional  
2 ~~counselor~~ issued to him under the provisions of this Article.

3 (3) The 'practice of counseling' means holding oneself out to the public as  
4 a ~~practicing professional~~ counselor offering counseling services which  
5 that include, but are not limited to, the following:

6 a. Counseling. ~~Assisting an individual,~~ individuals, groups, and  
7 families through the counseling relationship, using a  
8 combination of clinical mental health and human development  
9 principles, methods, diagnostic procedures, treatment plans, and  
10 other psychotherapeutic techniques, to develop an  
11 understanding of personal problems, to define ~~goals~~ goals, and  
12 to plan action reflecting his or her the client's interests, abilities,  
13 aptitudes, and mental health needs as these are related to  
14 personal social ~~personal-social-emotional~~ concerns, education  
15 progress ~~educational progress~~, and occupations and careers.

16 b. Appraisal Activities. ~~Administering and interpreting tests for~~  
17 assessment of personal characteristics.

18 c. Consulting. ~~Interpreting scientific data and providing~~  
19 guidance and personnel services to individuals, ~~groups~~ groups,  
20 or organizations.

21 d. Referral Activities. ~~Identifying problems requiring referral to~~  
22 other specialists.

23 e. Research Activities. ~~Designing, conducting~~ conducting, and  
24 interpreting research with human subjects.

25 (4) A 'supervisor' means any licensed professional counselor or, when one  
26 is inaccessible, an equivalently credentialed mental health  
27 professional, as determined by the Board, with a minimum of five  
28 years of counseling experience who meets the qualifications  
29 established by the Board.

30 (b) Practice of Law. ~~Nothing in this Article shall be construed as authorizing~~  
31 ~~Registered Practicing Counselors to engage in the practice of law, and such person shall~~  
32 ~~not engage in the practice of law unless duly licensed so to do.~~

33 (c) Practice of Marriage and Family Therapy, ~~Psychology~~ Psychology, or Social  
34 Work. ~~No person hereafter registered~~ licensed as a ~~Practicing Counselor~~ licensed  
35 professional counselor under the provisions of this Article shall be allowed to hold  
36 himself or herself out to the public as ~~having specialized training or experience as an expert~~  
37 ~~or specializing in the field of a Marriage and Family Therapy, Psychology or Social Work~~  
38 certified marriage and family therapist, licensed practicing psychologist, psychological  
39 associate, or certified clinical social worker unless specifically authorized by other  
40 provisions of law.

41 "§ 90-331. Unlawful use of title '~~Registered Practicing Counselor.~~' 'licensed  
42 professional counselor'.

43 ~~It shall be unlawful for any person who has not received a certificate of~~  
44 ~~qualification as a Registered Practicing Counselor to assume or use such a title, or to use~~

1 ~~any words or other means of identification indicating that the person has been certified~~  
2 ~~as a Registered Practicing Counselor, but such person may use the term 'counselor' in~~  
3 ~~connection with his name relating to his services as a counselor. It shall be unlawful for~~  
4 ~~any person who is not licensed under this Article to engage in the practice of~~  
5 ~~counseling, use the title 'licensed professional counselor', use the letters 'LPC', use any~~  
6 ~~facsimile or combination of these words or letters, abbreviations, or insignia, or indicate~~  
7 ~~or imply orally, in writing, or in any other way that the person is a licensed professional~~  
8 ~~counselor.~~

9 **"§ 90-332. Use of title by firm.**

10 It shall be unlawful for any firm, partnership, corporation, ~~association~~ association, or  
11 other business or professional entity to assume or use the title of ~~Registered Practicing~~  
12 ~~Counselor, licensed professional counselor~~ licensed professional counselor unless each of the members of ~~such the~~ the firm,  
13 ~~partnership~~ partnership, or association first shall have received a certificate of qualification  
14 ~~from is licensed by the State Board of Registered Practicing Counselors. Board.~~

15 **"§ 90-332.1. Exemptions from licensure.**

16 (a) It is not the intent of this Article to regulate members of other regulated  
17 professions who do counseling in the normal course of the practice of their profession.  
18 Accordingly, this Article does not apply to:

- 19 (1) Lawyers, doctors licensed under Chapter 90, and any other person  
20 registered, certified, or licensed by the State to practice any other  
21 occupation or profession while rendering counseling services in the  
22 performance of the occupation or profession for which the person is  
23 registered, certified, or licensed.
- 24 (2) Any school counselor certified by the State Board of Education while  
25 counseling within the scope of employment by a board of education or  
26 private school.
- 27 (3) Any student intern or trainee in counseling pursuing a course of study  
28 in counseling in a regionally accredited institution of higher learning  
29 or training institution, if the intern or trainee is a designated 'counselor  
30 intern' and the activities and services constitute a part of the supervised  
31 course of study.
- 32 (4) Any ordained minister or other member of the clergy while acting in a  
33 ministerial capacity.
- 34 (5) Any nonresident temporarily employed in this State to render  
35 counseling services for not more than 30 days in a year, if the person  
36 holds a license or certificate required for counselors in another state.
- 37 (6) Any person employed by State, federal, county, or municipal  
38 government while counseling within the scope of employment.
- 39 (7) Any person performing mental health counseling solely as an  
40 employee of an area facility, as defined in G.S. 122C-3(14)a., if both  
41 of the following apply:
  - 42 a. The mental health services are provided by a qualified mental  
43 health professional who meets or exceeds the minimum

1 educational qualifications for licensure as a licensed  
2 professional counselor under this Article.

3 b. The area facility has obtained written verification from the  
4 following boards that the employee has not had his or her  
5 license, registration, or certification revoked, rescinded, or  
6 suspended: the North Carolina Board of Licensed Professional  
7 Counselors, the North Carolina State Board of Examiners of  
8 Practicing Psychologists, the North Carolina Certification  
9 Board for Social Work, and the North Carolina Marital and  
10 Family Therapy Certification Board.

11 (b) Persons who claim to be exempt under subsection (a) of this section are  
12 prohibited from advertising or offering themselves as 'licensed professional counselors'.

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

15 **"§ 90-333. North Carolina Board of Registered Practicing Licensed Professional**  
16 **Counselors; appointments; terms; composition.**

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

25 (b) At least five members of the Board shall be Registered Practicing Counselors  
26 licensed professional counselors except that initial appointees shall be persons who  
27 meet the educational and experience requirements for registration as Registered Practicing  
28 licensure as licensed professional counselors under the provisions of this Article; and  
29 two members shall be appointed from the public at large. public-at-large members  
30 appointed from the general public. Composition of the Board as to the race and sex of  
31 its members shall reflect the composition of the population of the State of North Carolina.  
32 State and each member shall reside in a different congressional district.

33 (c) At all times the Board shall include at least two counselors one counselor  
34 primarily engaged in counselor education, at least one counselor primarily engaged in  
35 the public sector, and at least two counselors one counselor primarily engaged in the  
36 private sector. sector, and two licensed professional counselors at large.

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

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

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

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

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

15 **"§ 90-334. Functions and duties of the Board.**

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

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

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

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

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

29 (f) The Board shall establish and receive fees not to exceed ~~seventy-five dollars~~  
30 ~~(\$75.00)~~ one hundred dollars (\$100.00) for initial or renewal application, not to exceed  
31 ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00) for examination, and not to  
32 exceed ~~fifteen dollars (\$15.00)~~ twenty-five dollars (\$25.00) for late ~~renewal;~~ renewal,  
33 maintain Board accounts of all receipts, and make expenditures from Board receipts for  
34 any purpose which is reasonable and necessary for the proper performance of its duties  
35 under this Article.

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

42 (h) Subject to the provisions of Chapter 150B of the General Statutes, the Board  
43 shall have the power to adopt, amend, or repeal rules ~~and regulations~~ to carry out the

1 purposes of this Article, including but not limited to the power to adopt ethical and  
2 disciplinary standards.

3 (i) ~~The Board shall not adopt rules to regulate individuals who do not use the title~~  
4 ~~'Registered Practicing Counselor.'~~ The Board shall establish the criteria for determining the  
5 qualifications constituting 'supervised professional practice'.

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

9 (k) The Board shall investigate, subpoena individuals and records, and take  
10 necessary appropriate action to properly discipline persons licensed under this Article  
11 and to enforce this Article.

12 **"§ 90-335. Board general provisions.**

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

14 **"§ 90-336. Title and qualifications for registration-~~licensure.~~**

15 (a) ~~Each person desiring to be registered by the Board~~ a licensed professional  
16 counselor shall make application to the Board upon such forms and in such manner as  
17 the Board shall prescribe, together with the required application fee established by the  
18 Board-fee.

19 (b) ~~The Board shall issue a certificate as 'Registered Practicing Counselor' license as~~  
20 'licensed professional counselor' to an applicant who-who meets all of the following  
21 criteria:

22 (1) Has earned one of the following:

23 a. A masters degree in counseling from a regionally accredited  
24 institution of higher education, which includes a minimum of  
25 48 semester hours.

26 ~~Holds a Master's degree from a college or university accredited by one~~  
27 ~~of the regional accrediting associations or from a college or university~~  
28 ~~determined by the Board to have standards substantially equivalent to~~  
29 ~~a regionally accredited institution, and~~

30 (2) Has a

31 b. A graduate degree in a related field including a concentration in  
32 subject matter directly related to the practice of counseling as  
33 defined in G.S. 90-330(a)(3) or a degree supplemented with  
34 courses that the Board determines to be substantially equivalent,  
35 and equivalent.

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

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

1 **"§ 90-337. Persons ~~certified~~ credentialed in other states.**

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

12 **"§ 90-338. ~~Temporary exemption from academic qualifications.~~ Exemptions.**

13 Applicants holding certificates of registration as Registered Practicing Counselors  
14 and in good standing with the Board shall be issued licenses as licensed professional  
15 counselors without meeting the requirements of G.S. 90-336(b). ~~Applicants who were~~  
16 engaged in the practice of counseling before January 1, 1984, ~~The following applicants~~  
17 be exempt from the academic qualifications required by this Article for Registered  
18 ~~Practicing Counselors~~ licensed professional counselors and shall be ~~registered~~ licensed  
19 upon passing the Board examination and meeting the experience requirements.  
20 requirements:

21 (1) An applicant who was engaged in the practice of counseling before  
22 July 1, 1993.

23 (2) An applicant who holds a masters degree from a college or university  
24 accredited by one of the regional accrediting associations or from a  
25 college or university determined by the Board to have standards  
26 substantially equivalent to a regionally accredited institution, provided  
27 the applicant was enrolled in the masters program prior to July 1,  
28 1994.

29 **"§ 90-339. ~~Renewal of certificates of registration.~~ licenses.**

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

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

41 (c) Any person ~~certified~~ licensed who allows ~~his certificate~~ the license to lapse for  
42 failure to apply for renewal within 45 days after notice shall be subject to a ~~the~~ late  
43 renewal fee as established herein. ~~fee.~~ Failure to apply for renewal of a ~~certificate of~~  
44 ~~registration~~ license within one year after the ~~certificate's~~ license's expiration date will

1 require that a ~~certificate of registration~~ license be reissued only upon application as for an  
2 original ~~certificate~~ license.

3 **"§ 90-340. ~~Disciplinary procedures.~~ Protection of the public.**

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

- 8 (1) Conviction of a misdemeanor under this ~~Article~~; or Article.
- 9 (2) Conviction of a felony under the laws of the United States or of any  
10 state of the United States; or States.
- 11 (3) Gross unprofessional conduct, dishonest practice or incompetence in  
12 the practice of ~~counseling~~; or counseling.
- 13 (4) Procuring or attempting to procure a ~~certificate of registration~~ license by  
14 fraud, deceit, or ~~misrepresentation~~; or misrepresentation.
- 15 (5) Any fraudulent or dishonest conduct in ~~counseling~~; or counseling.
- 16 (6) Inability of the person to perform the functions for which a ~~certificate~~  
17 ~~of registration~~ license has been issued due to impairment of mental or  
18 physical ~~faeculties~~; or faculties.
- 19 (7) Violations of any of the provisions of this Article or rules of the Board.
- 20 (8) Violations of the American Counseling Association Ethical Standards  
21 adopted by the Board.

22 **"§ 90-341. Violation a misdemeanor.**

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

26 **"§ 90-342. Injunction.**

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

30 **"§ 90-343. Disclosure.**

31 Any individual, or employer of an individual, who is licensed under this Article may  
32 not charge a client or receive remuneration for professional counseling services unless,  
33 prior to the performance of those services, the client is furnished a copy of a  
34 Professional Disclosure Statement that includes the licensee's professional credentials,  
35 the services offered, the fee schedule, and other provisions required by the Board.

36 **"§ 90-344. Third-party reimbursements.**

37 Nothing in this Article shall be construed to require direct third-party reimbursement  
38 to persons licensed under this Article."

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

40 **"§ 8-53.8. Counselor privilege.**

41 No person, duly ~~registered~~ licensed pursuant to Chapter 90, Article 24, of the General  
42 Statutes, shall be required to disclose any information which he or she may have  
43 acquired in rendering professional counseling services, and which information was  
44 necessary to enable him or her to render professional counseling services: Provided, that



1 the presiding judge of a superior or district court may compel such disclosure, if in the  
2 court's opinion the same is necessary to a proper administration of justice and such  
3 disclosure is not prohibited by other statute or regulation."

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

5 **"§ 7A-551. Privileges not grounds for excluding evidence.**

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

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

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