

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 514
HOUSE BILL 218

AN ACT TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF
COUNSELING AND THE LICENSURE OF COUNSELORS.

The General Assembly of North Carolina enacts:

Section 1. Article 24 of Chapter 90 of the General Statutes reads as rewritten:
"ARTICLE 24.

~~"Registered Practicing~~ Licensed Professional Counselors Act.

"§ 90-329. Declaration of policy.

It is declared to be the public policy of this State that the activities of persons ~~using the title 'Registered Practicing Counselor' who render counseling services to the public~~ be regulated to insure the protection of the public health, ~~safety~~ safety, and welfare.

"§ 90-330. Definitions; ~~practice of law; practice of marriage and family therapy.~~

- (a) Definitions. — As used in this Article certain terms are defined as follows:
- (1) ~~A 'counselor' is a person engaged in the practice of counseling who is not a Registered Practicing Counselor as defined in this Article.~~
 - (1a) The 'Board' means the Board of Licensed Professional Counselors.
 - (2) A ~~'Registered Practicing Counselor'~~ 'licensed professional counselor' is a person engaged in the practice of counseling who holds a ~~certificate license as a Registered Practicing Counselor~~ licensed professional counselor issued ~~to him~~ under the provisions of this Article.
 - (3) The ~~'practice of counseling'~~ means holding oneself out to the public as a ~~practicing professional~~ counselor offering counseling services ~~which that include, but are not limited to to,~~ the following:
 - a. Counseling. — Assisting an individual, individuals, groups, and families through the counseling relationship, using a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals-goals, and to plan action reflecting his or her the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-personal-social-emotional concerns, education progress-educational progress, and occupations and careers.
 - b. Appraisal Activities. — Administering and interpreting tests for assessment of personal characteristics.

- c. Consulting. ~~—~~ Interpreting scientific data and providing guidance and personnel services to individuals, ~~groups~~ groups, or organizations.
- d. Referral Activities. ~~—~~ Identifying problems requiring referral to other specialists.
- e. Research Activities. ~~—~~ Designing, ~~conducting~~ conducting, and interpreting research with human subjects.

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

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

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

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

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

"§ 90-332. Use of title by firm.

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

"§ 90-332.1. Exemptions from licensure.

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

- (1) Lawyers licensed under Chapter 84, doctors licensed under Chapter 90, and any other person registered, certified, or licensed by the State to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which the person is registered, certified, or licensed.
- (2) Any school counselor certified by the State Board of Education while counseling within the scope of employment by a board of education or private school.
- (3) Any student intern or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if the intern or trainee is a designated 'counselor intern' and the activities and services constitute a part of the supervised course of study.
- (4) Any person counseling as a supervised counselor in a supervised professional practice under G.S. 90-336(b)(2).
- (5) Any ordained minister or other member of the clergy while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide counseling to its members when the service is not performed for more than 30 days a year.
- (6) Any nonresident temporarily employed in this State to render counseling services for not more than 30 days in a year, if the person holds a license or certificate required for counselors in another state.
- (7) Any person employed by State, federal, county, or municipal government while counseling within the scope of employment.
- (8) Any person performing mental health counseling solely as an employee of an area facility, as defined in G.S. 122C-3(14)a., if both of the following apply:
 - a. The mental health services are provided by a qualified mental health professional who meets or exceeds the minimum educational qualifications for licensure as a licensed professional counselor under this Article.
 - b. The area facility has obtained written verification from the following boards that the employee has not had his or her license, registration, or certification revoked, rescinded, or suspended: the North Carolina Board of Licensed Professional Counselors, the North Carolina State Board of Examiners of Practicing Psychologists, the North Carolina Certification Board for Social Work, and the North Carolina Marital and Family Therapy Certification Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 90-335. Board general provisions.

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

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

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

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

- (1) Has earned one of the following:
 - a. A masters degree in counseling from a regionally accredited institution of higher education, which includes a minimum of 48 semester hours.

~~Holds a Master's 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, and~~

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

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

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

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

~~A counselor who holds a valid and unrevoked certificate as a Registered Practicing Counselor, or its equivalent, issued under authority of any state, or the District of Columbia, and who resides within the State of North Carolina, may perform work within the State: Provided, that he register with the State Board of Registered Practicing Counselors and comply with its rules regarding such registration. Such person may use the term 'Counselor' in connection with his name, but may not use the term 'Registered Practicing Counselor' without registering with the Board. The Board may license any~~

person who is currently licensed, certified, or registered by another state if the individual has met requirements determined by the Board to be substantially similar to or exceeding those established under this Article.

"§ 90-338. Temporary exemption from academic qualifications. 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). Applicants who were engaged in the practice of counseling before January 1, 1984, The following applicants shall be exempt from the academic qualifications required by this Article for Registered Practicing Counselors licensed professional counselors and shall be registered licensed upon passing the Board examination and 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.

"§ 90-339. Renewal of certificates of registration. licenses.

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

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

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

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

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

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

"§ 90-341. Violation a misdemeanor.

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

"§ 90-342. Injunction.

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

"§ 90-343. Disclosure.

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

"§ 90-344. Third-party reimbursements.

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

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

"§ 8-53.8. Counselor privilege.

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

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

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

Neither the physician-patient privilege, the psychologist-client privilege, the licensed professional counselor-client privilege, nor the husband-wife privilege shall be grounds

for excluding evidence of abuse or neglect in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse or neglect is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as said privileges relate to the competency of the witness and to the exclusion of confidential communications."

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

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

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives