

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 755
SENATE BILL 553

AN ACT SETTING STANDARDS FOR QUALIFICATION, TRAINING AND EXPERIENCE FOR PERSONS SEEKING TO REPRESENT THEMSELVES TO THE PUBLIC AS REGISTERED PRACTICING COUNSELORS: CREATING A STATE BOARD OF EXAMINERS FOR REGISTERED PRACTICING COUNSELORS: DEFINING THE FUNCTIONS AND DUTIES OF THAT BOARD: AND PROVIDING FOR PENALTIES.

The General Assembly of North Carolina enacts:

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

"ARTICLE 22.

"Registered Practicing Counselors.

"§ 90-324. 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' be regulated to insure the protection of the public health, safety and welfare.

"§ 90-325. 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.
- (2) A 'Registered Practicing Counselor' is a person engaged in the practice of counseling who holds a certificate as a Registered Practicing 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 counselor offering counseling services which include, but are not limited to the following:
 - a. Counseling. Assisting an individual, through the counseling relationship, to develop understanding of personal problems, to define goals and to plan action reflecting his or her interests, abilities, aptitudes and needs as these are related to personal-social concerns, education 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 or organizations.

- d. Referral Activities. Identifying problems requiring referral to other specialists.
- e. Research Activities. Designing, conducting and interpreting research with human subjects.

(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 or Social Work. No person hereafter registered as a Practicing Counselor under the provisions of this Article shall be allowed to hold himself out to the public as having specialized training or experience as an expert or specializing in the field of Marriage and Family Therapy, Psychology or Social Work unless specifically authorized by other provisions of law.

"§ 90-326. Unlawful use of title 'Registered Practicing 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.

"§ 90-327. Use of title by firm.—It shall be unlawful for any firm, partnership, corporation, association or other business or professional entity to assume or use the title of Registered Practicing Counselor, unless each of the members of such firm, partnership or association first shall have received a certificate of qualification from the State Board of Registered Practicing Counselors.

"§ 90-328. North Carolina Board of Registered Practicing 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 Counselors which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. 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 except that initial appointees shall be persons who meet the educational and experience requirements for registration as Registered Practicing Counselors under the provisions of this Article; and two members shall be appointed from the public at large. 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.

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

(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, with the exception of the public members shall be registered 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 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.

"§ 90-329. 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 under this Article, and shall issue a certificate to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all certificates 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) for initial or renewal application, not to exceed seventy-five dollars (\$75.00) for examination, and not to exceed fifteen dollars (\$15.00) for late 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 and certificate 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; provided that for certificate renewal no examination shall be required.

(h) Subject to the provisions of Chapter 150A 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'.

"§ 90-330. Board general provisions.—The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

"§ 90-331. Title and qualifications for registration.—(a) Each person desiring to be registered by the Board 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.

(b) The Board shall issue a certificate as 'Registered Practicing Counselor' to an applicant who:

- (1) 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 degree including a concentration in subject matter directly related to the practice of counseling as defined in G.S. 90-325(a)(3) or a degree supplemented with courses that the Board determines to be substantially equivalent, and
- (3) 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.

"§ 90-332. Persons certified 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.

"§ 90-333. Temporary exemption from academic qualifications.— Applicants who were engaged in the practice of counseling before January 1, 1984, shall be exempt from the academic qualifications required by this Article for Registered Practicing Counselors and shall be registered upon passing the Board examination and meeting the experience requirements.

"§ 90-334. Renewal of certificates of registration.—(a) All certificates of registration shall be effective upon date of issuance by the Board, and shall expire on the second June 30 thereafter.

(b) All certificates of registration 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, the Board shall mail a notice for certificate renewal to the

person certified for the current certification period. At least 10 days before the current certificate expires, the applicant must return the notice properly completed, together with a renewal fee established by the Board, upon receipt of which the Board shall issue to the person to be registered the renewed certificate of registration for the period stated on the said certificate.

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

"§ 90-335. Disciplinary procedures.—The Board may, in accordance with the provisions of Chapter 150A of the General Statutes, refuse to grant or to renew, may suspend, or may revoke the certificate of any person certified under this Article on the following grounds:

- (1) conviction of a misdemeanor under this Article; or
- (2) conviction of a felony under the laws of the United States or of any state of the United States; or
- (3) gross unprofessional conduct, dishonest practice or incompetence in the practice of counseling; or
- (4) procuring or attempting to procure a certificate of registration by fraud, deceit, or misrepresentation; or
- (5) any fraudulent or dishonest conduct in counseling; or
- (6) inability of the person to perform the functions for which a certificate of registration has been issued due to impairment of mental or physical faculties; or
- (7) violations of any of the provisions of this Article or rules of the Board.

"§ 90-336. 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.

"§ 90-337. 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."

Sec. 2. Chapter 8 of the General Statutes is amended by adding the following new section:

"§ 8-53.7. Counselor privilege.—No person, duly registered pursuant to Chapter 90, Article 22 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. Nothing herein contained shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this act.

Sec. 4. For the purposes of the appointment of the initial Board and of administrative preparation for the implementation of this Article, this act shall become

effective July 1, 1983. For all other purposes, this act shall become effective January 1, 1984.

In the General Assembly read three times and ratified, this the 14th day of July, 1983.