

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 966
SENATE BILL 249

AN ACT REQUIRING PERSONS WHO REPRESENT THEMSELVES AS CERTIFIED THERAPEUTIC RECREATION SPECIALISTS OR CERTIFIED THERAPEUTIC RECREATION ASSISTANTS TO MEET CERTAIN STANDARDS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter 90C to read:

"Chapter 90C.

"Therapeutic Recreation Personnel Certification Act.

"§ 90C-1. **Short title.** – This Chapter shall be known as the 'Therapeutic Recreation Personnel Certification Act'.

"§ 90C-2. **Purpose.** – It is the purpose and intent of this Chapter to protect the public from misrepresentation of status by persons who hold themselves out to be 'certified therapeutic recreation specialists' or 'certified therapeutic recreation assistants'.

"§ 90C-3. **General provisions.** – After June 30, 1987, no person shall use the word 'certified' with any derivation or combination of the words 'Therapy', 'Recreation', 'Therapeutic Recreator', 'Recreation Therapist', 'Recreational Therapist', or the initials, 'TRS', 'TR', 'TRA', or other words and/or initials tending to convey the impression that he is certified in the field of therapeutic recreation without first having been certified pursuant to this Chapter. Nor shall he by any verbal claim, advertisement, letterhead, practice, card, or through the use of any other title represent himself or imply that he is certified.

"§ 90C-4. **Definitions.** – In this Chapter, unless the context otherwise requires, the following definitions shall apply:

- (a) 'Board' shall mean the State Board of Therapeutic Recreation Certification.
- (b) 'Certified Therapeutic Recreation Assistant' means a person who holds a certificate pursuant to this Chapter as a therapeutic recreation assistant to act under the general supervision of or with consultation from a Certified Therapeutic Recreation Specialist.
- (c) 'Certified Therapeutic Recreation Specialist' means a person who holds a certificate pursuant to this Chapter as a therapeutic recreation specialist.
- (d) 'Person' means any individual, corporation, partnership, association, unit of government, or other legal entity.
- (e) 'Scope of Therapeutic Recreation' includes all direct client services of consultation, research, planning, design, and implementation of specific programs for

either individuals or groups that require specific therapeutic recreation education, training, and experience as defined in this Chapter.

(f) 'Therapeutic Recreation' is the use of recreation services that improve, develop, and/or maintain physical, psychological, emotional, and/or social behaviors that assist individuals in establishing and expressing an independent lifestyle.

Comprehensive therapeutic recreation services involve a continuum of care, including:

- (1) Therapy which uses recreation services or opportunities designed as treatment;
- (2) Leisure education which provides opportunities for acquisition of leisure skills, attitudes, and values; and/or
- (3) Recreation which provides opportunities for voluntary participation in leisure activities.

Persons certified under this Chapter may practice in clinical, residential or community settings and may:

- (1) Assess and record the client's individual needs, interests, and abilities;
- (2) Design and implement appropriate therapeutic recreation services for the client; and
- (3) Evaluate, record, and report the client's response to the therapeutic recreation services rendered.

"§ 90C-5. State Board of Therapeutic Recreation Certification created. – (a) The North Carolina State Board of Therapeutic Recreation Certification is created.

(b) Composition. The Board shall consist of seven members appointed as follows:

- (1) three practicing therapeutic recreation specialists, one each appointed by the Governor, the General Assembly upon the recommendation of the President of the Senate, and the General Assembly upon the recommendation of the Speaker of the House of Representatives;
- (2) one therapeutic recreation specialist who is engaged primarily in providing training for therapeutic recreation specialists or therapeutic recreation assistants and one therapeutic recreation assistant, each appointed by the Governor; and
- (3) two public members, one appointed by the General Assembly upon the recommendation of the President of the Senate and one appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

The Governor shall make his initial appointments after consultation with the North Carolina Recreation and Park Society and other interested persons and thereafter shall make his appointments after consultation with the Board.

(c) Qualifications. The nonpublic members of the Board shall hold a current certificate. Each nonpublic member of the Board, at the time of his appointment and for at least two years before, shall have been actively engaged in North Carolina in the practice of therapeutic recreation, or in the education and training of graduate or undergraduate students of therapeutic recreation, or in therapeutic recreation research.

The first nonpublic members of this Board shall immediately become certified by complying with the provisions of this Chapter.

A public member shall not be a licensed health care professional or an agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this subsection, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall not be eligible to serve as a public member of the Board. The spouse of any person who would be prohibited by this subsection from serving on the Board as a public member shall not serve as a public member of the Board. Public members shall reasonably reflect the population of this State.

(d) Term. Each member shall be appointed for a term of three years and shall serve until a successor is appointed. Of the members initially appointed, one practicing therapeutic recreation specialist appointed by the Governor, and one public member appointed by the General Assembly upon the recommendation of the President of the Senate shall continue in office for one year; one therapeutic recreation specialist appointed by the General Assembly upon the recommendation of the President of the Senate, one therapeutic recreation assistant appointed by the Governor, and one public member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall continue in office for two years; and one therapeutic recreation specialist appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives and one therapeutic recreation specialist engaged primarily in the education of therapeutic recreation specialists or therapeutic recreation assistants appointed by the Governor shall continue in office for three years. The terms of all initial appointments shall commence on June 30, 1987. No member shall serve more than two consecutive full terms.

(e) Vacancies. The Governor shall fill vacancies to the Board positions for which he is the appointing authority within 30 days after a position is vacated. The General Assembly shall fill vacancies for which it is the appointing authority in accordance with G.S. 120-122. Appointees shall serve the remainder of the unexpired term and until their successors have been appointed and qualified.

(f) Removal. The Board may remove any of its members for gross neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved. The Governor may also remove any member for gross neglect of duty, incompetence, or unprofessional conduct.

(g) Compensation. Each member of the Board shall receive such per diem compensation and reimbursement for travel and subsistence as shall be set for licensing Board members generally, as provided in G.S. 93B-5.

(h) Officers. The officers of the Board shall be a chairman, a vice-chairman and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

(i) Meetings. The Board shall hold at least two meetings each year to conduct business, and shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of the Board members shall constitute a quorum.

(j) Employees. The Board may employ necessary personnel for the performance of its functions, and fix their compensation, within the limits of the funds available to the Board.

(k) The total expense of the administration of this Chapter shall not exceed the total income from fees collected pursuant to this Chapter. None of the expenses of the Board, or the compensation or expenses of any officer or any employee of the Board shall be paid or payable out of the General Fund. Neither the Board nor any of its officers or employees may incur any expense, debt, or other financial obligation binding upon the State.

"§ 90C-6. Powers of the Board. – (a) The Board shall have the following general powers and duties:

- (1) To administer this Chapter;
- (2) To issue interpretations of this Chapter;
- (3) To adopt, amend, or repeal rules and regulations in the manner prescribed by Chapter 150B of the General Statutes, as may be necessary to carry out the provisions of this Chapter;
- (4) To establish qualifications of, employ, and set the compensation of the Executive Director who shall not be a member of the Board;
- (5) To employ and fix the compensation of the personnel that the Board determines are necessary to carry out the provisions of this Chapter and to incur other expenses necessary to effectuate this Chapter;
- (6) To determine the qualifications of persons who are certified pursuant to this Chapter;
- (7) To issue, renew, deny, suspend, or revoke certificates and carry out any of the other actions authorized by this Chapter;
- (8) To conduct investigations for the purpose of determining whether violations of this Chapter or grounds for decertifying persons who hold certificates pursuant to this Chapter exist;
- (9) To maintain a record of all proceedings and make available to persons who hold a certificate and other concerned parties an annual report of all Board action;
- (10) To set fees for certification, certificate renewal, and other services deemed necessary to carry out the purpose of this Chapter; and
- (11) To adopt a seal containing the name of the Board to be used on certificates and official reports it issues.

(b) The powers and duties enumerated above are granted for the purpose of enabling the Board to protect the public from misrepresentation of certified status as provided in this Chapter and shall be liberally construed to accomplish this objective.

"§ 90C-7. Executive Director. – The Executive Director shall deposit all fees payable to the Board in financial institutions designated by the Board as official depositories. The funds shall be deposited in the name of the Board and shall be used to pay all

expenses incurred by the Board in carrying out the purposes of this Chapter. The Board shall be audited annually by the State Auditor.

"§ 90C-8. The Board may accept contributions, etc. – The Board may accept grants, contributions, devises, bequests, and gifts that shall be kept in a separate fund and shall be used by it to publicize the certification program and its protective benefits to the public.

"§ 90C-9. Requirements for certification. – (a) An applicant shall be certified upon satisfactorily showing to the Board that he is competent and knowledgeable about the practice of therapeutic recreation as provided by rules and regulations of the Board.

(b) The Board shall certify any person as a 'therapeutic recreation specialist' who meets the following education and experience requirements:

- (1) A baccalaureate degree or higher from an accredited college or university with a major in therapeutic recreation or a major in recreation and an option in therapeutic recreation which includes a field placement requirement; or
- (2) A baccalaureate degree or higher from an accredited college or university with a major in recreation and two years of full-time experience in a clinical, residential, or community-based therapeutic recreation program; or
- (3) A baccalaureate degree or higher from an accredited college or university in one of the recreation- related or allied health fields and five years of full-time experience in a clinical, residential, or community-based therapeutic recreation program. Transcripts must show evidence of 18 semester hours or 27 quarter hours of upper division credits in therapeutic recreation/recreation course work and evidence of appropriate support courses; and
- (4) Passing the Board examination for certification in this classification.

For purposes of this section, 'an option in therapeutic recreation' shall include:

- (1) A minimum of three courses dealing exclusively with therapeutic recreation content;
- (2) A minimum of three courses dealing exclusively with recreation content;
- (3) Completion of a 360-hour field placement experience in a clinical, residential, or community-based therapeutic recreation program under an agency supervisor who is certified by the Board; and
- (4) Completion of supportive course work to include a minimum of 18 semester or 27 quarter hours from four of these six areas: psychology, sociology, physical/biological science, special education, human services, and/or adapted physical education.

(c) The Board shall certify any person as a 'therapeutic recreation assistant' who meets the following education and experience requirements:

- (1) An associate of arts degree from an accredited educational institution with a major in therapeutic recreation or a major in recreation and an

option in therapeutic recreation which includes a field placement requirement; or

- (2) An associate of arts degree from an accredited educational institution with a major in recreation and one year of full-time experience in a clinical, residential, or community-based therapeutic recreation program; or
- (3) An associate of arts degree or higher from an accredited educational institution with a major in one of the skill areas (arts, dance, drama, music, physical education) and one year of full-time experience in a clinical, residential or community-based therapeutic recreation program; or
- (4) Completion of the National Therapeutic Recreation 750-Hour Training Program for therapeutic recreation personnel, with verification by an official certificate of completion; or
- (5) Four years of full-time experience in a clinical, residential, or community-based therapeutic recreation program; and
- (6) Passing the Board examination for certification in this classification.

For purposes of this subsection, 'an option in therapeutic recreation' shall include:

- (1) A minimum of two courses dealing exclusively with therapeutic recreation content;
- (2) A minimum of two courses dealing exclusively with recreation content;
- (3) Completion of a 360-hour field placement experience in a clinical, residential, or community-based therapeutic recreation program under an agency supervisor who is certified by the Board; and
- (4) Completion of supportive course work to include a minimum of 12 semester or 18 quarter hours selected from psychology, sociology, physical/biological sciences, human services, and physical education activity classes.

(d) The Board may certify any person as a 'therapeutic recreation specialist (provisional)' any person who meets the educational requirements of subsection (b) of this section while he is acquiring the experience required for certification or recertification. This certificate may be issued for a period of two years and may not be renewed, except in extraordinary circumstances upon unanimous vote of the Board.

"§ 90C-10. Certification fees. – Applications for certification shall be made on forms prescribed and furnished by the Board. The required fee for certification shall not exceed the following:

- (1) Application for certification as a therapeutic recreation specialist: \$50.00
- (2) Application for certification as a therapeutic recreation assistant: \$50.00
- (3) Certificate renewal: \$25.00
- (4) Reinstatement of lapsed or expired certificate: \$25.00
- (5) Replacement certificate: \$10.00

"§ 90C-11. Certificate renewal. – Every certificate issued pursuant to this Chapter shall be renewable every two years. On or before the date, the current certificate expires, a person who desires to continue to represent himself as certified in the field of therapeutic recreation shall apply for certificate renewal to the Board on forms furnished by the Board, shall meet criteria for renewal established by the Board, and shall pay the required fee. Failure to renew the certificate within 30 days after the expiration date shall result in automatic forfeiture of any certification issued pursuant to this Chapter.

The Executive Director shall notify in writing every person at his last known address of the expiration of his certificate and the amount that is required for its two-year renewal.

"§ 90C-12. Reinstatement. – A person who has allowed his certificate to lapse by failure to renew it as provided may apply for reinstatement on a form provided by the Board. The Board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the certificate has lapsed for five years or more, the Board shall require the applicant to successfully complete a refresher course approved by the Board. If the Board determines that the certificate should be reinstated, it shall issue a certificate renewal to the applicant.

"§ 90C-13. Inactive list. – When a person certified by the Board submits a request for inactive status, the Board shall issue to the person a statement of inactive status and shall place the person's name on the inactive status list. While on that list, the person shall not hold himself out as certified pursuant to this Chapter. When that person desires to be removed from the inactive list and returned to an active list, an application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for certificate renewal. The Board shall require evidence of competency to resume practice before returning the applicant to the active status.

"§ 90C-14. Revocation, suspension, or denial of certification .– The Board may require remedial education, issue of a letter of reprimand, restrict, revoke, or suspend any certificate issued pursuant to this Chapter or deny any application for certification if the Board determines that the applicant:

- (1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a certificate pursuant to this Chapter;
- (2) Has been convicted of, or pleaded guilty or nolo contendere to, any crime that indicates that the person is unfit or incompetent to be certified pursuant to this Chapter;
- (3) Has a mental or physical disability or uses any drugs to a degree that would endanger the public;
- (4) Engaged in conduct that endangers the public health;
- (5) Is unfit or incompetent to be certified pursuant to this Chapter by reason of deliberate or negligent acts or omissions regardless of whether active injury to the patient is established;

- (6) Engages in conduct that deceives, defrauds, or harms the public in the course of claiming certified status or providing therapeutic recreation services; or
- (7) Has willfully violated any provision of this Chapter or of regulations enacted by the Board.

The Board may reinstate a revoked certificate or remove certificate restrictions when it finds that the reasons for revocation or restriction no longer exist, and that the person can reasonably be expected to safely and properly practice therapeutic recreation.

"§ 90C-15. Reciprocity. – The Board may grant a certificate, without examination or by special examination to any person who, at the time of application, is certified, registered, or licensed as a recreational therapist by a similar board of another country, state, or territory whose certification, registration, or licensing standards are substantially equivalent to those required by this Chapter. The Board shall determine the substantial equivalence upon which reciprocity is based.

"§ 90C-16. Exemptions. – Any person working within the scope of therapeutic recreation, as defined in this Chapter, as a 'Therapeutic Recreation Assistant' or as a 'Therapeutic Recreation Specialist', prior to June 30, 1987, or the date of the final appointment of the initial membership of the Board, whichever occurs later, shall be exempt from all educational examination, and experience requirements for certification in the category in which he or she is working prior to the applicable date. In order to qualify for this exemption, an applicant must apply to the Board for certification before June 30, 1990, or before the expiration of a three-year period that begins with the final appointment of the Board's initial membership, whichever is later, and he or she must be working within the scope of therapeutic recreation, as defined in this Chapter, at the time of application.

The Board, within 90 days after the final appointment of its initial membership, shall attempt in good faith to notify the following of the availability of this exemption and the deadlines for qualifying and applying for certification under this section:

- (1) each therapeutic recreation program conducted by the private sector and by cities, counties, the State of North Carolina, and the federal government;
- (2) each individual practitioner working within the scope of therapeutic recreation before the applicable date above.

"§ 90C-17. Reports; immunity from suit. – Any person who has reasonable cause to suspect misconduct or incapacity of a person who is certified pursuant to this Chapter, or who has reasonable cause to suspect that any person is in violation of this Chapter, should report the relevant facts to the Board. Upon receipt of a charge or upon its own initiative, the Board may give notice of an administrative hearing pursuant to Chapter 150B of the General Statutes or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from criminal prosecution or civil liability based on that report unless the person knew the report was false or acted in reckless disregard of whether or not the report was false.

"§ 90C-18. Violations and penalties. – Any person who violates any provision of this Chapter shall be fined not to exceed five hundred dollars (\$500.00) and/or imprisoned for a term not to exceed 60 days.

"§ 90C-19. Enjoining the illegal practices. – (a) If the Board finds that any person is violating any of the provisions of this Chapter, it may apply in its own name to the Superior Court for temporary or permanent restraining order or injunction to prevent that person from continuing the illegal practices. The Court is empowered to grant an injunction regardless of whether criminal prosecution or other action has been or may be instituted as a result of the violation. All actions by the Board shall be governed by the Rules of Civil Procedure.

(b) The venue for actions brought under this Chapter shall be in the county where the defendant resides, or the county where violation occurs."

Sec. 2. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified, this the 10th day of July, 1986.