

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2005-378
HOUSE BILL 613

AN ACT TO UPDATE THE LAWS REGULATING THE PRACTICE OF
RECREATIONAL THERAPY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90C-1 through G.S. 90C-19 are repealed.

SECTION 1.1. The title of Chapter 90C reads as rewritten:

"Chapter 90C.

**Therapeutic Recreation Personnel Certification Act, North Carolina Recreational
Therapy Licensure Act."**

SECTION 2. Chapter 90C of the General Statutes is amended by adding the following new sections to read:

"§ 90C-20. Short title.

This Chapter shall be known as the 'North Carolina Recreational Therapy Licensure Act'.

"§ 90C-21. Purpose.

It is the purpose and intent of the Recreational Therapy Licensure Act to safeguard the health and safety of the public and to protect the public from harm by unqualified persons by establishing a minimum level of education, experience, and competence to assure the highest degree of professional care and conduct on the part of licensed recreational therapists and licensed recreational therapy assistants.

"§ 90C-22. Definitions.

In this Chapter, unless the context otherwise requires, the following definitions shall apply:

- (1) Board. – The North Carolina Board of Recreational Therapy Licensure.
- (2) Licensed recreational therapist. – A person who holds a license pursuant to this Chapter as a recreational therapist. A person licensed as a 'Recreational Therapist' under this Chapter may practice in clinical, residential, educational, and community settings and may:
 - a. Conduct an individualized patient or client assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine a course of action and subsequent individualized treatment plan.
 - b. Plan and develop the individualized treatment plan that identifies a patient or client's goals, objectives, and treatment intervention strategies.

- c. Implement the individualized treatment plan that is consistent with the overall patient or client treatment program.
 - d. Systematically evaluate and compare the patient or client's response to the individualized treatment plan and suggest modifications as appropriate.
 - e. Develop a discharge plan in collaboration with the patient or client, his or her family, and other treatment team members.
 - f. Serve as a resource for patient or client recreation opportunities to promote or improve his or her general health and well-being.
 - g. Deliver services in accordance with the professional standards of practice and codes of ethics promulgated by national or State professional organizations.
 - h. Manage delivery of services in accordance with a written plan of operation based upon standards advanced by appropriate membership, regulatory, and credentialing agencies.
 - i. Provide professional and preprofessional education and training of recreational therapists or recreational therapy assistants.
 - j. Conduct research in the field of recreational therapy or therapeutic recreation.
- (3) Licensed recreational therapy assistant. – A person who holds a license pursuant to this Chapter as a recreational therapy assistant to act under the supervision of a licensed recreational therapist as defined by rule. A person licensed as a 'Recreational Therapy Assistant' under this Chapter may assist in the practice of recreational therapy in clinical, residential, and community settings under the supervision of a licensed recreational therapist and in accordance with a recreational therapy assistant's training, education, and scope of practice, as defined by rule.
- (4) Person. – Any individual, corporation, partnership, association, unit of government, or other legal entity.
- (5) Recreational therapy aide. – Any nonlicensed person who aids in the provision of recreational therapy services under the provisions of this Chapter, and who acts under the direction and on-site supervision of a licensed recreational therapist or licensed recreational therapy assistant. A recreational therapy aide may perform recreational therapy related duties and functions which are assigned and are commensurate with an aide's training and competency. An aide's work shall not include responding to a physician's orders; designing, conducting, or interpreting individualized recreational therapy patient assessment; determining or modifying recreational therapy treatment plans or interventions; or any independent practice or performance of recreational therapy services.
- (6) Scope of recreational therapy. – The practice of recreational therapy includes all direct patient or client services of assessment, planning,

design, implementation, evaluation, and documentation of specific interventions, management, consultation, research, and education for either individuals or groups that require specific therapeutic recreation or recreational therapy intervention representing the process and knowledge base delineated in the most recent National Council for Therapeutic Recreation Certification (NCTRC) Job Analysis Study and professional standards of practice. Scope is inclusive of professional and preprofessional education and training in recreational therapy, therapeutic recreation, and related research.

- (7) Recreational therapy. – A treatment service designed to restore, remediate, or rehabilitate a patient or client's level of functioning and independence in life activities, as well as reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition.
- (8) Therapeutic recreation. – The provision of treatment services and the provision of recreation services to persons with illnesses or disabling conditions. The primary purposes of treatment services, which are often referred to as recreational therapy, are to restore, remediate, or rehabilitate in order to improve functioning and independence as well as reduce or eliminate the effects of illness or disability. The primary purposes of recreation services are to provide recreation resources and opportunities in order to improve health and well-being. Therapeutic recreation is provided by professionals who are trained and certified, registered, or licensed to provide therapeutic recreation.

"§ 90C-23. North Carolina Recreational Therapy Licensure Board is created.

- (a) The North Carolina Recreational Therapy Licensure Board is created.
- (b) Composition. – The Board shall consist of eight members appointed as follows:

- (1) Three practicing recreational therapists, one of whom shall be appointed by the Governor, one of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (2) One licensed practicing recreational therapy assistant appointed by the Governor.
- (3) One licensed practicing recreational therapist who is engaged primarily in providing education or training for recreational therapists or recreational therapy assistants appointed by the Governor.
- (4) One physician licensed pursuant to Article 1 of Chapter 90 of the General Statutes appointed by the Governor.
- (5) Two public members, one of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and one of whom shall be appointed by the General

Assembly upon the recommendation of the Speaker of the House of Representatives.

The Governor shall make appointments after consultation with the North Carolina Recreational Therapy Licensure Board and other interested persons.

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

One 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. One public member shall have received recreational therapy or therapeutic recreation services. For purposes of this subsection, a person enrolled in a program to prepare him or her 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. – Members of the Board shall serve three-year staggered terms and shall serve until a successor is appointed and qualified. No member shall serve more than two consecutive full terms.

(e) Vacancies. – The Governor shall fill vacancies to the Board positions for which the Governor 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-24. 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 licensed pursuant to this Chapter.
- (7) To issue, renew, deny, suspend, or revoke licenses 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 are grounds for revoking, denying, suspending, or refusing to renew the licenses of persons licensed pursuant to this Chapter.
- (9) To maintain a record of all proceedings and make available to persons who hold a license and other concerned parties an annual report of all Board action.
- (10) To set fees for licensure, license renewal, and other services deemed necessary to carry out the purpose of this Chapter.
- (11) To adopt a seal containing the name of the Board to be used on licenses and official reports it issues.
- (12) To issue annually a list stating the names of persons currently licensed under the privilege of this Chapter.
- (13) To establish or approve, as defined by rule, reasonable competency requirements for licensure, including the power to adopt or use examination materials, study or training courses, and standards of recognized accrediting and credentialing agencies and professional associations and the power to establish or approve, as defined by rule,

reasonable standards for renewal of licensure, including requirements for continuing recreational therapy or therapeutic recreation education.

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

"§ 90C-25. 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 State Auditor shall audit the Board annually.

"§ 90C-26. 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 licensure program and its protective benefits to the public.

"§ 90C-27. Requirements for licensure.

(a) The Board shall license any person as a 'Licensed Recreational Therapist' who meets the following education, credential, and experience requirements:

- (1) Passage of an appropriate examination as a therapeutic recreation specialist or a recreational therapist by the North Carolina Recreational Therapy Licensure Board or current certification as a 'Certified Therapeutic Recreation Specialist' by the National Council for Therapeutic Recreation Certification.
- (2) A minimum level of education or experience, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations.
- (3) For purposes of this subsection, an academic major or specialization shall be defined by rules of the Board and shall be inclusive of information gathered through surveys of educational institutions in the State having a bachelors or masters degree with a specialization in recreational therapy or therapeutic recreation.

(b) The Board shall license any person as a 'Licensed Recreational Therapy Assistant' who meets the following education and experience requirements:

- (1) A minimum level of education or experience, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations as deemed appropriate by the Board.
- (2) For purposes of this section, an academic major or specialization shall be defined by rules of the Board and shall be inclusive of information gathered through surveys of educational institutions in the State having associate degree curricula in recreational therapy or therapeutic recreation.

"§ 90C-28. Licensure fees.

Applications for licensure shall be made on forms prescribed and furnished by the Board. The Board may establish fees for the actual cost of duplication services, materials, and returned bank items. All fees derived from services provided by the Board under the provisions of this Chapter shall be nonrefundable. The Board shall establish the amount of fees as defined by rule not to exceed the following amounts:

- | | | |
|-----|--|------------------|
| (1) | <u>Initial application for licensure fee</u> | <u>\$200.00</u> |
| (2) | <u>Licensure renewal fee</u> | <u>\$200.00</u> |
| (3) | <u>Record maintenance fee</u> | <u>\$100.00</u> |
| (4) | <u>Inactive fee</u> | <u>\$ 50.00.</u> |

"§ 90C-29. License renewal.

Every license issued pursuant to this Chapter shall be renewable every two years. Within 30 days before the expiration date, a person who desires to continue to be licensed in the field of therapeutic recreation or recreational therapy shall apply for license renewal on forms furnished by the Board. The applicant shall meet criteria for renewal, including continuing education, established by the Board as defined by rule and shall pay the required fee established by the Board pursuant to this Chapter. Failure to renew the license before the expiration date shall result in automatic forfeiture of any license issued pursuant to this Chapter.

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

"§ 90C-30. Reinstatement.

A person who has allowed his or her license to lapse by failure to renew it pursuant to this Chapter must apply for licensure on a reinstatement form provided by the Board. The Board shall require the applicant to return the completed reinstatement licensure form including renewal requirements established by the Board as defined by rule. If the license has lapsed for more than two years, the Board shall require the applicant to successfully demonstrate competency as defined by rules established by the Board. If the Board determines that the license should be reinstated, it shall issue a license renewal to the applicant.

"§ 90C-31. Inactive list.

When a person licensed by the Board submits a request for inactive status and pays the inactive fee, 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 or herself out as licensed 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 license renewal. The Board shall require evidence of competency as defined by rule to resume practice before returning the applicant to the active status.

"§ 90C-32. Revocation, suspension, or denial of licensure.

The Board may require remedial education, issue of a letter of reprimand, restrict, revoke, or suspend any license issued pursuant to this Chapter or deny any application for licensure if the Board determines that the licensee or applicant has done any of the following:

- (1) Given false information or withheld material information from the Board in procuring or attempting to procure a license pursuant to this Chapter.
- (2) Been convicted of, or pleaded guilty or nolo contendere to, any crime that indicates that the person is unfit or incompetent to be licensed pursuant to this Chapter.
- (3) Is unable to perform the functions for which a license has been issued due to impairment of mental or physical faculties.
- (4) Engaged in conduct that endangers the public health.
- (5) Is unfit or incompetent to be licensed pursuant to this Chapter by reason of deliberate or negligent acts or omissions regardless of whether active injury to the patient or client is established.
- (6) Engages in conduct that deceives, defrauds, or harms the public in the course of claiming licensed status or practicing recreational therapy.
- (7) Willfully violated any provision of this Chapter, rules, or code of ethics enacted by the Board.
- (8) Aided, abetted, or assisted any person in violating the provisions of this Chapter.

The Board may reinstate a revoked license or remove licensure 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 recreational therapy.

"§ 90C-33. Reciprocity.

The Board may grant a license, without examination or by special examination, to any person who, at the time of application, is licensed as a recreational therapist or therapeutic recreation specialist by a similar Board of another country, state, or territory whose licensing standards are substantially equivalent to or higher than those required by this Chapter. The Board shall determine the substantial equivalence upon which reciprocity is based.

"§ 90C-34. Persons and practices not affected.

Nothing in this Chapter shall be construed to prevent or restrict:

- (1) Any person qualified, registered, certified, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, or licensed to engage in another profession or occupation in this State from performing work incidental to the practice of that profession or occupation as long as that person does not represent himself or herself as a recreational therapy assistant or recreational therapist or the work to be recreational therapy or therapeutic recreation as defined by this Chapter.
- (2) Any person employed as a therapeutic recreation specialist, therapeutic recreation assistant, or recreational therapist or a recreational therapy assistant by the government of the United States, if he or she provides therapeutic recreation or recreational therapy solely under the direction and control of the organization by which he or she is employed.

- (3) Any person pursuing a course of study leading to a degree in recreational therapy or therapeutic recreation at an accredited college or university that meets the minimum academic requirements for a major or specialization in recreational therapy as defined by the rules and regulations of the Board.
- (4) Any person fulfilling the supervised fieldwork experience required for a degree and for licensure, as defined by the rules of the Board, if the person is designated by a title that clearly indicates his or her status as a student.

"§ 90C-35. Reports; immunity from suit.

Any person who has reasonable cause to suspect malpractice, misconduct, or incapacity of a person who is licensed 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-36. Violations and penalties.

Any person not licensed under this Chapter who holds himself or herself out to be licensed under this Chapter or who practices recreational therapy or therapeutic recreation shall be guilty of a Class 1 misdemeanor. Any fine imposed as a result of conviction shall not exceed five hundred dollars (\$500.00).

"§ 90C-37. Enjoining illegal practices.

(a) If the Board finds that a person is violating any of the provisions of this Chapter, it may apply in its own name to the superior court for a temporary or permanent restraining order or an 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 the violation occurs."

SECTION 3. Members serving on the North Carolina State Board of Therapeutic Recreation Certification on the effective date of this act shall continue to serve and complete their current terms on the North Carolina Recreational Therapy Licensure Board established in G.S. 90C-23, as enacted in Section 2 of this act. The Governor shall appoint the physician member to serve a three-year term pursuant to G.S. 90C-23(b)(4), as enacted in Section 2 of this act. Members appointed thereafter shall serve three-year staggered terms.

SECTION 4. Any current State-certified person working within the scope of recreational therapy, as defined in G.S. 90C-22(7), as enacted in Section 2 of this act, as a recreational therapist or a recreational therapy assistant before January 30, 2006, may be exempt from all educational, examination, and experience requirements for initial

licensure pursuant to this Chapter, as enacted in Section 2 of this act. In order to qualify for this exemption, an applicant must apply to the Board for licensure before January 15, 2008, and the applicant must be working within the scope of recreational therapy and previously certified by the Board at the time of application. The Board shall attempt in good faith to notify all current State-certified persons of the availability of this exemption and the deadlines for qualifying and applying for licensure under this act.

SECTION 5. This act becomes effective October 5, 2005.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:46 p.m. this 8th day of September, 2005