

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 881*

Short Title: Practicing Pastoral Counselors.

(Public)

Sponsors: Representatives Dawkins, Lineberry, Wainwright, Foster, N. J. Crawford, Privette, Beard, and Lilley.

Referred to: Judiciary II.

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE FEE-BASED PRACTICING PASTORAL
3 COUNSELORS CERTIFICATION ACT.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 25.**

8 **"FEE-BASED PRACTICING PASTORAL COUNSELORS.**

9 **"§ 90-350. Title.**

10 This Article shall be known as the 'Fee-Based Practicing Pastoral Counselor
11 Certification Act.'

12 **"§ 90-351. Policy and purpose.**

13 Fee-based pastoral counseling and pastoral psychotherapy in this State are declared
14 to be professional practices which affect the public safety and welfare and necessitate
15 appropriate certification and control in the public interest.

16 It is the purpose of this Article to establish a certifying agency, a structure and
17 procedures to insure that the public will be protected from unprofessional, improper,
18 unauthorized, and unqualified use of certain titles by persons who receive fees from the
19 practice of pastoral counseling and pastoral psychotherapy. This Article shall be
20 construed to carry out these policies and purposes.

21 **"§ 90-352. Definitions.**

22 (a) 'Accredited education institution' means a college, university, or theological
23 seminary chartered by the State and accredited by the appropriate regional association

1 of colleges and secondary schools or by the appropriate association of theological
2 schools and seminaries.

3 (b) 'Board' means the North Carolina State Board of Examiners of Fee-Based
4 Practicing Pastoral Counselors.

5 (c) 'Fee-based pastoral counseling associate' is an individual, certified under this
6 Article, who renders, or offers professional pastoral counseling services. However, the
7 fee-based pastoral counseling associate does not engage in counseling, psychotherapy,
8 diagnosis, amelioration of difficulties in living, and the resolution of interpersonal
9 conflict except under qualified supervision in accordance with the duly adopted rules
10 and regulations of the Board.

11 (d) 'Fee-based pastoral counselor' means a minister who receives fees from the
12 practice of pastoral counseling or pastoral psychotherapy at an advanced level which
13 integrates religious resources with insights from the behavioral sciences.

14 (e) 'Fee-based practice of pastoral counseling' means rendering or offering, for a
15 fee or other compensation, professional pastoral counseling services, whether within the
16 general public or within organizations, either public or private, to individuals, singly or
17 in groups; to couples, married or in other relationships; and to families.

18 (f) 'Fee-based professional pastoral counseling services' means the application of
19 pastoral care and pastoral counseling principles and procedures for a fee or other
20 compensation with the purposes of understanding, anticipating, or influencing the
21 behavior of individuals in order to assist in their attainment of maximum personal
22 growth; optimal work, marital, family, church, school, social, and interpersonal
23 relationships; and healthy personal adaptation. The application of pastoral care and
24 pastoral counseling and pastoral psychotherapy principles and procedures includes some
25 or all of the following, but is not restricted to: sustaining, healing, shepherding,
26 nurturing, guiding, and reconciling; interviewing, counseling, and psychotherapy;
27 diagnosis, prevention, and amelioration of difficulties in living; and the resolution of
28 interpersonal and social conflict. Teaching, writing, the giving of public speeches or
29 lectures, and research concerned with pastoral care and counseling principles, are not
30 included in professional pastoral counseling services within the meaning of this Article.

31 (g) 'Minister' means a person who has been called, elected or otherwise
32 authorized by a church, denomination or faith group through ordination, consecration or
33 equivalent means, to exercise, within and on behalf of the denomination or faith group,
34 specific religious leadership and service which furthers its purpose and mission and
35 which differs from the religious service of the laity of the denomination or faith group.

36 (h) 'Pastoral counseling' and 'pastoral psychotherapy' are herein used
37 interchangeably to mean a process in which a pastoral counselor utilizes insights and
38 principles derived from the disciplines of theology and the behavioral sciences to help
39 persons achieve wholeness and health.

40 (i) 'Pastoral psychotherapy' means the use of pastoral care and pastoral
41 counseling methods in a professional relationship to assist a person to modify feelings,
42 attitudes, and behavior which are intellectually, socially, emotionally, or spiritually
43 maladjustive, ineffectual or otherwise contributing to difficulties in living.

44 **"§ 90-353. Exemptions to this Article.**

1 (a) Nothing in this Article shall be construed as limiting the ministry, activities or
2 services of a minister called, elected, or otherwise authorized by a church,
3 denomination, or faith group to perform the ordinary duties or functions of the clergy.

4 (b) Nothing in this Article shall be construed as limiting the activities, services or
5 use of a title to designate a training status or a student, intern, or fellow preparing for the
6 practice of pastoral care and counseling under qualified supervision in an accredited
7 educational institution or service facility, provided that activities and services constitute
8 a part of the course of study.

9 (c) Nothing in this Article shall be construed to limit or restrict physicians,
10 surgeons, optometrists, psychiatrists, or psychologists licensed to practice under the
11 laws of North Carolina; or to restrict qualified members of other professional groups
12 who render counseling and other helping services including counselors, social workers,
13 and other similar professions; or to restrict qualified members of any other professional
14 groups in the practice of their respective professions, provided they do not claim to the
15 public by any title or description stating or implying that they are fee-based practicing
16 pastoral counselors or fee-based pastoral counseling associates, or are certified to
17 receive fees for the practice of pastoral counseling.

18 (d) Except as otherwise provided in this Article, if a person exempt from the
19 provisions of this Article becomes certified under this Article, he or she shall be
20 required to comply with all requirements imposed by Board rules and regulations or by
21 statute upon all other pastoral counselors certified under this Article.

22 **"§ 90-354. Temporary certificates.**

23 The Board may issue a temporary pastoral counseling certificate to any person who
24 is otherwise qualified hereunder, until the next annual examinations are given.

25 **"§ 90-355. State Board of Examiners of Fee-Based Pastoral Counselors.**

26 (a) There is hereby established the State Board of Fee-Based Practicing Pastoral
27 Counselors which consists of seven members to be appointed in the manner provided
28 for herein.

29 (b) Three of the members shall be appointed by the Governor, two by the
30 Speaker of the House of Representatives and two by the President Pro Tempore of the
31 Senate. At all times four members shall be certified fee-based practicing pastoral
32 counselors. One member shall be a certified pastoral counseling associate and two
33 members shall be ordained clergy who are not certified under this Article, except that
34 the initial appointees shall be persons who meet the education and experience
35 requirements for certification under this Article and shall be deemed certified upon
36 appointment. In making appointments, consideration shall be given to the adequate
37 representation of the various fields and areas of the practice of pastoral counseling.

38 (c) Of the first Board members appointed, three, including one certified fee-
39 based practicing pastoral counselor, one certified fee-based pastoral counseling
40 associate and one ordained clergy who is not certified under this Article, shall continue
41 in office for two years; two, including one certified fee-based practicing pastoral
42 counselor and one ordained clergy who is not certified under this Article, shall continue
43 in office for three years; and two, including two certified fee-based practicing pastoral
44 counselors (one of whom shall be the chairperson), shall continue in office for four

1 years. Their successors shall be appointed for terms of four years each, except that any
2 person chosen to fill a vacancy shall be appointed only for the unexpired term of the
3 Board member creating the vacancy. Upon the expiration of his term of office, a Board
4 member shall continue to serve until his successor is appointed and qualified. No
5 person may be appointed more than once to fill an unexpired term or to more than two
6 consecutive full terms. The Governor shall designate one Board member who is a
7 certified fee-based practicing pastoral counselor to serve as chairperson during the term
8 of his appointment to the Board. No person may serve as chairperson for more than
9 four years.

10 (d) The Governor may remove any member of the Board for neglect of duty or
11 malfeasance or conviction of a felony or crime of moral turpitude while in office but for
12 no other reason.

13 (e) Five of the members of the Board constitute a quorum of the Board. The
14 principal office of the Board shall be at such location in the State as the Board shall
15 specify.

16 (f) The Board shall meet annually, at a time set by the Board, and it may hold
17 additional meetings and conduct any proceeding or investigation necessary to its
18 purposes and may empower its agents or counsel to conduct any investigation necessary
19 to its purposes. The Board may order that any records concerning the provision of
20 pastoral counseling services relevant to a complaint received by the Board or any
21 inquiry or investigation conducted by or on behalf of the Board be produced for
22 inspection and copying by representatives of the Board. The Board shall adopt an
23 official seal, which shall be affixed to all certificates issued by the Board. The Board
24 shall make such rules and regulations not inconsistent with law, as may be necessary to
25 regulate its proceedings and otherwise to implement the provisions of this Article.

26 (g) Board members shall receive no compensation for their services, but may
27 receive their necessary expenses incurred in the performance of duties required by this
28 Article, get citation as prescribed for State boards generally, from funds generated from
29 examination fees or from contributions made to the Board. The Board may employ
30 necessary personnel for the performance of its functions, and fix the compensation
31 therefor, within the limits of funds available to the Board. In no event shall the State be
32 liable for expenses incurred by the Board in excess of the income derived from this
33 Article.

34 **"§ 90-356. Annual report.**

35 Within 90 days of the end of each fiscal year, beginning with fiscal year 1992, the
36 Board shall submit a report to the Governor of the Board's activities since the preceding
37 July 1, including the names of all fee-based practicing pastoral counselors and fee-based
38 pastoral counseling associates to whom certificates have been granted under this Article.

39 **"§ 90-357. Certification and examination.**

40 (a) Fee-based practicing pastoral counselor. The Board shall issue a certificate to
41 practice pastoral counseling to any applicant who pays an application fee of one
42 hundred dollars (\$100.00) and an additional examination fee set by the Board of not
43 more than four hundred dollars (\$400.00), who passes a Board examination in pastoral

1 counseling, and who submits evidence verified by oath and satisfactory to the Board
2 that the applicant:

- 3 (1) Is at least 21 years of age;
- 4 (2) Is of good moral character;
- 5 (3) Has received a masters of divinity or higher degree, or its equivalent,
6 from an accredited educational institution;
- 7 (4) Has received a masters or doctoral degree in pastoral counseling, or its
8 equivalent, based on a planned and directed program of studies in
9 pastoral counseling from an accredited educational institution; has
10 completed satisfactorily one unit of full-time clinical pastoral
11 education in a program accredited by the Association of Clinical
12 Pastoral Education, or its equivalent; and has completed at least 1375
13 hours of pastoral counseling while receiving a minimum of 250 hours
14 of supervision of these hours of pastoral counseling (the Board shall
15 adopt rules and regulations implementing and defining these
16 provisions);
- 17 (5) Is a member of a recognized denomination or faith group which
18 recognizes the applicant's status as a rabbi, priest, minister, or religious
19 leader, as defined in Federal Tax Regulations, paragraph (g)(5)(1) of
20 26 C.F.R. 1.6033-2 (1982);
- 21 (6) Has evidence, furnished to the Board at the time of application, of
22 completion of three years of full-time work as a rabbi, priest, minister,
23 or religious leader, or its equivalent;
- 24 (7) Has evidence, furnished to the Board at the time of application and
25 annually thereafter, of ordination, or its equivalent (as determined by
26 the person's denomination or faith group), and with endorsement to
27 function as a pastoral counselor; and
- 28 (8) Has not within the preceding six months failed an examination given
29 by the Board.

30 (b) Fee-based pastoral counseling associate. The Board shall issue a certificate to
31 practice pastoral counseling under approved supervision to any applicant who pays an
32 application fee of not more than four hundred dollars (\$400.00), who passes a
33 satisfactory examination in pastoral counseling, and who submits evidence verified by
34 oath and satisfactory to the Board that the applicant:

- 35 (1) Has complied with the provisions of G.S. 90-
36 357(a)(1),(2),(3),(5),(6),(7), and (8) of this Article; and
- 37 (2) Has satisfactorily completed one unit of full-time clinical pastoral
38 education in a program accredited by the American Association for
39 Clinical Education, or its equivalent; and has completed at least 375
40 hours of pastoral counseling while receiving a minimum of 125 hours
41 of supervision of these hours of pastoral counseling (the Board shall
42 adopt rules and regulations implementing and defining these
43 provisions).

1 (c) The Board may impose continuing education requirements for renewals of the
2 pastoral counseling associate certificate.

3 (d) A pastoral counseling associate may be upgraded to a practicing pastoral
4 counselor, if the applicant complies with the requirements set forth in subsection (a) of
5 this section and pays an examination fee of not more than four hundred dollars
6 (\$400.00).

7 (e) Examinations. The examinations required by subsections (a) and (b) of this
8 section shall be in a form and content prescribed by the Board, and shall be oral and
9 written. The examinations shall be administered annually, or more frequently as the
10 Board may prescribe, at a time and place to be determined by the Board.

11 **"§ 90-358. Equivalent certification and memberships recognized.**

12 (a) The Board may grant a certificate as a fee-based practicing pastoral counselor
13 to any person meeting the requirements of G.S. 90-357(a) who at the time of application
14 is certified as a pastoral counselor by a board of another state, whose standards, in the
15 opinion of the Board, are not lower than those required by this Article. The provisions
16 of this section apply only when such states grant similar privilege to residents of this
17 State. To determine a candidate's qualifications, the Board may require a personal
18 interview, in addition to any documentation necessary for the determination.

19 (b) The Board may grant a certificate as a practicing pastoral counselor to any
20 person meeting the requirements of G.S.90-357(a), or who has been certified as a
21 Fellow or Diplomat by the American Association of Pastoral Counselors, if application
22 is made by December 31, 1991. To determine a candidate's qualification, the Board
23 may require a personal interview, in addition to any documentation necessary for the
24 determination.

25 (c) The Board may grant a certificate as a fee-based pastoral counseling associate
26 to any person meeting the requirements of G.S. 90-357(b), or who has been certified as
27 a Member by the American Association of Pastoral Counselors, if application is made
28 by December 31, 1991. To determine a candidate's qualifications, the Board may
29 require a personal interview, in addition to any documentation necessary for the
30 determination.

31 **"§ 90-359. Renewal of certificate.**

32 A certificate issued under this Article must be renewed annually on or before the
33 first day of January. Each application for renewal must be accompanied by a renewal
34 fee set by the Board of not more than one hundred dollars (\$100.00). If a certificate is
35 not renewed on or before the first day of January of each year, an additional fee of not
36 more than twenty-five dollars (\$25.00) shall be charged for late renewal. The Board
37 may establish requirements for continuing education for pastoral counselors certified
38 and registered in this State as an additional condition for renewal.

39 **"§ 90-360. Refusal, suspension, or revocation of certificates.**

40 (a) A certificate applied for or issued under this Article may be refused,
41 suspended, revoked, or otherwise limited, as provided in subsection (e) below, by the
42 Board upon proof that the applicant or person to whom a certificate was issued:

43 (1) Has been convicted of a felony;

- 1 (2) Has been convicted of a misdemeanor involving moral turpitude or
2 misrepresentation or fraud in dealing with the public or otherwise
3 relevant to fitness to practice fee-based pastoral counseling;
- 4 (3) Has engaged in fraud or deceit in securing or attempting to secure a
5 certificate or the renewal thereof or has willfully concealed from the
6 Board material information in connection with application for or
7 renewal of a certificate under this Article;
- 8 (4) Is a habitual drunkard or is addicted to deleterious habit-forming
9 drugs;
- 10 (5) Has made fraudulent or misleading statements pertaining to his
11 education, licensure, professional credentials, or related to his
12 qualification or fitness for the practice of pastoral counseling;
- 13 (6) Has had a license for the practice of pastoral counseling in any other
14 state, or any other country, suspended or revoked;
- 15 (7) Has been guilty of unprofessional conduct as defined by the then-
16 current code of ethics published by the American Association of
17 Pastoral Counselors; or
- 18 (8) Has violated any provision of this Article or of the duly adopted rules
19 and regulations of the Board.
- 20 (b) A certificate issued under this Article shall be automatically suspended by the
21 Board after failure to renew a certificate for a period of more than three months after the
22 annual renewal date.
- 23 (c) Except as otherwise provided herein, the procedure for revocation,
24 suspension, refusal, or other limitations of the license shall be in accordance with the
25 provisions of Chapter 150B of the General Statutes. In any proceeding before the
26 Board, in any record of any hearing before the Board, in any complaint or notice of
27 charges against any certificatee or applicant for certification, and in any decision
28 rendered by the Board, the Board shall endeavor to withhold from public disclosure the
29 identity of any counsees or clients who have not consented to the public disclosure of
30 treatment by the certificatee or pastoral counselor. The Board may close a hearing to
31 the public and receive in executive session evidence concerning the treatment or
32 delivery of pastoral counseling services to a counsee or a client who has not consented
33 to public disclosure of such treatment or services as may be necessary for the protection
34 and rights of such counsee or client of the accused pastoral counselor and the full
35 presentation of relevant evidence. All records, papers, and documents containing
36 information collected and compiled by or on behalf of the Board, as a result of
37 investigations, inquiries, or interviews conducted in connection with certification or
38 disciplinary matters are not public records within the meaning of Chapter 132 of the
39 General Statutes; provided however, that any notice or statement of charges against any
40 certificatee or applicant, or any notice to any certificatee or applicant of a hearing in any
41 proceeding, or any decision rendered in connection with a hearing in any proceeding, is
42 a public record within the meaning of Chapter 132 of the General Statutes,
43 notwithstanding that it may contain information collected and compiled as a result of
44 such investigation, inquiry, or hearing, except that identifying information concerning

1 the treatment or delivery of services to a counselee or client who has not consented to
2 the public disclosure of such treatment or services may be deleted. If any such record,
3 paper, or other document containing information theretofore collected and compiled by
4 or on behalf of the Board, as hereinbefore provided, is received and admitted in
5 evidence in any hearing before the Board, it shall thereupon be a public record within
6 the meaning of Chapter 132 of the General Statutes, subject to any deletions of
7 identifying information concerning the treatment or delivery of pastoral counseling
8 services to a counselee or client who has not consented to public disclosure of such
9 treatment or services.

10 (d) The Board may reinstate a suspended certificate upon payment by an
11 applicant of a special fee of twenty dollars (\$20.00), and may require that the applicant
12 file a new application, or submit to reexamination for reinstatement, and pay such other
13 statutorily authorized fees as required by the Board.

14 (e) Upon proof that an applicant or certified pastoral counselor has engaged in
15 any of the prohibited actions specified in subsection (a) above, the Board may, in lieu of
16 refusal, suspension, or revocation, issue a formal reprimand or formally censure the
17 applicant or certified fee-based pastoral counselor, or may place the applicant or
18 certified fee-based pastoral counselor on probation with such appropriate conditions as
19 the Board may deem advisable, or may limit or circumscribe the professional pastoral
20 counseling services provided by the applicant or certified fee-based pastoral counselor
21 as the Board deems advisable. The Board may impose condition of probation or
22 restrictions on continued practice at the conclusion of a period of suspension or as
23 requirements for the restoration of a revoked or suspended certificate. In lieu of or in
24 connection with any disciplinary proceedings or investigation, the Board may enter into
25 a consent order relating to the discipline, censure, proceeding costs, probation, or
26 limitations of a certified pastoral counselor or applicant for a certificate.

27 **"§ 90-361. Prohibited acts.**

28 (a) After ratification of this act, no person shall represent himself to be a fee-
29 based practicing pastoral counselor, or pastoral counseling associate, or engage in, or
30 offer to engage in, the practice of fee-based pastoral counseling without a valid
31 certification issued under this Article.

32 (b) After ratification of this act, no person who is not certified under this Article
33 shall represent himself to be a certified fee-based practicing pastoral counselor or fee-
34 based pastoral counseling associate; nor shall he use a title or description, including the
35 term 'pastoral counselor,' or any of its derivatives, in such a manner which would imply
36 that he is certified under this Article; nor shall he practice, or offer to practice, pastoral
37 counseling as defined in this Article, except as otherwise permitted herein. The use by a
38 person who is not certified under this Article of such terms, whether in titles or
39 description or otherwise, is not prohibited by this Article except when used in
40 connection with the practice of fee-based pastoral counseling as defined in this Article;
41 such use of these terms by a person not certified under this Article shall not be
42 construed as implying that a person is certified under this Article or as practicing or
43 offering to practice fee-based pastoral counseling.

44 **"§ 90-362. Disposition of fees.**

1 The fees derived from the operation of this Article shall be used by the Board in
2 carrying out its functions. The financial records of the Board shall be subject to an
3 annual audit.

4 **"§ 90-363. Injunction for violations.**

5 The Board may apply to the superior court for an injunction to prevent violations of
6 this Article or of any rules enacted pursuant thereto and the court is empowered to grant
7 such injunctions.

8 **"§ 90-364. Duplicate and replacement certificates.**

9 A certified fee-based pastoral counselor may request the Board to issue a duplicate
10 or replacement certificate for a fee set by the Board not to exceed fifty dollars (\$50.00).
11 Upon receipt of the request and a showing of good cause for the issuance of a duplicate
12 replacement certificate, and payment of the fee, the Board shall issue a duplicate or
13 replacement certificate."

14 Sec. 2. This act is effective upon ratification.