

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 670
HOUSE BILL 881

AN ACT TO ESTABLISH THE FEE-BASED PRACTICING PASTORAL
COUNSELORS CERTIFICATION ACT.

The General Assembly of North Carolina enacts:

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

"ARTICLE 25.

"Fee-Based Practicing Pastoral Counselors.

"§ 90-350. Title.

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

"§ 90-351. Purpose.

It is the purpose of this Article to protect the public safety and welfare by providing for the certification and regulation of persons engaged in the practice of fee-based pastoral counseling and pastoral psychotherapy.

"§ 90-352. Definitions.

The following definitions apply in this Article:

- (1) Accredited educational institution. – A college, university, or theological seminary chartered by the State and accredited by the appropriate regional association of colleges and secondary schools or by the appropriate association of theological schools and seminaries.
- (2) Board. – The North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors.
- (3) Fee-based pastoral counseling associate. – An individual, certified under this Article, who renders or offers professional pastoral counseling services only under qualified supervision in accordance with rules adopted by the Board.
- (4) Fee-based pastoral counselor. – A minister who receives fees from the practice of pastoral counseling.
- (5) Fee-based practice of pastoral counseling. – To render or offer for a fee or other compensation professional pastoral counseling services, whether to the general public or to organizations, either public or private; to individuals, singly or in groups; to couples, married or in other relationships; and to families.
- (6) Fee-based professional pastoral counseling services. – The application of pastoral care and pastoral counseling principles and procedures for a

fee or other compensation with the purpose of understanding, anticipating, or influencing the behavior of individuals in order to assist in their attainment of maximum personal growth; optimal work, marital, family, church, school, social, and interpersonal relationships; and healthy personal adaptation. The application of pastoral care and pastoral psychotherapy principles and procedures includes sustaining, healing, shepherding, nurturing, guiding, and reconciling; interviewing, counseling, and using psychotherapy, diagnosing, preventing, and ameliorating difficulties in living; and resolving interpersonal and social conflict. Teaching, writing, the giving of public speeches or lectures, and research concerned with pastoral care and counseling principles are not included in professional pastoral counseling services within the meaning of this Article.

- (7) Minister. – A person who has been called, elected, or otherwise authorized by a church, denomination, or faith group through ordination, consecration or equivalent means, to exercise within and on behalf of the denomination or faith group specific religious leadership and service that furthers its purpose and mission and that differs from the religious service of the laity of the denomination or faith group.
- (8) Pastoral counseling. – Used interchangeably with pastoral psychotherapy to mean a process in which a pastoral counselor utilizes insights and principles derived from the disciplines of theology and the behavioral sciences to help persons achieve wholeness and health.
- (9) Pastoral psychotherapy. – The use of pastoral care and pastoral counseling methods in a professional relationship to assist a person in modifying feelings, attitudes, and behavior that are intellectually, socially, emotionally, or spiritually maladjustive, ineffectual, or that otherwise contribute to difficulties in living.

"§ 90-353. Exemptions.

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

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

(c) Nothing in this Article shall be construed to limit or restrict physicians, optometrists, or psychologists licensed to practice under the laws of North Carolina; or to restrict qualified members of other professional groups who render counseling and other helping services including counselors, social workers, and other similar professions; or to restrict qualified members of any other professional groups in the practice of their respective professions, provided they do not claim to the public by any title or description stating or implying that they are certified fee-based practicing

pastoral counselors or certified fee-based pastoral counseling associates, or that they are certified to receive fees for the practice of pastoral counseling.

(d) Except as otherwise provided in this Article, if a person exempt from the provisions of this Article becomes certified under this Article, he or she shall be required to comply with the requirements of this Article and rules adopted by the Board.

"§ 90-354. Temporary certificates.

The Board may issue a temporary pastoral counseling certificate to any person who is otherwise qualified under this Article until the next annual examination is given.

"§ 90-355. Creation of Board; appointment and removal of members; terms and compensation; powers.

(a) The North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors is created. The Board shall consist of seven members as follows:

- (1) Three members appointed by the Governor, two of whom shall be certified fee-based practicing pastoral counselors and one of whom shall be a certified fee-based pastoral counseling associate.
- (2) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be a certified fee-based practicing pastoral counselor and one of whom shall be a public member who has no direct affiliation with the practice of pastoral counseling.
- (3) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be a certified fee-based practicing pastoral counselor and one of whom shall be a public member who has no direct affiliation with the practice of pastoral counseling.

Initial appointees shall be persons who meet the education and experience requirements for certification under this Article and shall be deemed certified upon appointment. In making appointments, consideration shall be given to adequate representation from the various fields and areas of the practice of pastoral counseling. Legislative appointments shall be made in accordance with G.S. 120-121.

(b) Of the members initially appointed, three members, including one certified fee-based practicing pastoral counselor appointed by the Governor, one certified fee-based pastoral counseling associate appointed by the Governor, and one public member who has no direct affiliation with the practice of pastoral counseling appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, shall serve for a term of two years. Two members, including one certified fee-based practicing pastoral counselor appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives and one public member who has no direct affiliation with the practice of pastoral counseling appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, shall serve for a term of three years. Two members, including the certified fee-based practicing pastoral counselor appointed by the Governor and the certified fee-based practicing pastoral counselor appointed by the General Assembly

upon the recommendation of the President Pro Tempore of the Senate, shall serve for a term of four years.

(c) After the initial terms specified in this section, each member shall be appointed to serve a term of four years or until a successor is appointed and qualified. A vacancy shall be filled by the appointing authority originally filling that position, except that any vacancy in appointments by the General Assembly shall be filled in accordance with G.S. 120-122. No person may be appointed more than once to fill an unexpired term nor to more than two consecutive terms.

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

(e) Five Board members shall constitute a quorum. The Governor shall designate one Board member who is a certified fee-based practicing pastoral counselor to serve as chairperson during the term of his or her appointment to the Board. No person may serve as chairperson for more than four years. The Board shall specify the location of its principal office.

(f) The Board shall meet at least annually at a time set by the Board. The Board may hold additional meetings and conduct any proceeding or investigation necessary to its purposes and may empower its agents or counsel to conduct any investigation necessary to its purposes. The Board may order that any records concerning the provision of pastoral counseling services relevant to a complaint received by the Board or any inquiry or investigation conducted by or on behalf of the Board be produced for inspection and copying by representatives of the Board. The Board shall adopt an official seal, which shall be affixed to all certificates issued by the Board. The Board shall adopt rules necessary to conduct its business, carry out its duties, and administer this Article in accordance with Chapter 150B of the General Statutes.

(g) Board members shall receive no compensation for their services, but may be compensated for their expenses incurred in the performance of duties required by this Article, as provided in G.S. 138-6, from funds generated by examination fees or from contributions made to the Board. The Board may employ and compensate necessary personnel for the performance of its functions, within the limits of funds available to the Board. In no event shall the State be liable for expenses incurred by the Board in excess of the income derived from this Article.

"§ 90-356. Annual report.

Within 90 days of the end of each fiscal year, beginning with fiscal year 1992-93, the Board shall submit to the Governor a report of the Board's activities since the preceding July 1, including the names of all fee-based practicing pastoral counselors and fee-based pastoral counseling associates to whom certificates have been granted under this Article during that fiscal year.

"§ 90-357. Certification and examination.

(a) The Board shall issue a certificate to practice fee-based pastoral counseling to an applicant who:

- (1) Pays an application fee of one hundred dollars (\$100.00);

- (2) Pays an examination fee set by the Board of not more than four hundred dollars (\$400.00);
- (3) Passes a Board examination in pastoral counseling;
- (4) Submits evidence verified by oath and satisfactory to the Board that the applicant:
 - a. Is at least 21 years of age;
 - b. Is of good moral character;
 - c. Has received a masters of divinity or higher degree, or its equivalent, from an accredited educational institution;
 - d. Has received a masters or doctoral degree in pastoral counseling, or its equivalent, based on a planned and directed program of studies in pastoral counseling from an accredited educational institution; has completed satisfactorily one unit of full-time clinical pastoral education in a program accredited by the Association of Clinical Pastoral Education, or its equivalent; and has completed at least 1,375 hours of pastoral counseling while receiving a minimum of 250 hours of supervision during those hours of pastoral counseling;
 - e. Is a member of a recognized denomination or faith group that recognizes the applicant's status as a rabbi, priest, minister, or religious leader; as defined in the Federal Internal Revenue Code.
 - f. Has completed three years of full-time work as a rabbi, priest, minister, or religious leader, or its equivalent;
 - g. Has been ordained, or its equivalent as determined by the applicant's denomination or faith group, and has been endorsed to function as a pastoral counselor; and
 - h. Has not within the preceding six months failed an examination given by the Board.

(b) The Board shall issue a certificate to practice as a fee-based pastoral counseling associate to an applicant who:

- (1) Pays an application fee of one hundred dollars (\$100.00);
- (2) Pays an examination fee set by the Board of not more than four hundred dollars (\$400.00);
- (3) Passes an examination in pastoral counseling satisfactory to the Board;
- (4) Submits evidence verified by oath and satisfactory to the Board that the applicant:
 - a. Is at least 21 years of age;
 - b. Is of good moral character;
 - c. Has received a masters of divinity or higher degree, or its equivalent, from an accredited educational institution;
 - d. Is a member of a recognized denomination or faith group that recognizes the applicant's status as a rabbi, priest, minister, or religious leader;

- e. Has completed three years of full-time work as a rabbi, priest, minister, or religious leader, or its equivalent;
- f. Has been ordained, or its equivalent as determined by the applicant's denomination or faith group, and has been endorsed to function as a pastoral counselor;
- g. Has not within the preceding six months failed an examination given by the Board; and
- h. Has satisfactorily completed one unit of full-time clinical pastoral education in a program accredited by the American Association for Clinical Education, or its equivalent, and has completed at least 375 hours of pastoral counseling including a minimum of 125 hours of supervision of those pastoral counseling hours.

(c) A pastoral counseling associate may become a certified fee-based practicing pastoral counselor if the applicant complies with the requirements set forth in subsection (a) of this section and pays an examination fee set by the Board of not more than four hundred dollars (\$400.00).

(d) The examinations required by subsections (a) and (b) of this section shall be in a form and content prescribed by the Board and shall be oral and written. The examinations shall be administered at least annually at a time and place to be determined by the Board.

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

(a) The Board may grant a certificate as a fee-based practicing pastoral counselor to any person meeting the requirements of G.S. 90-357(a) who at the time of application is certified as a pastoral counselor by a board of another state whose standards, in the opinion of the Board, are at least equal to those required by this Article. This section applies only when the state grants similar privileges to residents of this State. To determine a candidate's qualifications, the Board may require a personal interview and any other documentation the Board deems necessary.

(b) The Board may grant a certificate as a practicing pastoral counselor to any person who has been certified as a Fellow or Diplomate by the American Association of Pastoral Counselors if application is made by December 31, 1991. To determine a candidate's qualifications the Board may require a personal interview and any other documentation the Board deems necessary.

(c) The Board may grant a certificate as a fee-based pastoral counseling associate to any person who has been certified as a member of the American Association of Pastoral Counselors if application is made by December 31, 1991. To determine a candidate's qualifications, the Board may require a personal interview and any other documentation the Board deems necessary.

"§ 90-359. Renewal of certificate.

A certificate issued under this Article must be renewed annually on or before the first day of January of each year. Each application for renewal must be accompanied by a renewal fee set by the Board of not more than one hundred dollars (\$100.00). If a certificate is not renewed on or before the first day of January of each year, an

additional fee of not more than twenty-five dollars (\$25.00) as set by the Board shall be charged for late renewal. The Board may establish requirements for continuing education for pastoral counselors and pastoral counseling associates certified in this State as an additional condition for renewal.

"§ 90-360. Refusal, suspension, or revocation of a certificate.

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

- (1) Has been convicted of a felony;
- (2) Has been convicted of a misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or an offense relevant to fitness to practice certified fee-based pastoral counseling;
- (3) Has engaged in fraud or deceit in securing or attempting to secure a certificate or the renewal of a certificate or has willfully concealed from the Board material information in connection with application for or renewal of a certificate under this Article;
- (4) Is a habitual drunkard or is addicted to deleterious habit-forming drugs;
- (5) Has made fraudulent or misleading statements pertaining to his education, licensure, professional credentials, or related to his qualification or fitness for the practice of pastoral counseling;
- (6) Has had a license for the practice of pastoral counseling in any other state or any other country suspended or revoked;
- (7) Has been guilty of unprofessional conduct as defined by the relevant code of ethics published by the American Association of Pastoral Counselors; or
- (8) Has violated any provision of this Article or the rules of the Board.

(b) A certificate issued under this Article shall be automatically suspended by the Board after failure to renew a certificate for a period of more than three months after the annual renewal date.

(c) Except as otherwise provided in this Article, the procedure for revocation, suspension, refusal, or other limitations of the certificate shall be in accordance with the provisions of Chapter 150B of the General Statutes. In any proceeding or record of any hearing before the Board, and in any complaint or notice of charges against any certified fee-based pastoral counselor or certified fee-based pastoral counseling associate and in any decision rendered by the Board, the Board shall endeavor to withhold from public disclosure the identity of any counsees or clients who have not consented to the public disclosure of treatment by the certified fee-based pastoral counselor or certified fee-based pastoral counseling associate. The Board may close a hearing to the public and receive in executive session evidence concerning the treatment or delivery of pastoral counseling services to a counsee or a client who has not consented to public disclosure of treatment or services, as may be necessary for the protection of the counsee's or client's rights and the full presentation of relevant evidence. All records, papers, and documents containing information collected and compiled by or on behalf of the Board

as a result of investigations, inquiries, or interviews conducted in connection with certification or disciplinary matters are not public records within the meaning of Chapter 132 of the General Statutes. However, any notice or statement of charges against any certified fee-based pastoral counselor or certified fee-based pastoral counseling associate, any notice to any certified fee-based pastoral counselor or certified fee-based pastoral counseling associate of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding is a public record within the meaning of Chapter 132 of the General Statutes, except that identifying information concerning the treatment or delivery of services to a counselee or client who has not consented to the public disclosure of such treatment or services may be deleted. Any record, paper, or other document containing information collected and compiled by or on behalf of the Board, as provided in this section, that is received and admitted in evidence in any hearing before the Board shall be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment or delivery of pastoral counseling services to a counselee or client who has not consented to public disclosure of the treatment or services.

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

(e) Upon proof that a certified fee-based pastoral counselor or certified fee-based pastoral counseling associate certified under this Article has engaged in any of the prohibited actions specified in subsection (a) of this section, the Board may, in lieu of refusal, suspension, or revocation, do any one or more of the following:

- (1) Issue a formal reprimand;
- (2) Formally censure the certified fee-based pastoral counselor or certified fee-based pastoral counseling associate;
- (3) Place the certified fee-based pastoral counselor or certified fee-based pastoral counseling associate on probation with any conditions the Board may deem advisable; or
- (4) Limit or circumscribe the professional pastoral counseling services provided by the certified fee-based pastoral counselor or the certified fee-based pastoral counseling associate as the Board deems advisable.

(f) The Board may impose conditions of probation or restrictions on continued practice at the conclusion of a period of suspension or as a condition for the restoration of a revoked or suspended certificate. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relating to the discipline, censure, proceeding costs, probation, or limitations on the practice of a certified fee-based pastoral counselor or a certified fee-based pastoral counseling associate.

"§ 90-361. Prohibited acts.

No person shall represent himself to be a certified fee-based practicing pastoral counselor or a certified fee-based pastoral counseling associate, or engage in or offer to engage in the practice of certified fee-based pastoral counseling, without a valid

certificate issued under this Article. No person shall use these titles or descriptions, or any of their derivatives, in a manner that implies the person is certified under this Article. No called or elected pastor during his active full-time pastorate shall practice as a certified fee-based pastoral counselor even if certified under this Article.

"§ 90-362. Disposition of fees.

The fees derived from the operation of this Article shall be used by the Board in carrying out its functions. The operations of the Board are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

"§ 90-363. Injunction for violations.

The Board may apply to superior court for an injunction to prevent violations of this Article or of any rules adopted by the Board, and the court has the authority to grant an injunction.

"§ 90-364. Duplicate and replacement certificates.

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

"§ 90-365. Practice of medicine and psychology not authorized.

Nothing in this Article shall authorize the practice of medicine as defined in Article 1 of this Chapter or the practice of psychology as defined in Article 18A of this Chapter.

"§ 90-366. Third-party reimbursement.

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

Sec. 2. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 13th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives