

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 890*

Short Title: Substance Abuse Cert. Act.

(Public)

Sponsors: Senator Harris.

Referred to: Judiciary II.

July 14, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA SUBSTANCE ABUSE
3 PROFESSIONALS 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 5C.**
8 **"NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONALS**
9 **CERTIFICATION ACT.**

10 **"§ 90-113.30. Declaration of purpose.**

11 The North Carolina Substance Abuse Professionals Certification Board, established
12 by G.S. 90-113.32, is recognized as the certifying authority for certified substance abuse
13 counselors and certified substance abuse prevention consultants in order to safeguard
14 the public health, safety, and welfare, to protect the public from being harmed by
15 unqualified persons, to assure the highest degree of professional care and conduct on the
16 part of certified substance abuse counselors and certified substance abuse prevention
17 consultants to provide for the establishment of standards for substance abuse counselors
18 and for substance abuse prevention education, and to ensure the availability of
19 substance abuse counseling services and substance abuse prevention services of high
20 quality to persons in need of these services. It is the purpose of this Article to provide
21 for the regulation of Board-certified persons offering substance abuse counseling
22 services, substance abuse prevention services, or any other substance abuse services for
23 which the Board may grant certification.

24 **"§ 90-113.31. Definitions.**

1 In this Article, unless the context clearly requires otherwise, the following
2 definitions apply:

- 3 (1) 'Board' means the North Carolina Substance Abuse Professionals
4 Certification Board.
- 5 (2) 'Certified substance abuse counselor' means any person who practices
6 substance abuse counseling in accordance with the provisions of this
7 Article.
- 8 (3) 'Certified substance abuse prevention consultant' means any person
9 who practices substance abuse prevention in accordance with the
10 provisions of this Article.
- 11 (4) 'Prevention' means the reduction, delay, or avoidance of alcohol and of
12 other drug use behavior. 'Prevention' includes the promotion of
13 positive environments and individual strengths that contribute to
14 personal health and well-being over an entire life and the development
15 of strategies that encourage individuals, families, and communities to
16 take part in assessing and changing their lifestyle and environments.

17 **"§ 90-113.32. Board.**

18 (a) The Board is created as the certifying authority for substance abuse
19 counselors and substance abuse prevention consultants in North Carolina.

20 (b) Until the full Board is elected or appointed pursuant to subsection (c) of this
21 section, the Board shall consist of 16 members with two appointed by the General
22 Assembly, one upon recommendation of the Speaker of the House of Representatives,
23 and one upon recommendation of the President Pro Tempore of the Senate. The
24 remaining 14 shall be those members of the current North Carolina Substance Abuse
25 Professionals Certification Board, Inc., who have terms that are unexpired as of the
26 effective date of this Article. The initial Board shall appoint an initial Nominating and
27 Elections Committee to fill immediate vacancies on the Board, using the process
28 established in subsection (d) of this section. The election and appointment process of
29 the initial Board shall result in a Board of 21 members by April 1, 1994. As these initial
30 members' terms expire, their successors shall be appointed as described in subsection (c)
31 of this section, until the permanent Board is established, as described in subsection (c)
32 of this section. Time spent as an initial member does not count in determining the
33 limitation on consecutive terms prescribed in subsection (e) of this section.

34 (c) After the initial Board members' terms expire, the Board shall consist of 21
35 members, all of whom shall reside in North Carolina, appointed or elected as follows:

- 36 (1) At least 11 professionals certified pursuant to this Article and elected
37 by the certified professionals, at least two of whom shall serve each of
38 the four Division of Mental Health, Developmental Disabilities, and
39 Substance Abuse Services regions of the State;
- 40 (2) Three members at large chosen from laypersons or other professional
41 disciplines who have shown a special interest in the field of substance
42 abuse, nominated by the Nominations and Elections Committee
43 established by subsection (d) of this section and elected by the Board;

- 1 (3) Two members from the Division of Mental Health, Developmental
2 Disabilities, and Substance Abuse Services, Department of Human
3 Resources, appointed by the Chief of Substance Abuse Services
4 Section, Division of Mental Health, Developmental Disabilities, and
5 Substance Abuse Services, Department of Human Resources, at least
6 one of whom from the Substance Abuse Services Section;
7 (4) One member of the public at large appointed by the Governor; and
8 (5) Two members of the public at large appointed by the General
9 Assembly, one upon recommendation of the Speaker of the House of
10 Representatives and one upon recommendation of the President Pro
11 Tempore of the Senate.

12 No members of the General Assembly shall serve on the Board.

13 (d) The Board shall appoint five professionals from the field of substance abuse
14 counseling and substance abuse prevention consulting to serve on the Nominating and
15 Elections Committee. Of these five, at least three shall not be members of the Board.
16 The Committee's purpose is to accept nominations from professionals certified by the
17 Board to fill vacancies on the Board in membership categories prescribed by
18 subdivisions (1) and (2) of subsection (c) of this section and to conduct the election of
19 Board members. The Committee shall solicit nominations from all professionals it has
20 certified under this Article whenever such a vacancy occurs and when elected members'
21 terms are due to expire. The certified professionals shall submit to the Committee all
22 nominations within 90 days before the election of new Board members. The Committee
23 shall furnish all certified professionals with a ballot containing all the nominees for each
24 elected Board member vacancy. In soliciting and making nominations for this process,
25 the Committee shall give consideration to factors that promote representation on the
26 Board by professionals certified by the Board. The Committee shall serve for a two-
27 year term, its successors to be appointed for the same term by the Board.

28 (c) Members of the Board shall serve for three-year terms. No Board member
29 shall serve for more than two consecutive terms but a person who has been a member
30 for two consecutive terms may be reappointed after being off the Board. When a
31 vacancy occurs in an unexpired term, the Board shall appoint temporary members to
32 serve until the next membership election. Time spent as a temporary member does not
33 count in determining the limitation on consecutive terms.

34 **"§ 90-113.33. Board; powers and duties.**

35 The Board shall:

- 36 (1) Examine and determine the qualifications and fitness of applicants for
37 certification to practice in this State as substance abuse counselors and
38 as substance abuse prevention consultants;
39 (2) Issue, renew, deny, suspend, or revoke certification to practice in this
40 State or reprimand or otherwise discipline substance abuse counselors
41 and substance abuse prevention consultants in this State;
42 (3) Deal with issues concerning reciprocity;
43 (4) Conduct investigations for the purpose of determining whether
44 violations of this Article or grounds for disciplining exist;

- 1 (5) Employ the professional and clerical personnel necessary to carry out
2 the provisions of this Article. The Board may purchase or rent
3 necessary office space, equipment, and supplies;
- 4 (6) Conduct administrative hearings in accordance with Chapter 150B of
5 the General Statutes when a 'contested case', as defined in Chapter
6 150B, arises;
- 7 (7) Appoint from its own membership one or more members to act as
8 representatives of the Board at any meeting in which it considers this
9 representation is desirable;
- 10 (8) Establish fees for applications for examination, certificates of
11 certification and renewal, administrative hearings requested by the
12 members, and other services provided by the Board; and
- 13 (9) Adopt any rules necessary to carry out the purpose of this Article and
14 its duties and responsibilities pursuant to this Article.

15 The powers and duties enumerated in this section are granted for the purposes of
16 enabling the Board to safeguard the public health, safety, and welfare against
17 unqualified or incompetent practitioners and are to be liberally construed to accomplish
18 this objective. In instances in which the Board makes a decision to discipline under the
19 powers and duties set out in subdivisions (2) through (5) of this section, it may, as
20 part of its decision, charge the reasonable costs of investigations and the hearing to the
21 person disciplined.

22 **"§ 90-113.34. Records to be kept; copies of records.**

23 The Board shall obtain documentation of all proceedings under this Article and a
24 record of all persons certified under it. The record shall show the name, last known
25 place of business, last known place of residence, and date and number of the certificate
26 of certification as a certified substance abuse counselor or certified substance abuse
27 prevention consultant for every living certified person. Any interested person in the
28 State is entitled to obtain a copy of that record on application to the Board and upon
29 payment of a reasonable charge that is based on the costs involved in providing the
30 copy. The Board shall keep a hard copy of all records.

31 **"§ 90-113.35. Disposition of funds.**

32 All fees and other moneys collected and received by the Board shall be used to
33 implement this Article. The financial records of the Board shall be subjected to an
34 annual audit and paid for out of the funds of the Board.

35 **"§ 90-113.36. Certificates of certification.**

36 (a) The Board shall furnish a certificate of certification to each applicant
37 successfully completing the requirements for certification.

38 (b) The Board may furnish a certificate of certification to any person in another
39 state or territory if the individual's qualifications were, at the date of registration or
40 certification, substantially equal to the requirements under this Article. However, an
41 out-of-State applicant shall first file application and pay any required fees.

42 **"§ 90-113.37. Renewal of certification; lapse; revival.**

43 (a) Every person certified pursuant to this Article who desires to maintain
44 certification status shall apply to the Board for a renewal of certification every other

1 year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is
2 subject to completion of those continuing education requirements established by the
3 Board. Certification that is not renewed automatically lapses, unless the Board provides
4 for the late renewal of certification upon the payment of a late fee. No late renewal
5 shall be granted more than five years after a certification expires. A suspended
6 certification is subject to this section's renewal requirements and may be renewed as
7 provided in this section. This renewal does not entitle the certified person to engage in
8 the certified activity or in any other conduct or activity in violation of the order or
9 judgment by which the certification was suspended, until the certification is reinstated.
10 If a certification revoked on disciplinary grounds is reinstated and requires renewal, the
11 certified person shall pay the renewal fee and any applicable late fee.

12 (b) The Board shall establish the manner in which lapsed certification may be
13 revived or extended.

14 **"§ 90-113.38. Fees.**

15 The Board may establish reasonable fees for applications for certification, renewal,
16 and other processes prescribed by G.S. 90-113.33(8).

17 **"§ 90-113.39. Standards for certification.**

18 The Board shall establish standards for certification of substance abuse professionals
19 consistent with the certification standards of the International Certification Reciprocity
20 Consortium/Alcohol and Other Drug Abuse and of the National Association of
21 Alcoholism and Drug Abuse Counselors. The Board shall publish these required
22 standards separately from its rules so as to provide easy access to the standards.

23 **"§ 90-113.40. Requirements for certification.**

24 Any person desiring to obtain certification from the board shall make application to
25 the Board upon the forms and in the manner prescribed by the Board, together with the
26 required application fee.

27 The Board shall issue a certificate certifying an applicant as a 'Certified Substance
28 Abuse Counselor' or as a 'Certified Substance Abuse Prevention Consultant' if:

29 (1) The applicant is of good moral character;

30 (2) The applicant is not and has not engaged in any practice or conduct
31 that would be a ground for denial, revocation, or suspension of a
32 marital and family therapist's certificate under G.S. 90-270.60; and

33 (3) The applicant is qualified for certification pursuant to the requirements
34 of this Article and any rules adopted pursuant to it.

35 The Board shall publish from time to time information in order to provide specifics
36 for potential applicants of an acceptable educational curriculum and the terms of
37 acceptable supervised field work experience.

38 **"§ 90-113.41. Examination.**

39 (a) Applicants for certification under this Article shall file an application at least
40 60 days prior to the date of examination and upon the forms and in the manner
41 prescribed by the Board. The application shall be accompanied by the appropriate fee.
42 No portion of this fee is refundable. Applicants who fail an examination may apply for
43 reexamination upon the payment of another examination fee.

1 (b) Each applicant for certification under this Article shall be examined in an
2 examination that is consistent with the examination requirements of the International
3 Certification Reciprocity Consortium/Alcohol and Other Drug Abuse and of the
4 National Association of Alcoholism and Drug Abuse Counselors.

5 (c) Applicants for certification shall be examined at a time and place and under
6 the supervision that the Board determines. Examinations shall be given in this State at
7 least twice each year.

8 (d) Applicants may obtain their examination scores and may review their
9 examination papers in accordance with rules the Board adopts.

10 **"§ 90-113-42. Illegal practice; misdemeanor penalty.**

11 Except as otherwise authorized in this Article, no person shall:

12 (1) Practice, attempt to practice, or supervise as a certified substance
13 abuse counselor or a certified substance abuse prevention consultant
14 without first having obtained a certificate of certification or
15 authorization from the Board;

16 (2) Use in connection with any name any letters, words, numerical codes,
17 or insignia indicating or implying that this person is a certified
18 substance abuse counselor or a certified substance abuse prevention
19 counselor unless this person is certified or otherwise authorized
20 pursuant to this Article;

21 (3) Practice or attempt to practice as a certified substance abuse counselor
22 or certified substance abuse prevention consultant with a revoked,
23 lapsed, or suspended certification;

24 (4) Aid, abet, or assist any uncertified person to practice as a certified
25 substance abuse counselor or certified substance abuse prevention
26 consultant in violation of this Article;

27 (5) Knowingly serve in a position required by State law or rule or federal
28 law or regulation to be filled by a certified substance abuse counselor
29 or a certified substance abuse prevention consultant unless that person
30 is so certified or authorized under this Article; or

31 (6) Otherwise violates any of the provisions of this Article or any of the
32 rules adopted pursuant to it.

33 A person who engages in any of the illegal practices enumerated by this section is
34 guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned, or both.
35 Each act of unlawful practice constitutes a distinct and separate offense.

36 **"§ 90-113.43. Grounds for disciplinary action.**

37 Grounds for disciplinary action include:

38 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
39 attempting to obtain certification or renewal of certification;

40 (2) The use of drugs or alcoholic beverages to the extent that professional
41 competency is affected, until proof of rehabilitation consistent with
42 adopted rules can be established;

- 1 (3) Conviction of an offense under any municipal, State, or federal
2 narcotic or controlled substance law, until proof of rehabilitation can
3 be established;
- 4 (4) Conviction of a felony or other public offense involving moral
5 turpitude, until proof of rehabilitation can be established;
- 6 (5) An adjudication of insanity or incompetency, until proof of recovery
7 from this condition can be established;
- 8 (6) Engaging in any act or practice violative of any of the provisions of
9 this Article or any of the rules adopted pursuant to it, or aiding,
10 abetting, or assisting any other person in such a violation;
- 11 (7) The commission of an act of malpractice, gross negligence, or
12 incompetence in the practice of chemical dependency counseling or in
13 chemical dependency prevention consulting;
- 14 (8) Practice as a certified substance abuse counselor or as a certified
15 substance abuse prevention consultant without a valid certificate; and
- 16 (9) Engaging in conduct that could result in harm or injury to the public.

17 **"§ 90-113.44. Enjoining illegal practices.**

18 (a) The Board may, if it finds that any person is violating any of the provisions of
19 this Article or of the rules adopted pursuant to it, apply in its own name to the superior
20 court for a temporary or permanent restraining order or injunction to restrain that person
21 from continuing these illegal practices. The court may grant injunctive relief regardless
22 of whether criminal prosecution or other action has been or may be instituted as a result
23 of the violation. In the court's consideration of the issue of whether to grant or continue
24 an injunction sought by the Board, a showing of conduct in violation of the terms of
25 this Article shall be sufficient to meet any requirement of general North Carolina
26 injunction law for irreparable damage.

27 (b) The venue for actions brought under this section is the superior court of any
28 county in which the illegal acts are alleged to have been committed, in the county in
29 which the defendants in these actions reside, or in the county in which the Board
30 maintains its offices and records.

31 **"§ 90-113.45. Application of requirements of Article.**

32 All persons certified by the North Carolina Substance Abuse Professionals
33 Certification Board, Inc., as of the effective date of this Article are considered certified
34 pursuant to this Article. All the professionals considered certified pursuant to this
35 section shall file application with the Board within six months of this effective date
36 requesting certification and showing evidence of their prior certification. These persons
37 are subject to all the other requirements of this Article and of the rules adopted pursuant
38 to it."

39 Sec. 2. This act becomes effective December 1, 1993, and applies to
40 requirements imposed on or after that date, and to causes of action, whether civil,
41 criminal, or administrative, arising on or after that date.