

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 613  
Committee Substitute Favorable 5/18/05

Short Title: Update Certification/Licensure/Rec. Therapy. (Public)

Sponsors:

Referred to:

March 14, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO UPDATE THE LAWS REGULATING THE PRACTICE OF  
3 RECREATIONAL THERAPY.

4 The General Assembly of North Carolina enacts:

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 G.S. 90C-1 through G.S. 90C-19 are repealed.

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

7 "Chapter 90C.

8 ~~Therapeutic Recreation Personnel Certification Act, North Carolina Recreational~~  
9 ~~Therapy Licensure Act."~~

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

12 "§ 90C-20. Short title.

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

15 "§ 90C-21. Purpose.

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

21 "§ 90C-22. Definitions.

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

24 (1) Board. – The North Carolina Board of Recreational Therapy  
25 Licensure.

26 (2) Licensed recreational therapist. – A person who holds a license  
27 pursuant to this Chapter as a recreational therapist. A person licensed  
28 as a 'Recreational Therapist' under this Chapter may practice in  
29 clinical, residential, educational, and community settings and may:

- 1 a. Conduct an individualized patient or client assessment for the
- 2 purpose of collecting systematic, comprehensive, and accurate
- 3 data necessary to determine a course of action and subsequent
- 4 individualized treatment plan.
- 5 b. Plan and develop the individualized treatment plan that
- 6 identifies a patient or client's goals, objectives, and treatment
- 7 intervention strategies.
- 8 c. Implement the individualized treatment plan that is consistent
- 9 with the overall patient or client treatment program.
- 10 d. Systematically evaluate and compare the patient or client's
- 11 response to the individualized treatment plan and suggest
- 12 modifications as appropriate.
- 13 e. Develop a discharge plan in collaboration with the patient or
- 14 client, his or her family, and other treatment team members.
- 15 f. Serve as a resource for patient or client recreation opportunities
- 16 to promote or improve his or her general health and well-being..
- 17 g. Deliver services in accordance with the professional standards
- 18 of practice and codes of ethics promulgated by national or State
- 19 professional organizations.
- 20 h. Manage delivery of services in accordance with a written plan
- 21 of operation based upon standards advanced by appropriate
- 22 membership, regulatory, and credentialing agencies.
- 23 i. Provide professional and preprofessional education and training
- 24 of recreational therapists or recreational therapy assistants.
- 25 j. Conduct research in the field of recreational therapy or
- 26 therapeutic recreation.
- 27 (3) Licensed recreational therapy assistant. – A person who holds a license
- 28 pursuant to this Chapter as a recreational therapy assistant to act under
- 29 the supervision of a licensed recreational therapist as defined by rule.
- 30 A person licensed as a 'Recreational Therapy Assistant' under this
- 31 Chapter may assist in the practice of recreational therapy in clinical,
- 32 residential, and community settings under the supervision of a licensed
- 33 recreational therapist and in accordance with a recreational therapy
- 34 assistant's training, education, and scope of practice, as defined by
- 35 rule.
- 36 (4) Person. – Any individual, corporation, partnership, association, unit of
- 37 government, or other legal entity.
- 38 (5) Recreational therapy aide. – Any nonlicensed person who aids in the
- 39 provision of recreational therapy services under the provisions of this
- 40 Chapter, and who, acts under the direction and on-site supervision of a
- 41 licensed recreational therapist or licensed recreational therapy
- 42 assistant. A recreational therapy aide may perform recreational therapy
- 43 related duties and functions which are assigned and are commensurate
- 44 with an aide's training and competency. An aide's work shall not

1 include responding to a physician's orders; designing, conducting, or  
2 interpreting individualized recreational therapy patient assessment;  
3 determining or modifying recreational therapy treatment plans or  
4 interventions; or any independent practice or performance of  
5 recreational therapy services.

6 (6) Scope of recreational therapy. – The practice of recreational therapy  
7 includes all direct patient or client services of assessment, planning,  
8 design, implementation, evaluation, and documentation of specific  
9 interventions, management, consultation, research, and education for  
10 either individuals or groups that require specific therapeutic recreation  
11 or recreational therapy intervention representing the process and  
12 knowledge base delineated in the most recent National Council for  
13 Therapeutic Recreation Certification (NCTRC) Job Analysis Study  
14 and professional standards of practice. Scope is inclusive of  
15 professional and preprofessional education and training in recreational  
16 therapy, therapeutic recreation, and related research.

17 (7) Recreational therapy. – A treatment service designed to restore,  
18 remediate, or rehabilitate a patient or client's level of functioning and  
19 independence in life activities, as well as reduce or eliminate the  
20 activity limitations and restrictions to participation in life situations  
21 caused by an illness or disabling condition.

22 (8) Therapeutic recreation. – The provision of treatment services and the  
23 provision of recreation services to persons with illnesses or disabling  
24 conditions. The primary purposes of treatment services, which are  
25 often referred to as recreational therapy, are to restore, remediate, or  
26 rehabilitate in order to improve functioning and independence as well  
27 as reduce or eliminate the effects of illness or disability. The primary  
28 purposes of recreation services are to provide recreation resources and  
29 opportunities in order to improve health and well-being. Therapeutic  
30 recreation is provided by professionals who are trained and certified,  
31 registered, or licensed to provided therapeutic recreation.

32 **"§ 90C-23. North Carolina Recreational Therapy Licensure Board is created.**

33 (a) The North Carolina Recreational Therapy Licensure Board is created.

34 (b) Composition. – The Board shall consist of eight members appointed as  
35 follows:

36 (1) Three practicing recreational therapists, one of whom shall be  
37 appointed by the Governor, one of whom shall be appointed by the  
38 General Assembly upon the recommendation of the President Pro  
39 Tempore, and one of whom shall be appointed by the General  
40 Assembly upon the recommendation of the Speaker of the House of  
41 Representatives.

42 (2) One licensed practicing recreational therapy assistant appointed by the  
43 Governor.

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

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

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

19       One public member shall not be a licensed health care professional or an agent or  
20       employee of any health care institution, health care insurer, health care professional  
21       school, or a member of any allied health profession. One public member shall have  
22       received recreational therapy or therapeutic recreation services. For purposes of this  
23       subsection, a person enrolled in a program to prepare him or her to be a licensed health  
24       care professional or an allied health professional shall not be eligible to serve as a public  
25       member of the Board. The spouse of any person who would be prohibited by this  
26       subsection from serving on the Board as a public member shall not serve as a public  
27       member of the Board. Public members shall reasonably reflect the population of this  
28       State.

29       (d) Term. – Members of the Board shall serve three-year staggered terms and  
30       shall serve until a successor is appointed and qualified. No member shall serve more  
31       than two consecutive full terms.

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

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

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

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

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

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

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

17 **"§ 90C-24. Powers of the Board.**

18        (a) The Board shall have the following general powers and duties:

19            (1) To administer this Chapter.

20            (2) To issue interpretations of this Chapter.

21            (3) To adopt, amend, or repeal rules and regulations in the manner  
22 prescribed by Chapter 150B of the General Statutes, as may be  
23 necessary to carry out the provisions of this Chapter.

24            (4) To establish qualifications of, employ, and set the compensation of the  
25 Executive Director who shall not be a member of the Board.

26            (5) To employ and fix the compensation of the personnel that the Board  
27 determines are necessary to carry out the provisions of this Chapter  
28 and to incur other expenses necessary to effectuate this Chapter.

29            (6) To determine the qualifications of persons who are licensed pursuant  
30 to this Chapter.

31            (7) To issue, renew, deny, suspend, or revoke licenses and carry out any of  
32 the other actions authorized by this Chapter.

33            (8) To conduct investigations for the purpose of determining whether  
34 violations of this Chapter are grounds for revoking, denying,  
35 suspending, or refusing to renew the licenses of persons licensed  
36 pursuant to this Chapter.

37            (9) To maintain a record of all proceedings and make available to persons  
38 who hold a license and other concerned parties an annual report of all  
39 Board action.

40            (10) To set fees for licensure, license renewal, and other services deemed  
41 necessary to carry out the purpose of this Chapter.

42            (11) To adopt a seal containing the name of the Board to be used on  
43 licenses and official reports it issues.

1           (12) To issue annually a list stating the names of persons currently licensed  
2           under the privilege of this Chapter.

3           (13) To establish or approve, as defined by rule, reasonable competency  
4           requirements for licensure, including the power to adopt or use  
5           examination materials, study or training courses, and standards of  
6           recognized accrediting and credentialing agencies and professional  
7           associations and the power to establish or approve, as defined by rule,  
8           reasonable standards for renewal of licensure, including requirements  
9           for continuing recreational therapy or therapeutic recreation education.

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

13          **"§ 90C-25. Executive Director.**

14          The Executive Director shall deposit all fees payable to the Board in financial  
15          institutions designated by the Board as official depositories. The funds shall be  
16          deposited in the name of the Board and shall be used to pay all expenses incurred by the  
17          Board in carrying out the purposes of this Chapter. The State Auditor shall audit the  
18          Board annually.

19          **"§ 90C-26. The Board may accept contributions, etc.**

20          The Board may accept grants, contributions, devises, bequests, and gifts that shall be  
21          kept in a separate fund and shall be used by it to publicize the licensure program and its  
22          protective benefits to the public.

23          **"§ 90C-27. Requirements for licensure.**

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

26               (1) Passage of an appropriate examination as a therapeutic recreation  
27               specialist or a recreational therapist by the North Carolina Recreational  
28               Therapy Licensure Board or current certification as a 'Certified  
29               Therapeutic Recreation Specialist' by the National Council for  
30               Therapeutic Recreation Certification.

31               (2) A minimum level of education or experience, as defined by rules of the  
32               Board, inclusive of practice competency standards or guidelines  
33               promulgated by professional associations and credentialing and  
34               accrediting organizations.

35               (3) For purposes of this subsection, an academic major or specialization  
36               shall be defined by rules of the Board and shall be inclusive of  
37               information gathered through surveys of educational institutions in the  
38               State having a bachelors or masters degree with a specialization in  
39               recreational therapy or therapeutic recreation.

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

42               (1) A minimum level of education or experience, as defined by rules of the  
43               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

1 application shall be submitted to the Board on a form furnished by the Board, and the  
2 fee shall be paid for license renewal. The Board shall require evidence of competency as  
3 defined by rule to resume practice before returning the applicant to the active status.

4 **"§ 90C-32. Revocation, suspension, or denial of licensure.**

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

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

27 The Board may reinstate a revoked license or remove licensure restrictions when it finds  
28 that the reasons for revocation or restriction no longer exist and that the person can  
29 reasonably be expected to safely and properly practice recreational therapy.

30 **"§ 90C-33. Reciprocity.**

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

37 **"§ 90C-34. Persons and practices not affected.**

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

- 39 (1) Any person qualified, registered, certified, or licensed to engage in  
40 another profession or occupation or any person working under the  
41 supervision of a person registered, certified, or licensed to engage in  
42 another profession or occupation in this State from performing work  
43 incidental to the practice of that profession or occupation as long as  
44 that person does not represent himself or herself as a recreational



1           therapy assistant or recreational therapist or the work to be recreational  
2           therapy or therapeutic recreation as defined by this Chapter.

3           (2)   Any person employed as a therapeutic recreation specialist, therapeutic  
4           recreation assistant, or recreational therapist or a recreational therapy  
5           assistant by the government of the United States, if he or she provides  
6           therapeutic recreation or recreational therapy solely under the direction  
7           and control of the organization by which he or she is employed.

8           (3)   Any person pursuing a course of study leading to a degree in  
9           recreational therapy or therapeutic recreation at an accredited college  
10          or university that meets the minimum academic requirements for a  
11          major or specialization in recreational therapy as defined by the rules  
12          and regulations of the Board.

13          (4)   Any person fulfilling the supervised fieldwork experience required for  
14          a degree and for licensure, as defined by the rules of the Board, if the  
15          person is designated by a title that clearly indicates his or her status as  
16          a student.

17    **"§ 90C-35. Reports; immunity from suit.**

18          Any person who has reasonable cause to suspect malpractice, misconduct, or  
19          incapacity of a person who is licensed pursuant to this Chapter or who has reasonable  
20          cause to suspect that any person is in violation of this Chapter should report the relevant  
21          facts to the Board. Upon receipt of a charge or upon its own initiative, the Board may  
22          give notice of an administrative hearing pursuant to Chapter 150B of the General  
23          Statutes or may, after diligent investigation, dismiss unfounded charges. Any person  
24          making a report pursuant to this section shall be immune from criminal prosecution or  
25          civil liability based on that report unless the person knew the report was false or acted in  
26          reckless disregard of whether or not the report was false.

27    **"§ 90C-36. Violations and penalties.**

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

32    **"§ 90C-37. Enjoining illegal practices.**

33          (a)   If the Board finds that a person is violating any of the provisions of this  
34          Chapter, it may apply in its own name to the superior court for a temporary or  
35          permanent restraining order or an injunction to prevent that person from continuing the  
36          illegal practices. The court is empowered to grant an injunction regardless of whether  
37          criminal prosecution or other action has been or may be instituted as a result of the  
38          violation. All actions by the Board shall be governed by the Rules of Civil Procedure.

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

41          **SECTION 3.** Members serving on the North Carolina State Board of  
42          Therapeutic Recreation Certification on the effective date of this act shall continue to  
43          serve and complete their current terms on the North Carolina Recreational Therapy  
44          Licensure Board established in G.S. 90C-23, as enacted in Section 2 of this act. The

1 Governor shall appoint the physician member to serve a three-year term pursuant to  
2 G.S. 90C-23(b)(4), as enacted in Section 2 of this act. Members appointed thereafter  
3 shall serve three-year staggered terms.

4         **SECTION 4.** Any current State-certified person working within the scope of  
5 recreational therapy, as defined in G.S. 90C-22(7), as enacted in Section 2 of this act, as  
6 a recreational therapist or a recreational therapy assistant before January 30, 2006, may  
7 be exempt from all educational, examination, and experience requirements for initial  
8 licensure pursuant to this Chapter, as enacted in Section 2 of this act. In order to qualify  
9 for this exemption, an applicant must apply to the Board for licensure before January  
10 15, 2008, and the applicant must be working within the scope of recreational therapy  
11 and previously certified by the Board at the time of application. The Board shall attempt  
12 in good faith to notify all current State-certified persons of the availability of this  
13 exemption and the deadlines for qualifying and applying for licensure under this act.

14         **SECTION 5.** This act becomes effective October 1, 2005.