

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 613
Committee Substitute Favorable 5/18/05
Senate Health Care Committee Substitute Adopted 8/10/05

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 G.S. 90C-1 through G.S. 90C-19 are repealed.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

1 as a 'Recreational Therapist' under this Chapter may practice in
2 clinical, residential, educational, and community settings and may:

- 3 a. Conduct an individualized patient or client assessment for the
4 purpose of collecting systematic, comprehensive, and accurate
5 data necessary to determine a course of action and subsequent
6 individualized treatment plan.
- 7 b. Plan and develop the individualized treatment plan that
8 identifies a patient or client's goals, objectives, and treatment
9 intervention strategies.
- 10 c. Implement the individualized treatment plan that is consistent
11 with the overall patient or client treatment program.
- 12 d. Systematically evaluate and compare the patient or client's
13 response to the individualized treatment plan and suggest
14 modifications as appropriate.
- 15 e. Develop a discharge plan in collaboration with the patient or
16 client, his or her family, and other treatment team members.
- 17 f. Serve as a resource for patient or client recreation opportunities
18 to promote or improve his or her general health and well-being.
- 19 g. Deliver services in accordance with the professional standards
20 of practice and codes of ethics promulgated by national or State
21 professional organizations.
- 22 h. Manage delivery of services in accordance with a written plan
23 of operation based upon standards advanced by appropriate
24 membership, regulatory, and credentialing agencies.
- 25 i. Provide professional and preprofessional education and training
26 of recreational therapists or recreational therapy assistants.
- 27 j. Conduct research in the field of recreational therapy or
28 therapeutic recreation.

29 (3) Licensed recreational therapy assistant. – A person who holds a license
30 pursuant to this Chapter as a recreational therapy assistant to act under
31 the supervision of a licensed recreational therapist as defined by rule.
32 A person licensed as a 'Recreational Therapy Assistant' under this
33 Chapter may assist in the practice of recreational therapy in clinical,
34 residential, and community settings under the supervision of a licensed
35 recreational therapist and in accordance with a recreational therapy
36 assistant's training, education, and scope of practice, as defined by
37 rule.

38 (4) Person. – Any individual, corporation, partnership, association, unit of
39 government, or other legal entity.

40 (5) Recreational therapy aide. – Any nonlicensed person who aids in the
41 provision of recreational therapy services under the provisions of this
42 Chapter, and who acts under the direction and on-site supervision of a
43 licensed recreational therapist or licensed recreational therapy
44 assistant. A recreational therapy aide may perform recreational therapy

1 related duties and functions which are assigned and are commensurate
2 with an aide's training and competency. An aide's work shall not
3 include responding to a physician's orders; designing, conducting, or
4 interpreting individualized recreational therapy patient assessment;
5 determining or modifying recreational therapy treatment plans or
6 interventions; or any independent practice or performance of
7 recreational therapy services.

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

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

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

34 **"§ 90C-23. North Carolina Recreational Therapy Licensure Board is created.**

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (j) Employees. – The Board may employ necessary personnel for the
12 performance of its functions and fix their compensation within the limits of the funds
13 available to the Board.

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

20 **"§ 90C-24. Powers of the Board.**

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

22 (1) To administer this Chapter.

23 (2) To issue interpretations of this Chapter.

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

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

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

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

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

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

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

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

- 1 (11) To adopt a seal containing the name of the Board to be used on
2 licenses and official reports it issues.
- 3 (12) To issue annually a list stating the names of persons currently licensed
4 under the privilege of this Chapter.
- 5 (13) To establish or approve, as defined by rule, reasonable competency
6 requirements for licensure, including the power to adopt or use
7 examination materials, study or training courses, and standards of
8 recognized accrediting and credentialing agencies and professional
9 associations and the power to establish or approve, as defined by rule,
10 reasonable standards for renewal of licensure, including requirements
11 for continuing recreational therapy or therapeutic recreation education.

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

15 **"§ 90C-25. Executive Director.**

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

21 **"§ 90C-26. The Board may accept contributions, etc.**

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

25 **"§ 90C-27. Requirements for licensure.**

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

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

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

(1) A minimum level of education or experience, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations as deemed appropriate by the Board.

(2) For purposes of this section, an academic major or specialization shall be defined by rules of the Board and shall be inclusive of information gathered through surveys of educational institutions in the State having associate degree curricula in recreational therapy or therapeutic recreation.

"§ 90C-28. Licensure fees.

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

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|-----|--|------------------|
| (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

1 shall not hold himself or herself out as licensed pursuant to this Chapter. When that
2 person desires to be removed from the inactive list and returned to an active list, an
3 application shall be submitted to the Board on a form furnished by the Board, and the
4 fee shall be paid for license renewal. The Board shall require evidence of competency as
5 defined by rule to resume practice before returning the applicant to the active status.

6 **"§ 90C-32. Revocation, suspension, or denial of licensure.**

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

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

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

32 **"§ 90C-33. Reciprocity.**

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

39 **"§ 90C-34. Persons and practices not affected.**

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

- 41 (1) Any person qualified, registered, certified, or licensed to engage in
42 another profession or occupation or any person working under the
43 supervision of a person registered, certified, or licensed to engage in
44 another profession or occupation in this State from performing work

1 incidental to the practice of that profession or occupation as long as
2 that person does not represent himself or herself as a recreational
3 therapy assistant or recreational therapist or the work to be recreational
4 therapy or therapeutic recreation as defined by this Chapter.

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

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

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

19 **"§ 90C-35. Reports; immunity from suit.**

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

29 **"§ 90C-36. Violations and penalties.**

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

34 **"§ 90C-37. Enjoining illegal practices.**

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

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

43 **SECTION 3.** Members serving on the North Carolina State Board of
44 Therapeutic Recreation Certification on the effective date of this act shall continue to

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

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

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