

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 881*
Committee Substitute Favorable 5/22/91
Corrected Copy 6/5/91
Committee Substitute #2 Favorable 6/5/91

Short Title: Practicing Pastoral Counselors.

(Public)

Sponsors:

Referred to:

April 18, 1991

A BILL TO BE ENTITLED

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. Policy and purpose.

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

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

"§ 90-352. Definitions.

1 (a) 'Accredited education institution' means a college, university, or theological
2 seminary chartered by the State and accredited by the appropriate regional association
3 of colleges and secondary schools or by the appropriate association of theological
4 schools and seminaries.

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

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

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

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

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

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

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

42 (i) 'Pastoral psychotherapy' means the use of pastoral care and pastoral
43 counseling methods in a professional relationship to assist a person to modify feelings,

1 attitudes, and behavior which are intellectually, socially, emotionally, or spiritually
2 maladjustive, ineffectual or otherwise contributing to difficulties in living.

3 **"§ 90-353. Exemptions to this Article.**

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

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

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

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

25 **"§ 90-354. Temporary certificates.**

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

28 **"§ 90-355. State Board of Examiners of Fee-Based Pastoral Counselors.**

29 (a) There is hereby established the State Board of Fee-Based Practicing Pastoral
30 Counselors which consists of seven members, to be appointed in the manner provided in
31 this section.

32 (b) Three of the members shall be appointed by the Governor, two of whom shall
33 be certified fee-based practicing pastoral counselors, and one of whom shall be a
34 certified fee-based pastoral counseling associate. Two of the members shall be
35 appointed by the Speaker of the House of Representatives, one of whom shall be a
36 certified fee-based practicing pastoral counselor, and one of whom shall be ordained
37 clergy not certified under this Article. Two of the members shall be appointed by the
38 President Pro Tempore of the Senate, one of whom shall be a certified fee-based
39 practicing pastoral counselor, and one of whom shall be ordained clergy not certified
40 under this Article. Initial appointees shall be persons who meet the education and
41 experience requirements for certification under this Article and shall be deemed
42 certified upon appointment. In making appointments, consideration shall be given to
43 the adequate representation of the various fields and areas of the practice of pastoral
44 counseling.

1 (c) Of the first Board members appointed, three, including one certified fee-
2 based practicing pastoral counselor appointed by the Governor, one certified fee-based
3 pastoral counseling associate appointed by the Governor, and one ordained clergy who
4 is not certified under this Article appointed by the President Pro Tempore of the Senate,
5 shall continue in office for two years; two, including one certified fee-based practicing
6 pastoral counselor appointed by the Speaker of the House of Representatives and one
7 ordained clergy who is not certified under this Article appointed by the Speaker of the
8 House of Representatives, shall continue in office for three years; and two, including
9 two certified fee-based practicing pastoral counselors (one of whom shall be the
10 chairperson), one appointed by the Governor and one appointed by the President Pro
11 Tempore of the Senate, shall continue in office for four years. Their successors shall be
12 appointed for terms of four years each, except that any person chosen to fill a vacancy
13 shall be appointed only for the unexpired term of the Board member creating the
14 vacancy. Upon the expiration of his term of office, a Board member shall continue to
15 serve until his successor is appointed and qualified. No person may be appointed more
16 than once to fill an unexpired term or to more than two consecutive full terms. The
17 Governor shall designate one Board member who is a certified fee-based practicing
18 pastoral counselor to serve as chairperson during the term of his appointment to the
19 Board. No person may serve as chairperson for more than four years.

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

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

26 (f) The Board shall meet annually, at a time set by the Board, and it may hold
27 additional meetings and conduct any proceeding or investigation necessary to its
28 purposes and may empower its agents or counsel to conduct any investigation necessary
29 to its purposes. The Board may order that any records concerning the provision of
30 pastoral counseling services relevant to a complaint received by the Board or any
31 inquiry or investigation conducted by or on behalf of the Board be produced for
32 inspection and copying by representatives of the Board. The Board shall adopt an
33 official seal, which shall be affixed to all certificates issued by the Board. The Board
34 shall make such rules, in accordance with Chapter 150B, as may be necessary to
35 regulate its proceedings and otherwise to implement the provisions of this Article.

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

43 **"§ 90-356. Annual report.**

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

5 **"§ 90-357. Certification and examination.**

6 (a) Fee-based practicing pastoral counselor. The Board shall issue a certificate to
7 practice pastoral counseling to any applicant who pays an application fee of one
8 hundred dollars (\$100.00) and an additional examination fee set by the Board of not
9 more than four hundred dollars (\$400.00), who passes a Board examination in pastoral
10 counseling, and who submits evidence verified by oath and satisfactory to the Board
11 that the applicant:

- 12 (1) Is at least 21 years of age;
- 13 (2) Is of good moral character;
- 14 (3) Has received a masters of divinity or higher degree, or its equivalent,
15 from an accredited educational institution;
- 16 (4) Has received a masters or doctoral degree in pastoral counseling, or its
17 equivalent, based on a planned and directed program of studies in
18 pastoral counseling from an accredited educational institution; has
19 completed satisfactorily one unit of full-time clinical pastoral
20 education in a program accredited by the Association of Clinical
21 Pastoral Education, or its equivalent; and has completed at least 1,375
22 hours of pastoral counseling while receiving a minimum of 250 hours
23 of supervision of these hours of pastoral counseling (the Board shall
24 adopt rules and regulations implementing and defining these
25 provisions);
- 26 (5) Is a member of a recognized denomination or faith group which
27 recognizes the applicant's status as a rabbi, priest, minister, or religious
28 leader, as defined in Federal Tax Regulations, paragraph (g)(5)(1) of
29 26 C.F.R. 1.6033-2 (1982);
- 30 (6) Has evidence, furnished to the Board at the time of application, of
31 completion of three years of full-time work as a rabbi, priest, minister,
32 or religious leader, or its equivalent;
- 33 (7) Has evidence, furnished to the Board at the time of application and
34 annually thereafter, of ordination, or its equivalent (as determined by
35 the person's denomination or faith group), and with endorsement to
36 function as a pastoral counselor; and
- 37 (8) Has not within the preceding six months failed an examination given
38 by the Board.

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

1 (1) Has complied with the provisions of G.S. 90-
2 357(a)(1),(2),(3),(5),(6),(7), and (8) of this Article; and

3 (2) Has satisfactorily completed one unit of full-time clinical pastoral
4 education in a program accredited by the American Association for
5 Clinical Education, or its equivalent; and has completed at least 375
6 hours of pastoral counseling while receiving a minimum of 125 hours
7 of supervision of these hours of pastoral counseling (the Board shall
8 adopt rules and regulations implementing and defining these
9 provisions).

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

12 (d) A pastoral counseling associate may be upgraded to a practicing pastoral
13 counselor, if the applicant complies with the requirements set forth in subsection (a) of
14 this section and pays an examination fee of not more than four hundred dollars
15 (\$400.00).

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

20 **"§ 90-358. Equivalent certification and memberships recognized.**

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

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

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

40 **"§ 90-359. Renewal of certificate.**

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

1 more than twenty-five dollars (\$25.00) shall be charged for late renewal. The Board
2 may establish requirements for continuing education for pastoral counselors certified
3 and registered in this State as an additional condition for renewal.

4 **"§ 90-360. Refusal, suspension, or revocation of certificates.**

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

8 (1) Has been convicted of a felony;

9 (2) Has been convicted of a misdemeanor involving moral turpitude or
10 misrepresentation or fraud in dealing with the public or otherwise
11 relevant to fitness to practice fee-based pastoral counseling;

12 (3) Has engaged in fraud or deceit in securing or attempting to secure a
13 certificate or the renewal thereof or has willfully concealed from the
14 Board material information in connection with application for or
15 renewal of a certificate under this Article;

16 (4) Is a habitual drunkard or is addicted to deleterious habit-forming
17 drugs;

18 (5) Has made fraudulent or misleading statements pertaining to his
19 education, licensure, professional credentials, or related to his
20 qualification or fitness for the practice of pastoral counseling;

21 (6) Has had a license for the practice of pastoral counseling in any other
22 state, or any other country, suspended or revoked;

23 (7) Has been guilty of unprofessional conduct as defined by the then-
24 current code of ethics published by the American Association of
25 Pastoral Counselors; or

26 (8) Has violated any provision of this Article or of the duly adopted rules
27 and regulations of the Board.

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

31 (c) Except as otherwise provided herein, the procedure for revocation,
32 suspension, refusal, or other limitations of the license shall be in accordance with the
33 provisions of Chapter 150B of the General Statutes. In any proceeding before the
34 Board, in any record of any hearing before the Board, in any complaint or notice of
35 charges against any certificatee or applicant for certification, and in any decision
36 rendered by the Board, the Board shall endeavor to withhold from public disclosure the
37 identity of any counsees or clients who have not consented to the public disclosure of
38 treatment by the certificatee or pastoral counselor. The Board may close a hearing to
39 the public and receive in executive session evidence concerning the treatment or
40 delivery of pastoral counseling services to a counselee or a client who has not consented
41 to public disclosure of such treatment or services as may be necessary for the protection
42 and rights of such counselee or client of the accused pastoral counselor and the full
43 presentation of relevant evidence. All records, papers, and documents containing
44 information collected and compiled by or on behalf of the Board, as a result of

1 investigations, inquiries, or interviews conducted in connection with certification or
2 disciplinary matters are not public records within the meaning of Chapter 132 of the
3 General Statutes; provided, however, that any notice or statement of charges against any
4 certificatee or applicant, or any notice to any certificatee or applicant of a hearing in any
5 proceeding, or any decision rendered in connection with a hearing in any proceeding, is
6 a public record within the meaning of Chapter 132 of the General Statutes,
7 notwithstanding that it may contain information collected and compiled as a result of
8 such investigation, inquiry, or hearing, except that identifying information concerning
9 the treatment or delivery of services to a counselee or client who has not consented to
10 the public disclosure of such treatment or services may be deleted. If any such record,
11 paper, or other document containing information collected and compiled by or on behalf
12 of the Board, as provided in this section, is received and admitted in evidence in any
13 hearing before the Board, it shall thereupon be a public record within the meaning of
14 Chapter 132 of the General Statutes, subject to any deletions of identifying information
15 concerning the treatment or delivery of pastoral counseling services to a counselee or
16 client who has not consented to public disclosure of such treatment or services.

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

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

34 **"§ 90-361. Prohibited acts.**

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

39 (b) After ratification of this act, no person who is not certified under this Article
40 shall represent himself to be a certified fee-based practicing pastoral counselor or
41 certified fee-based pastoral counseling associate; nor shall any person use these titles or
42 descriptions, or any of their derivatives, in such a manner which would imply that the
43 person is certified under this Article. The use by a person who is not certified under this
44 Article of such terms, whether in titles or description or otherwise, is not prohibited by

1 this Article except when used in connection with the practice of fee-based pastoral
2 counseling as defined in this Article; such use of these terms by a person not certified
3 under this Article shall not be construed as implying that a person is certified under this
4 Article or as practicing or offering to practice fee-based pastoral counseling.

5 **"§ 90-362. Disposition of fees.**

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

9 **"§ 90-363. Injunction for violations.**

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

13 **"§ 90-364. Duplicate and replacement certificates.**

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

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