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HOUSE BILL 1142*
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Short Title: Substance Abuse Cert. Act.

(Public)

Sponsors:

Referred to: Finance.

April 19, 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 the education of substance
18 abuse counselors and substance abuse prevention consultants, and to ensure the
19 availability of substance abuse counseling services and substance abuse prevention
20 services of high quality to persons in need of these services. It is the purpose of this
21 Article to provide for the regulation of Board-certified persons offering substance abuse

1 counseling services, substance abuse prevention services, or any other substance abuse
2 services for which the Board may grant certification.

3 **"§ 90-113.31. Definitions.**

4 In this Article, unless the context clearly requires otherwise, the following
5 definitions apply:

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

24 **"§ 90-113.32. Board.**

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

27 (b) Until the full Board is elected or appointed pursuant to subsection (c) of this
28 section, the Board shall consist of 16 members with one member appointed by the
29 Speaker of the House of Representatives, and one member appointed by the President
30 Pro Tempore of the Senate. The remaining 14 shall be those members of the current
31 North Carolina Substance Abuse Professionals Certification Board, Inc., who have
32 terms that are unexpired as of the effective date of this Article. The initial Board shall
33 appoint an initial Nominating and Elections Committee to fill immediate vacancies on
34 the Board, using the process established in subsection (d) of this section. The election
35 and appointment process of the initial Board shall result in a Board of 19 members by
36 April 1, 1995. As these initial members' terms expire, their successors shall be
37 appointed as described in subsection (c) of this section, until the permanent Board is
38 established, as described in subsection (c) of this section. Time spent as an initial
39 member counts in determining the limitation on consecutive terms prescribed in
40 subsection (e) of this section.

41 (c) After the initial Board members' terms expire, the Board shall consist of 19
42 members, all of whom shall reside in North Carolina, appointed or elected as follows:

- 43 (1) Eleven professionals certified pursuant to this Article and elected by
44 the certified professionals, at least two of whom shall serve each of the

1 four Division of Mental Health, Developmental Disabilities, and
2 Substance Abuse Services regions of the State;

3 (2) Three members at large chosen from laypersons or other professional
4 disciplines who have shown a special interest in the field of substance
5 abuse, nominated by the Nominations and Elections Committee
6 established by subsection (d) of this section and elected by the Board;

7 (3) Two members from the Division of Mental Health, Developmental
8 Disabilities, and Substance Abuse Services, Department of Human
9 Resources, appointed by the Chief of Substance Abuse Services
10 Section, Division of Mental Health, Developmental Disabilities, and
11 Substance Abuse Services, Department of Human Resources, at least
12 one of whom is from the Substance Abuse Services Section;

13 (4) One member of the public at large appointed by the Governor; and

14 (5) One member of the public at large appointed by the Speaker of the
15 House of Representatives and one member of the public at large
16 appointed by the President Pro Tempore of the Senate.

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

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

34 (e) Members of the Board shall serve for three-year terms. No Board member
35 shall serve for more than two consecutive terms, but a person who has been a member
36 for two consecutive terms may be reappointed after being off the Board for a period of
37 at least one year. When a vacancy occurs in an unexpired term, the Board shall appoint
38 temporary members to serve until the next membership election. Time spent as a
39 temporary member does not count in determining the limitation on consecutive terms.

40 **"§ 90-113.33. Board; powers and duties.**

41 The Board shall:

42 (1) Examine and determine the qualifications and fitness of applicants for
43 certification to practice in this State as substance abuse counselors and
44 as substance abuse prevention consultants;

- 1 (2) Issue, renew, deny, suspend, or revoke certification to practice in this
2 State or reprimand or otherwise discipline substance abuse counselors
3 and substance abuse prevention consultants in this State;
- 4 (3) Deal with issues concerning reciprocity;
- 5 (4) Conduct investigations for the purpose of determining whether
6 violations of this Article or grounds for disciplining exist;
- 7 (5) Employ the professional and clerical personnel necessary to carry out
8 the provisions of this Article. The Board may purchase or rent
9 necessary office space, equipment, and supplies;
- 10 (6) Conduct administrative hearings in accordance with Chapter 150B of
11 the General Statutes when a 'contested case', as defined in Chapter
12 150B, arises;
- 13 (7) Appoint from its own membership one or more members to act as
14 representatives of the Board at any meeting in which it considers this
15 representation is desirable;
- 16 (8) Establish fees for applications for examination, certificates of
17 certification and renewal, and other services provided by the Board;
18 and
- 19 (9) Adopt any rules necessary to carry out the purpose of this Article and
20 its duties and responsibilities pursuant to this Article.

21 The powers and duties enumerated in this section are granted for the purposes of
22 enabling the Board to safeguard the public health, safety, and welfare against
23 unqualified or incompetent practitioners and are to be liberally construed to accomplish
24 this objective. When the Board exercises its authority under this Article to discipline a
25 person, it may, as part of the decision imposing the discipline, charge the costs of
26 investigations and the hearing to the person disciplined.

27 **"§ 90-113.34. Records to be kept; copies of records.**

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

36 **"§ 90-113.35. Disposition of funds.**

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

40 **"§ 90-113.36. Certificates of certification.**

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

43 (b) The Board may furnish a certificate of certification to any person in another
44 state or territory if the individual's qualifications were, at the date of registration or

1 certification, substantially equal to the requirements under this Article. However, an
2 out-of-state applicant shall first file application and pay any required fees.

3 **"§ 90-113.37. Renewal of certification; lapse; revival.**

4 (a) Every person certified pursuant to this Article who desires to maintain
5 certification status shall apply to the Board for a renewal of certification every other
6 year and pay to the secretary-treasurer the prescribed fee. Renewal of certification is
7 subject to completion of 60 hours of those continuing education requirements
8 established by the Board. Certification that is not renewed automatically lapses, unless
9 the Board provides for the late renewal of certification upon the payment of a late fee.
10 No late renewal shall be granted more than five years after a certification expires. A
11 suspended certification is subject to this section's renewal requirements and may be
12 renewed as provided in this section. This renewal does not entitle the certified person to
13 engage in the certified activity or in any other conduct or activity in violation of the
14 order or judgment by which the certification was suspended, until the certification is
15 reinstated. If a certification revoked on disciplinary grounds is reinstated and requires
16 renewal, the certified person shall pay the renewal fee and any applicable late fee.

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

19 **"§ 90-113.38. Maximums for certain fees.**

20 The combined fees to obtain a certificate of certification may not exceed three
21 hundred dollars (\$300.00). The fee to renew a certificate may not exceed one hundred
22 dollars (\$100.00).

23 **"§ 90-113.39. Standards for certification.**

24 The Board shall establish standards for certification of substance abuse
25 professionals. The certification standards of the International Certification Reciprocity
26 Consortium/Alcohol and Other Drug Abuse and of the National Association of
27 Alcoholism and Drug Abuse Counselors may be used as guidelines for the Board's
28 standards. The Board shall publish these required standards separately from its rules so
29 as to provide easy access to the standards.

30 **"§ 90-113.40. Requirements for certification.**

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

- 33 (1) The applicant is of good moral character;
- 34 (2) The applicant is not and has not engaged in any practice or conduct
35 that would be grounds for disciplinary action under G.S. 90-113.44;
- 36 (3) The applicant is qualified for certification pursuant to the requirements
37 of this Article and any rules adopted pursuant to it;
- 38 (4) The applicant has, at a minimum, a high school diploma or a high
39 school equivalency certificate;
- 40 (5) The applicant has signed a form attesting to the intention to adhere
41 fully to the ethical standards adopted by the Board;
- 42 (6) The applicant has completed 270 hours of Board-approved education;
- 43 (7) The applicant has documented completion of a minimum of 300 hours
44 of Supervised Practical Training and has provided a Board-approved

1 supervision contract between the applicant and an approved
2 supervisor;

3 (8) The applicant has completed either a total of three years of supervised
4 experience in the field, whether paid or volunteer, or, if a graduate of a
5 Board-approved masters degree program, a total of 18 months of
6 supervised experience in the field, whether paid or volunteer; and

7 (9) The applicant has successfully completed a written examination and an
8 oral examination promulgated and administered by the Board.

9 The Board shall publish from time to time information in order to provide specifics
10 for potential applicants of an acceptable educational curriculum and the terms of
11 acceptable supervised fieldwork experience.

12 **"§ 90-113.41. Examination.**

13 (a) Applicants for certification under this Article shall file an application at least
14 60 days prior to the date of examination and upon the forms and in the manner
15 prescribed by the Board. The application shall be accompanied by the appropriate fee.
16 No portion of this fee is refundable. Applicants who fail an examination may apply for
17 reexamination upon the payment of another examination fee.

18 (b) Each applicant for certification under this Article shall be examined in an
19 examination that is consistent with the examination requirements of the International
20 Certification Reciprocity Consortium/Alcohol and Other Drug Abuse.

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

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

26 **"§ 90-113.42. Exemptions.**

27 It is not the intent of this Article to regulate members of other regulated professions
28 who provide substance abuse services or consultation in the normal course of the
29 practice of their profession. Accordingly, this Article does not apply to any person
30 registered, certified, or licensed by the State to practice any other occupation or
31 profession while rendering substance abuse services or consultation in the performance
32 of the occupation or profession for which he is registered, certified, or licensed. Only
33 individuals certified under this Article may use the title 'certified substance abuse
34 counselor' or 'certified substance abuse prevention consultant'.

35 **"§ 90-113.43. Illegal practice; misdemeanor penalty.**

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

37 (1) Practice, attempt to practice, or supervise while holding out to be a
38 certified substance abuse counselor or a certified substance abuse
39 prevention consultant without first having obtained a certificate of
40 certification from the Board;

41 (2) Use in connection with any name any letters, words, numerical codes,
42 or insignia indicating or implying that this person is a certified
43 substance abuse counselor or a certified substance abuse prevention
44 consultant unless this person is certified pursuant to this Article;

- 1 (3) Practice or attempt to practice as a certified substance abuse counselor
2 or certified substance abuse prevention consultant with a revoked,
3 lapsed, or suspended certification;
4 (4) Aid, abet, or assist any uncertified person to practice as a certified
5 substance abuse counselor or certified substance abuse prevention
6 consultant in violation of this Article;
7 (5) Knowingly serve in a position required by State law or rule or federal
8 law or regulation to be filled by a certified substance abuse counselor
9 or a certified substance abuse prevention consultant unless that person
10 is so certified under this Article; or
11 (6) Otherwise violate any of the provisions of this Article or any of the
12 rules adopted pursuant to it.

13 A person who engages in any of the illegal practices enumerated by this section is
14 guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct
15 and separate offense.

16 **"§ 90-113.44. Grounds for disciplinary action.**

17 Grounds for disciplinary action include:

- 18 (1) The employment of fraud, deceit, or misrepresentation in obtaining or
19 attempting to obtain certification or renewal of certification;
20 (2) The use of drugs or alcoholic beverages to the extent that professional
21 competency is affected, until proof of rehabilitation can be established;
22 (3) Conviction of an offense under any municipal, State, or federal
23 narcotic or controlled substance law, until proof of rehabilitation can
24 be established;
25 (4) Conviction of a felony or other public offense involving moral
26 turpitude, until proof of rehabilitation can be established;
27 (5) An adjudication of insanity or incompetency, until proof of recovery
28 from this condition can be established;
29 (6) Engaging in any act or practice violative of any of the provisions of
30 this Article or any of the rules adopted pursuant to it, or aiding,
31 abetting, or assisting any other person in such a violation;
32 (7) The commission of an act of malpractice, gross negligence, or
33 incompetence in the practice of substance abuse counseling or in
34 substance abuse prevention consulting;
35 (8) Practicing as a certified substance abuse counselor or as a certified
36 substance abuse prevention consultant without a valid certificate; and
37 (9) Engaging in conduct that could result in harm or injury to the public.

38 **"§ 90-113.45. Enjoining illegal practices.**

39 (a) The Board may, if it finds that any person is violating any of the provisions of
40 this Article or of the rules adopted pursuant to it, apply in its own name to the superior
41 court for a temporary or permanent restraining order or injunction to restrain that person
42 from continuing these illegal practices. The court may grant injunctive relief regardless
43 of whether criminal prosecution or other action has been or may be instituted as a result
44 of the violation. In the court's consideration of the issue of whether to grant or continue

1 an injunction sought by the Board, a showing of conduct in violation of the terms of
2 this Article shall be sufficient to meet any requirement of general North Carolina
3 injunction law for irreparable damage.

4 (b) The venue for actions brought under this section is the superior court of any
5 county in which the illegal acts are alleged to have been committed or in the county
6 where the defendant resides.

7 **"§ 90-113.46. Application of requirements of Article.**

8 All persons certified by the North Carolina Substance Abuse Professionals
9 Certification Board, Inc., as of the effective date of this Article shall be certified by the
10 Board pursuant to this Article. All these persons are subject to all the other
11 requirements of this Article and of the rules adopted pursuant to it."

12 Sec. 2. G.S. 90-332.1 is amended by adding a new subsection to read:

13 "(d) Nothing in this Article shall prevent a person from performing substance
14 abuse counseling or substance abuse prevention consulting as defined in Article 5C of
15 this Chapter."

16 Sec. 3. This act becomes effective July 1, 1994, and applies to requirements
17 imposed on or after that date, and to causes of action, whether civil, criminal, or
18 administrative, arising on or after that date.