

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 924*
Committee Substitute Favorable 4/19/99

Short Title: Community Mediation Centers.

(Public)

Sponsors:

Referred to:

April 5, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE COMMUNITY MEDIATION CENTERS.
3 The General Assembly of North Carolina enacts:

4 Section 1. Article 5 of Chapter 7A of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 7A-38.5. Community mediation centers.**

7 (a) The General Assembly finds that it is in the public interest to encourage the
8 establishment of community mediation centers, also known as dispute settlement centers
9 or dispute resolution centers, to support the work of these centers in facilitating
10 communication, understanding, reconciliation, and settlement of conflicts in
11 communities, courts, and schools, and to promote the widest possible use of these centers
12 by the courts and law enforcement officials across the State.

13 (b) Community mediation centers, functioning as or within nonprofit organizations
14 and local governmental entities, may receive referrals from courts, law enforcement
15 agencies, and other public entities for the purpose of facilitating communication,
16 understanding, reconciliation, and settlement of conflicts.

1 (c) Each chief district court judge shall encourage mediation for any criminal or
2 civil district court action pending in the district for which the judge determines that
3 mediation is an appropriate alternative."

4 Section 2. G.S. 84-2.1 reads as rewritten:

5 **"§ 84-2.1. "Practice law" defined.**

6 The phrase "practice law" as used in this Chapter is defined to be performing any legal
7 service for any other person, firm or corporation, with or without compensation,
8 specifically including the preparation or aiding in the preparation of deeds, mortgages,
9 wills, trust instruments, inventories, accounts or reports of guardians, trustees,
10 administrators or executors, or preparing or aiding in the preparation of any petitions or
11 orders in any probate or court proceeding; abstracting or passing upon titles, the
12 preparation and filing of petitions for use in any court, including administrative tribunals
13 and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in
14 any legal work; and to advise or give opinion upon the legal rights of any person, firm or
15 corporation: Provided, that the above reference to particular acts which are specifically
16 included within the definition of the phrase "practice law" shall not be construed to limit
17 the foregoing general definition of the term, but shall be construed to include the
18 foregoing particular acts, as well as all other acts within the general definition. The
19 phrase "practice law" does not encompass the drafting of memoranda of understanding or
20 resolution agreements by mediators at community mediation centers authorized by G.S.
21 7A-38.5."

22 Section 3. G.S. 90-330 reads as rewritten:

23 **"§ 90-330. Definitions; practice of marriage and family therapy.**

24 (a) Definitions. – As used in this Article certain terms are defined as follows:

25 (1) Repealed by Session Laws 1993, c. 514, s. 1.

26 (1a) The "Board" means the Board of Licensed Professional Counselors.

27 (2) A "licensed professional counselor" is a person engaged in the practice
28 of counseling who holds a license as a licensed professional counselor
29 issued under the provisions of this Article.

30 (3) The "practice of counseling" means holding oneself out to the public as a
31 professional counselor offering counseling services that include, but are
32 not limited to, the following:

33 a. Counseling. – Assisting individuals, groups, and families through
34 the counseling relationship by treating mental disorders and other
35 conditions through the use of a combination of clinical mental
36 health and human development principles, methods, diagnostic
37 procedures, treatment plans, and other psychotherapeutic
38 techniques, to develop an understanding of personal problems, to
39 define goals, and to plan action reflecting the client's interests,
40 abilities, aptitudes, and mental health needs as these are related to
41 personal-social-emotional concerns, educational progress, and
42 occupations and careers.

- b. Appraisal Activities. – Administering and interpreting tests for assessment of personal characteristics.
- c. Consulting. – Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.
- d. Referral Activities. – Identifying problems requiring referral to other specialists.
- e. Research Activities. – Designing, conducting, and interpreting research with human subjects.

The "practice of counseling" does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

- (4) A "supervisor" means any licensed professional counselor or, when one is inaccessible, an equivalently credentialed mental health professional, as determined by the Board, with a minimum of five years of counseling experience who meets the qualifications established by the Board.

(b) Repealed by Session Laws 1993, c. 514, s. 1.

(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person licensed as a licensed professional counselor under the provisions of this Article shall be allowed to hold himself or herself out to the public as a certified marriage and family therapist, licensed practicing psychologist, psychological associate, or certified clinical social worker unless specifically authorized by other provisions of law."

Section 4. Chapter 8 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 15.

"MEDIATION NEGOTIATIONS.

"§ 8-110. Inadmissibility of negotiations.

(a) Evidence of statements made and conduct occurring during a mediation at a community mediation center authorized by G.S. 7A-38.5 shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed during mediation.

(b) No mediator or staff at a community mediation center authorized by G.S. 7A-38.5 shall be compelled to testify or produce evidence concerning statements made and conduct occurring during mediation at the community mediation center in any legal proceeding, except as to whether or not the mediation resulted in an agreement or as to communications in furtherance of a crime or fraud. Nothing in this subsection shall be construed to permit a person to obtain immunity from prosecution for criminal conduct or as excusing an individual from the reporting requirements of G.S. 7B-301 or G.S. 108A-102."

Section 5. This act becomes effective October 1, 1999.