

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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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
Senate Finance Committee Substitute Adopted 6/24/91

Short Title: Practicing Pastoral Counselors.

(Public)

Sponsors:

Referred to:

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE FEE-BASED PRACTICING PASTORAL
3 COUNSELORS 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:

"ARTICLE 25.

"FEE-BASED PRACTICING PASTORAL COUNSELORS.

"§ 90-350. Title.

10 This Article shall be known as the 'Fee-Based Practicing Pastoral Counselor
11 Certification Act.'

"§ 90-351. Policy and purpose.

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

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

1 **"§ 90-352. Definitions.**

2 The following definitions apply in this Article:

- 3 (1) Accredited education institution. – A college, university, or theological
4 seminary chartered by the State and accredited by the appropriate
5 regional association of colleges and secondary schools or by the
6 appropriate association of theological schools and seminaries.
- 7 (2) Board. – The North Carolina State Board of Examiners of Fee-Based
8 Practicing Pastoral Counselors.
- 9 (3) Fee-based pastoral counseling associate. – An individual, certified
10 under this Article, who renders or offers professional pastoral
11 counseling services. However, the fee-based pastoral counseling
12 associate does not engage in counseling, psychotherapy, diagnosis,
13 amelioration of difficulties in living, and the resolution of
14 interpersonal conflict except under qualified supervision in accordance
15 with the duly adopted rules of the Board.
- 16 (4) Fee-based pastoral counselor. – A minister who receives fees from the
17 practice of pastoral counseling.
- 18 (5) Fee-based practice of pastoral counseling. – To render or offer for a
19 fee or other compensation professional pastoral counseling services,
20 whether within the general public or within organizations, either public
21 or private, to individuals, singly or in groups; to couples, married or in
22 other relationships; and to families.
- 23 (6) Fee-based professional pastoral counseling services. – The application
24 of pastoral care and pastoral counseling principles and procedures for a
25 fee or other compensation with the purposes of understanding,
26 anticipating, or influencing the behavior of individuals in order to
27 assist in their attainment of maximum personal growth; optimal work,
28 marital, family, church, school, social, and interpersonal relationships;
29 and healthy personal adaptation. The application of pastoral care and
30 pastoral psychotherapy principles and procedures includes some or all
31 of the following, but is not restricted to: sustaining, healing,
32 shepherding, nurturing, guiding, and reconciling; interviewing,
33 counseling, and psychotherapy; diagnosis, prevention, and
34 amelioration of difficulties in living; and the resolution of
35 interpersonal and social conflict. Teaching, writing, the giving of
36 public speeches or lectures, and research concerned with pastoral care
37 and counseling principles are not included in professional pastoral
38 counseling services within the meaning of this Article.
- 39 (7) Minister. – A person who has been called, elected or otherwise
40 authorized by a church, denomination or faith group through
41 ordination, consecration or equivalent means, to exercise, within and
42 on behalf of the denomination or faith group, specific religious
43 leadership and service that furthers its purpose and mission and that

1 differs from the religious service of the laity of the denomination or
2 faith group.

3 (8) Pastoral counseling. – Used interchangeably with pastoral
4 psychotherapy to mean a process in which a pastoral counselor utilizes
5 insights and principles derived from the disciplines of theology and the
6 behavioral sciences to help persons achieve wholeness and health.

7 (9) Pastoral psychotherapy. – The use of pastoral care and pastoral
8 counseling methods in a professional relationship to assist a person to
9 modify feelings, attitudes, and behavior that are intellectually, socially,
10 emotionally, or spiritually maladjustive, ineffectual or otherwise
11 contributing to difficulties in living.

12 **"§ 90-353. Exemptions to this Article.**

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

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

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

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

34 **"§ 90-354. Temporary certificates.**

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

37 **"§ 90-355. North Carolina State Board of Examiners of Fee-Based Pastoral**
38 **Counselors.**

39 (a) The North Carolina State Board of Examiners of Fee-Based Practicing
40 Pastoral Counselors is created. The Board shall consist of seven members as follows:

41 (1) Three members appointed by the Governor, two of whom shall be
42 certified fee-based practicing pastoral counselors and one of whom
43 shall be a certified fee-based pastoral counseling associate.

1 (2) Two members appointed by the Speaker of the House of
2 Representatives, one of whom shall be a certified fee-based practicing
3 pastoral counselor and one of whom shall be ordained clergy not
4 certified under this Article.

5 (3) Two members appointed by the President Pro Tempore of the Senate,
6 one of whom shall be a certified fee-based practicing pastoral
7 counselor and one of whom shall be ordained clergy not certified
8 under this Article.

9 In making appointments, consideration shall be given to the adequate representation of
10 the various fields and areas of the practice of pastoral counseling. Legislative
11 appointments shall be made in accordance with G.S. 120-121.

12 (b) Each member shall be appointed for a term of four years and shall serve until
13 a successor is appointed and qualified. Vacancies shall be filled by the appropriate
14 appointing authority within 30 days after the position is vacated. A vacancy in a
15 legislative appointment shall be filled in accordance with G.S. 120-122. Appointees
16 shall serve the remainder of the unexpired term and until their successors have been
17 appointed and qualified. No person may be appointed more than once to fill an
18 unexpired term or to more than two consecutive terms.

19 (c) Of the members initially appointed, three members, including one certified
20 fee-based practicing pastoral counselor appointed by the Governor, one certified fee-
21 based pastoral counseling associate appointed by the Governor, and one ordained clergy
22 who is not certified under this Article appointed by the President Pro Tempore of the
23 Senate, shall serve for a term of two years. Two members, including one certified fee-
24 based practicing pastoral counselor appointed by the Speaker of the House of
25 Representatives and one ordained clergy who is not certified under this Article
26 appointed by the Speaker of the House of Representatives, shall serve for a term of three
27 years. Two members, including the certified fee-based practicing pastoral counselor
28 appointed by the Governor and designated as chairperson of the Board and the certified
29 fee-based practicing pastoral counselor appointed by the President Pro Tempore of the
30 Senate, shall serve for a term of four years. Initial appointees shall be persons who meet
31 the education and experience requirements for certification under this Article and shall
32 be deemed certified upon appointment.

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

36 (e) Five of the Board members constitute a quorum. The Governor shall
37 designate one Board member who is a certified fee-based practicing pastoral counselor
38 to serve as chairperson during the term of his or her appointment to the Board. No
39 person may serve as chairperson for more than four years. The principal office of the
40 Board shall be at such location in the State as the Board shall specify.

41 (f) The Board shall meet annually, at a time set by the Board, and it may hold
42 additional meetings and conduct any proceeding or investigation necessary to its
43 purposes and may empower its agents or counsel to conduct any investigation necessary
44 to its purposes. The Board may order that any records concerning the provision of

1 pastoral counseling services relevant to a complaint received by the Board or any
2 inquiry or investigation conducted by or on behalf of the Board be produced for
3 inspection and copying by representatives of the Board. The Board shall adopt an
4 official seal, which shall be affixed to all certificates issued by the Board. The Board
5 shall make such rules, in accordance with Chapter 150B, as may be necessary to
6 regulate its proceedings and otherwise to implement the provisions of this Article.

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

14 **"§ 90-356. Annual report.**

15 Within 90 days of the end of each fiscal year, beginning with fiscal year 1992-93,
16 the Board shall submit a report to the Governor of the Board's activities since the
17 preceding July 1, including the names of all fee-based practicing pastoral counselors
18 and fee-based pastoral counseling associates to whom certificates have been granted
19 under this Article.

20 **"§ 90-357. Certification and examination.**

21 (a) The Board shall issue a certificate to practice pastoral counseling as a fee-
22 based pastoral counselor to any applicant who pays an application fee of one hundred
23 dollars (\$100.00) and an additional examination fee set by the Board of not more than
24 four hundred dollars (\$400.00), who passes a Board examination in pastoral counseling,
25 and who submits evidence verified by oath and satisfactory to the Board that the
26 applicant:

- 27 (1) Is at least 21 years of age;
- 28 (2) Is of good moral character;
- 29 (3) Has received a masters of divinity or higher degree, or its equivalent,
30 from an accredited educational institution;
- 31 (4) Has received a masters or doctoral degree in pastoral counseling, or its
32 equivalent, based on a planned and directed program of studies in
33 pastoral counseling from an accredited educational institution; has
34 completed satisfactorily one unit of full-time clinical pastoral
35 education in a program accredited by the Association of Clinical
36 Pastoral Education, or its equivalent; and has completed at least 1,375
37 hours of pastoral counseling while receiving a minimum of 250 hours
38 of supervision of these hours of pastoral counseling;
- 39 (5) Is a member of a recognized denomination or faith group that
40 recognizes the applicant's status as a rabbi, priest, minister, or religious
41 leader, as defined in Federal Tax Regulations, paragraph (g)(5)(1) of
42 26 C.F.R. 1.6033-2 (1982);

- 1 (6) Has evidence, furnished to the Board at the time of application, of
2 completion of three years of full-time work as a rabbi, priest, minister,
3 or religious leader, or its equivalent;
- 4 (7) Has evidence, furnished to the Board at the time of application and
5 annually thereafter, of ordination, or its equivalent (as determined by
6 the person's denomination or faith group), and with endorsement to
7 function as a pastoral counselor; and
- 8 (8) Has not within the preceding six months failed an examination given
9 by the Board.

10 (b) The Board shall issue a certificate to practice pastoral counseling as a fee-
11 based pastoral counseling associate to any applicant who pays an application fee of one
12 hundred dollars (\$100.00) and an additional examination fee set by the Board of not
13 more than four hundred dollars (\$400.00), who passes a satisfactory examination in
14 pastoral counseling, and who submits evidence verified by oath and satisfactory to the
15 Board that the applicant:

- 16 (1) Has complied with the provisions of G.S. 90-
17 357(a)(1),(2),(3),(5),(6),(7), and (8) of this Article; and
- 18 (2) Has satisfactorily completed one unit of full-time clinical pastoral
19 education in a program accredited by the American Association for
20 Clinical Education, or its equivalent, and has completed at least 375
21 hours of pastoral counseling while receiving a minimum of 125 hours
22 of supervision of these hours of pastoral counseling.

23 (c) A pastoral counseling associate may be upgraded to a practicing pastoral
24 counselor if the applicant complies with the requirements set forth in subsection (a) of
25 this section and pays an examination fee of not more than four hundred dollars
26 (\$400.00).

27 (d) The examinations required by subsections (a) and (b) of this section shall be
28 in a form and content prescribed by the Board and shall be oral and written. The
29 examinations shall be administered annually, or more frequently as the Board may
30 prescribe, at a time and place to be determined by the Board.

31 **"§ 90-358. Equivalent certification and memberships recognized.**

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

39 (b) The Board may grant a certificate as a practicing pastoral counselor to any
40 person who has been certified as a Fellow or Diplomate by the American Association of
41 Pastoral Counselors if application is made by December 31, 1991. To determine a
42 candidate's qualification, the Board may require a personal interview, in addition to any
43 documentation necessary for the determination.

1 (c) The Board may grant a certificate as a fee-based pastoral counseling associate
2 to any person who has been certified as a Member by the American Association of
3 Pastoral Counselors if application is made by December 31, 1991. To determine a
4 candidate's qualifications, the Board may require a personal interview, in addition to
5 any documentation necessary for the determination.

6 **"§ 90-359. Renewal of certificate.**

7 A certificate issued under this Article must be renewed annually on or before the
8 first day of January. Each application for renewal must be accompanied by a renewal
9 fee set by the Board of not more than one hundred dollars (\$100.00). If a certificate is
10 not renewed on or before the first day of January of each year, an additional fee of not
11 more than twenty-five dollars (\$25.00) shall be charged for late renewal. The Board
12 may establish requirements for continuing education for pastoral counselors and
13 pastoral counseling associates certified in this State as an additional condition for
14 renewal.

15 **"§ 90-360. Refusal, suspension, or revocation of certificates.**

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

- 19 (1) Has been convicted of a felony;
- 20 (2) Has been convicted of a misdemeanor involving moral turpitude or
21 misrepresentation or fraud in dealing with the public or otherwise
22 relevant to fitness to practice fee-based pastoral counseling;
- 23 (3) Has engaged in fraud or deceit in securing or attempting to secure a
24 certificate or the renewal thereof or has willfully concealed from the
25 Board material information in connection with application for or
26 renewal of a certificate under this Article;
- 27 (4) Is a habitual drunkard or is addicted to deleterious habit-forming
28 drugs;
- 29 (5) Has made fraudulent or misleading statements pertaining to his
30 education, licensure, professional credentials, or related to his
31 qualification or fitness for the practice of pastoral counseling;
- 32 (6) Has had a license for the practice of pastoral counseling in any other
33 state, or any other country, suspended or revoked;
- 34 (7) Has been guilty of unprofessional conduct as defined by the then-
35 current code of ethics published by the American Association of
36 Pastoral Counselors; or
- 37 (8) Has violated any provision of this Article or of the duly adopted rules
38 of the Board.

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

42 (c) Except as otherwise provided herein, the procedure for revocation,
43 suspension, refusal, or other limitations of the license shall be in accordance with the
44 provisions of Chapter 150B of the General Statutes. In any proceeding before the

1 Board, in any record of any hearing before the Board, in any complaint or notice of
2 charges against any fee-based pastoral counselor or pastoral counseling associate
3 certified under this Article, and in any decision rendered by the Board, the Board shall
4 endeavor to withhold from public disclosure the identity of any counsees or clients
5 who have not consented to the public disclosure of treatment by the pastoral counselor
6 or pastoral counseling associate. The Board may close a hearing to the public and
7 receive in executive session evidence concerning the treatment or delivery of pastoral
8 counseling services to a counseee or a client who has not consented to public disclosure
9 of such treatment or services as may be necessary for the protection and rights of such
10 counseee or client of the accused pastoral counselor or pastoral counseling associate
11 and the full presentation of relevant evidence. All records, papers, and documents
12 containing information collected and compiled by or on behalf of the Board as a result
13 of investigations, inquiries, or interviews conducted in connection with certification or
14 disciplinary matters are not public records within the meaning of Chapter 132 of the
15 General Statutes; provided, however, that any notice or statement of charges against any
16 fee-based pastoral counselor or pastoral counseling associate certified under this Article,
17 or any notice to any fee-based pastoral counselor or pastoral counseling associate
18 certified under this Article of a hearing in any proceeding, or any decision rendered in
19 connection with a hearing in any proceeding is a public record within the meaning of
20 Chapter 132 of the General Statutes, notwithstanding that it may contain information
21 collected and compiled as a result of such investigation, inquiry, or hearing, except that
22 identifying information concerning the treatment or delivery of services to a counseee
23 or client who has not consented to the public disclosure of such treatment or services
24 may be deleted. If any such record, paper, or other document containing information
25 collected and compiled by or on behalf of the Board, as provided in this section, is
26 received and admitted in evidence in any hearing before the Board, it shall thereupon be
27 a public record within the meaning of Chapter 132 of the General Statutes, subject to
28 any deletions of identifying information concerning the treatment or delivery of pastoral
29 counseling services to a counseee or client who has not consented to public disclosure
30 of such treatment or services.

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

35 (e) Upon proof that a fee-based pastoral counselor or pastoral counseling
36 associate certified under this Article has engaged in any of the prohibited actions
37 specified in subsection (a) above, the Board may, in lieu of refusal, suspension, or
38 revocation, do any one or more of the following:

39 (1) Issue a formal reprimand.

40 (2) Formally censure the pastoral counselor or pastoral counseling
41 associate.

42 (3) Place the pastoral counselor or pastoral counseling associate on
43 probation with such appropriate conditions as the Board may deem
44 advisable.

1 (4) Limit or circumscribe the professional pastoral counseling services
2 provided by the pastoral counselor or the pastoral counseling associate
3 as the Board deems advisable.

4 (f) The Board may impose conditions of probation or restrictions on continued
5 practice at the conclusion of a period of suspension or as requirements for the
6 restoration of a revoked or suspended certificate. In lieu of or in connection with any
7 disciplinary proceedings or investigation, the Board may enter into a consent order
8 relating to the discipline, censure, proceeding costs, probation, or limitations of a
9 pastoral counselor or pastoral counseling associate certified under this Article.

10 **"§ 90-361. Prohibited acts.**

11 No person shall represent himself to be a certified fee-based practicing pastoral
12 counselor or a certified fee-based pastoral counseling associate, or engage in or offer to
13 engage in the practice of certified fee-based pastoral counseling, without a valid
14 certification issued under this Article. No person shall use these titles or descriptions, or
15 any of their derivatives, in such a manner which would imply that the person is certified
16 under this Article. The use by a person who is not certified under this Article of such
17 terms, whether in titles or description or otherwise, is not prohibited by this Article
18 except when used in connection with the practice of fee-based pastoral counseling as
19 defined in this Article; such use of these terms by a person not certified under this
20 Article shall not be construed as implying that the person is certified under this Article
21 or as practicing or offering to practice fee-based pastoral counseling.

22 **"§ 90-362. Disposition of fees.**

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

26 **"§ 90-363. Injunction for violations.**

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

30 **"§ 90-364. Duplicate and replacement certificates.**

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

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