

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

4

SENATE BILL 543

Rules and Operation of the Senate Committee Substitute Adopted 5/6/93

Judiciary I Committee Substitute Adopted 6/16/93

Fourth Edition Engrossed 7/8/93

Short Title: Emp. Assist. Program Cert.

(Public)

---

Sponsors:

---

Referred to: Finance.

---

March 24, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CERTIFICATION OF PROVIDERS OF  
2 EMPLOYEE ASSISTANCE PROGRAMS.  
3

4 Whereas, it is beneficial to all citizens of this State that employee assistance  
5 programs operating within the State provide quality services to all employees; Now,  
6 therefore,

7 The General Assembly of North Carolina enacts:

8 Section 1. This act shall be known and may be cited as "The Employee  
9 Assistance Program Certification Act of 1993."

10 Sec. 2. G.S. 143B-147(a) reads as rewritten:

11 "(a) There is hereby created the Commission for Mental Health, Developmental  
12 Disabilities, and Substance Abuse Services of the Department of Human Resources with  
13 the power and duty to adopt, amend and repeal rules to be followed in the conduct of  
14 State and local mental health, developmental disabilities, alcohol and drug abuse  
15 programs including education, prevention, intervention, treatment, rehabilitation and  
16 other related services. Such rules shall be designed to promote the amelioration or  
17 elimination of the mental health, developmental disabilities, or alcohol and drug abuse  
18 problems of the citizens of this State. The Commission for Mental Health,  
19 Developmental Disabilities, and Substance Abuse Services shall have the authority:

20 (1) To adopt rules regarding the following:

- 1 a. Admission, including the designation of regions, treatment, and  
2 professional care of individuals admitted to a facility operated  
3 under the authority of G.S. 122C-181(a), that is now or may be  
4 ~~established~~; established.
- 5 b. Operation of education, prevention, intervention, treatment,  
6 rehabilitation and other related services as provided by area  
7 mental health, developmental disabilities, and substance abuse  
8 authorities under Part 4 of Article 4 of Chapter 122C of the  
9 ~~General Statutes~~; Statutes.
- 10 c. Hearings and appeals of area mental health, developmental  
11 disabilities, and substance abuse authorities as provided for in  
12 Part 4 of Article 4 of Chapter 122C of the ~~General Statutes~~;  
13 Statutes.
- 14 d. Requirements of the federal government for grants-in-aid for  
15 mental health, developmental disabilities, alcohol or drug abuse  
16 programs which may be made available to local programs or the  
17 State. This section is to be liberally construed in order that the  
18 State and its citizens may benefit from such ~~grants-in-aid~~; grants-  
19 in-aid.
- 20 (2) To adopt rules for the licensing of facilities for the mentally ill,  
21 developmentally disabled, and substance abusers, under Article 2 of  
22 Chapter 122C of the General Statutes.
- 23 (3) To advise the Secretary of the Department of Human Resources  
24 regarding the need for, provision and coordination of education,  
25 prevention, intervention, treatment, rehabilitation and other related  
26 services in the areas of:
- 27 a. Mental illness and mental health,  
28 b. Developmental disabilities,  
29 c. Alcohol abuse, and  
30 d. Drug ~~abuse~~; abuse.
- 31 (4) To review and advise the Secretary of the Department of Human  
32 Resources regarding all State plans required by federal or State law  
33 and to recommend to the Secretary any changes it thinks necessary in  
34 those plans; provided, however, for the purposes of meeting State plan  
35 requirements under federal or State law, the Department of Human  
36 Resources is designated as the single State agency responsible for  
37 administration of plans involving mental health, developmental  
38 disabilities, alcohol abuse, and drug abuse ~~services~~; services.
- 39 (5) To adopt rules relating to the registration and control of the  
40 manufacture, distribution, security, and dispensing of controlled  
41 substances as provided by ~~G.S. 90-100~~; G.S. 90-100.
- 42 (6) To adopt rules to establish the professional requirements for staff of  
43 licensed facilities for the mentally ill, developmentally disabled, and  
44 substance abusers. Such rules may require that one or more, but not all

1 staff of a facility be either licensed or certified. If a facility has only  
 2 one professional staff, such rules may require that that individual be  
 3 licensed or certified. Such rules may include the recognition of  
 4 professional certification boards for those professions not licensed or  
 5 certified under other provisions of the General Statutes provided that  
 6 the professional certification board evaluates applicants on a basis  
 7 which protects the public health, safety or ~~welfare~~; welfare.

8 (7) Except where rule making authority is assigned under that Article to  
 9 the Secretary of the Department of Human Resources, to adopt rules to  
 10 implement Article 3 of Chapter 122C of the General ~~Statutes~~; Statutes.

11 (8) To adopt rules specifying procedures for waiver of rules adopted by  
 12 the Commission.

13 (9) To adopt rules for the certification of providers of employee assistance  
 14 programs, as provided by Article 2A of Chapter 122C of the General  
 15 Statutes."

16 Sec. 3. Chapter 122C of the General Statutes is amended by adding a new  
 17 Article 2A to read:

18 **"ARTICLE 2A.**

19 **"CERTIFICATION OF PROVIDERS OF EMPLOYEE ASSISTANCE**  
 20 **PROGRAMS.**

21 **"§ 122C-35. Purpose.**

22 The purpose of this Article is to provide for certification of providers of employee  
 23 assistance programs in order to ensure that the public has a means of protection from the  
 24 unprofessional, improper, unauthorized, and unqualified use of certain titles by persons  
 25 who provide employee assistance programs.

26 **"§ 122C-36. Employee Assistance Program defined.**

27 An employee assistance program is a program, whether public or private, that is  
 28 designed to assist in the identification and resolution of job performance problems in the  
 29 workplace associated with employees impaired by personal concerns including health,  
 30 marital, family, financial, alcohol, drug, legal, emotional, stress, or other personal  
 31 concerns that may adversely affect employee job performance, but does not include a  
 32 program provided by an employer for that employer's own employees and staffed within  
 33 the organization.

34 **"§ 122C-37. Certification requirements.**

35 (a) A person, unless certified under this Article, shall not use a title or description  
 36 such as 'certified provider of employee assistance program' or any other name, style, or  
 37 description denoting that the person is a certified provider of employee assistance  
 38 programs. Nothing in this section prohibits any person from advertising the  
 39 performance of employee assistance services, the persons from whom services may be  
 40 obtained, and prices.

41 (b) The Secretary shall make applications for certificates required by this section  
 42 available, and each application filed with the Secretary shall contain all information  
 43 requested by the Secretary. A certificate shall be granted to the applicant upon a

1 determination by the Secretary that the applicant has complied with the provisions of  
2 this Article and the rules adopted by the Commission pursuant to this Article.

3 (c) The Secretary shall renew the certificate in accordance with the rules of the  
4 Commission. Unless a certification has been suspended or revoked, the certification  
5 shall be valid for three years from the date of issuance.

6 (d) The Commission shall adopt rules to implement the provisions of this Article.

7 **"§ 122C-38. Adverse action on a certificate.**

8 The Secretary may deny, suspend, or revoke a certificate in any case in which the  
9 Secretary finds that there has been a substantial failure to comply with any provision of  
10 this Article, other applicable statutes, or any applicable rule. Actions under this section  
11 and appeals of those actions shall be in accordance with rules of the Commission and  
12 Chapter 150B of the General Statutes.

13 **"§ 122C-39. Fees.**

14 A fee of one hundred dollars (\$100.00) shall be charged to each applicant for  
15 certification and certification renewal. The fee shall be payable by the applicant at the  
16 time of the filing of the application.

17 **"§ 122C-40. Violations.**

18 Any person not certified as a provider of employee assistance programs under this  
19 Article who holds out to be or advertises as a certified provider of employee assistance  
20 programs commits an infraction, and, if the person is found responsible, a penalty of not  
21 more than three hundred dollars (\$300.00) may be imposed.

22 **"§ 122C-41. Injunction as an additional remedy.**

23 The Secretary may proceed in superior court to enjoin or restrain any person from  
24 violating this Article. The Secretary shall not be required to post bond in connection  
25 with this proceeding."

26 Sec. 4. This act becomes effective July 1, 1994, and applies to programs  
27 offered on or after that date and infractions committed on or after that date.