

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 239  
HOUSE BILL 915

AN ACT TO PROVIDE FOR A CODE OF CONDUCT FOR PRACTICING  
PSYCHOLOGISTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-270.15 reads as rewritten:

"§ 90-270.15. Refusal, Denial, suspension, or revocation of licenses, licenses, and other disciplinary and remedial actions; unprofessional conduct; relinquishing of license.

(a) A license applied for, or issued under this Article may be refused, suspended, revoked, or otherwise limited, as provided in subsection (e) below, by the Board upon proof that the person to whom the license was issued: Any applicant for licensure and any person licensed under this Article shall have behaved in conformity with the ethical and professional standards specified in this section and in the rules and regulations of the Board. The Board may deny, suspend, revoke, discipline, place on probation, limit, or require remediation or rehabilitation, all as provided for in subsection (f) below, upon proof that the applicant or the person to whom the licenses was issued:

- (1) Has been convicted of a felony; or felony or entered a plea of guilty or **nolo contendere** to any felony charge;
- (2) Has been convicted of a ~~or entered a plea of guilty or **nolo contendere** to any misdemeanor involving moral turpitude or involving turpitude,~~ misrepresentation or fraud in dealing with the ~~public or public,~~ or conduct otherwise relevant to his fitness to practice psychology; or psychology, or a misdemeanor charge reflecting the inability to practice psychology with due regard to the health and safety of clients or patients;
- (3) Has engaged in fraud or deceit in securing or attempting to secure a license under this Article or the renewal thereof or has willfully concealed from the Board material information in connection with application for or renewal of a license under this Article or the renewal thereof; or Article;
- (4) Is a habitual drunkard or is addicted to the use of deleterious habit-forming drugs; or
- (4a) Has demonstrated an inability to practice psychology with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental

or physical functioning, or as a result of any mental or physical condition;

- (5) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or upon any individual in connection with the practice of ~~psychology~~ or psychology, the offer of psychological services or services, the filing of Medicare, Medicaid, or other claims to any third party payor, or in any manner otherwise relevant to his fitness for the practice of psychology; or
- (6) Has made ~~fraudulent or misleading~~ fraudulent, misleading, or intentionally or materially false statements pertaining to his education, licensure, professional credentials, or related to his qualifications or fitness for the practice of psychology to the public, any individual, the Board, or any other organization; or
- (7) Has had a license or certification for the practice of psychology in any other state, or territory of the United States, or any other country, suspended or ~~revoked~~; or revoked, or has been disciplined by any other state or territorial licensing or certification board for conduct which would subject him to discipline under this Article;
- (8) Has been guilty of ~~unprofessional~~ immoral, dishonorable, unprofessional, or unethical conduct as defined by in this subsection, in subsection (a1) below, or in the then-current code of ethics published by of the American Psychological Association; or Association, except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of this Article, in which case, the provisions of this Article control;
- (9) Has violated any provision of this Article or of the duly adopted rules and regulations of the Board; or
- (10) Has employed a psychologist who has no valid license or temporary license issued under this Article.
- (10a) Has aided or abetted the unlawful practice of psychology by any person not licensed by the Board.

(a1) The Board may deny licensure, and discipline or require remediation and rehabilitation, or any combination thereof, as specified in subsections (a) above and (e) below, upon proof of immoral, dishonorable, unprofessional, or unethical conduct. Immoral, dishonorable, unprofessional, or unethical conduct, has occurred whenever any person who has applied for or has been issued a license under this Article has engaged in any of the following acts or offenses:

- (1) Practiced psychology in such a manner as to endanger the welfare of clients or patients;
- (2) Harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee;
- (3) Exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the psychologist or a third party;

- (4) Refused to appear before the Board after having been ordered to do so in writing by the Chair;
- (5) Failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional psychological associations, hospitals, or other health care organizations or educational institutions when those organizations or entities have jurisdiction; or failed to cooperate with institutional review boards or professional standards review organizations, when those organizations or entities have jurisdiction.
- (6) Failed to maintain a clear and accurate case record which documents the following for each patient or client:
  - a. Presenting problems, diagnosis, or purpose of the evaluation, counseling, treatment, or other services provided;
  - b. Fees, dates of services, and itemized charges;
  - c. Summary content of each session of evaluation, counseling, treatment, or other services, except that summary content need not include specific information that may cause significant harm to any person if the information were released;
  - d. Test results or other findings, including basic test data; and
  - e. Copies of all reports prepared;
- (7) Failed to competently use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, or provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data;
- (8) Failed to provide competent diagnosis, counseling, treatment, consultation, or supervision, in keeping with standards of usual and customary practice in this State;
- (9) In the absence of established standards, failed to take all reasonable steps to ensure the competence of services;
- (10) Failed to cooperate with other psychologists or other professionals to the potential or actual detriment of clients, patients, or other recipients of service, or behaved in ways which substantially impede or impair other psychologists' or other professionals' abilities to perform professional duties; or
- (11) Practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.

(b) A license issued under this Article ~~shall be~~ is automatically suspended by ~~the Board~~ operation of law after failure to renew a license for a period of more than three months after the annual renewal date. The Board may reinstate a license suspended under this subsection upon payment of a special fee of fifteen dollars (\$15.00), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his credentials, or submit to reexamination for

reinstatement. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is suspended under this subsection and, upon proof of any violation of this Article by any such person, the Board may take disciplinary action as authorized by this section.

(c) Except as provided otherwise in this Article, the procedure for revocation, suspension, refusal, or other denial, limitations of the license—license, or other disciplinary, remedial, or rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license is denied or to whom licensure is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes final without a hearing having been conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients or patients who have not consented to the public disclosure of treatment by the licensee or ~~psychologist—applicant.~~ The Board may close a hearing to the public and receive in executive session evidence involving or concerning the treatment or delivery of psychological services to a client or a patient who has not consented to the public disclosure of such treatment or services as may be necessary for the protection and rights of such patient or client of the accused ~~psychologist—applicant or licensee~~ and the full presentation of relevant evidence. All records, papers and other documents containing information collected and compiled by or on behalf of the Board, as a result of investigations, inquiries or interviews conducted in connection with licensing or disciplinary matters will not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of such investigation, inquiry, or hearing except that identifying information concerning the treatment or delivery of services to a patient or client who has not consented to the public disclosure of such treatment or services may be deleted; and provided, further, that if any such record, paper or other document containing information theretofore collected and compiled by or on behalf of the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment or delivery of psychological services to a patient or client who has not consented to the public disclosure of such treatment or services.

(d) A person whose license has been ~~refused or revoked~~ denied or revoked, under the terms of this section may reapply to the Board for licensure after the passage of one calendar year from the date of such revocation. ~~The Board may reinstate a suspended license upon payment of a special fee of fifteen dollars (\$15.00), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his credentials, or submit to reexamination for reinstatement.~~

(e) Upon proof that an applicant or licensee under this Article has engaged in any of the prohibited actions specified in ~~subsection (a)~~ subsections (a) and (a1) above, the Board may, in lieu of ~~refusal, denial, suspension, or revocation,~~ issue a formal reprimand or formally censure the applicant or licensee, may place the applicant or licensee upon probation with such appropriate conditions upon the continued practice as the Board may deem advisable, ~~or may require remediation or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee, may require supervision for the services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee, may limit or circumscribe the professional psychological services provided by the applicant or licensee with respect to the extent, nature, or location of his practice as the Board deems advisable.~~ advisable, or may discipline and impose any appropriate combination of the foregoing. In addition, ~~the~~ The Board may impose such conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as requirements for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to the discipline, ~~censure, probation supervision, probation, remediation or rehabilitation,~~ or limitation of a licensee or applicant for a license.

(f) The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.

(g) When considering the issue of whether or not an applicant or licensee is physically or mentally capable of practicing psychology with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the Board that the applicant or licensee is not capable of practicing psychology with reasonable skill and safety to patients or clients, the Board may petition a court of competent jurisdiction to order the applicant or licensee in question to submit to a psychological examination by a psychologist to determine psychological status or a physical examination by a physician to determine physical condition, or both. Such psychologist or physician, shall be designated by the court. The expenses of such examinations shall be borne by the Board. Where the applicant or licensee raises the issue of mental or physical competence or appeals a decision regarding mental or physical competence, the applicant or licensee shall be permitted to obtain an evaluation at the applicant or licensee's expenses. If the Board suspects the objectivity or adequacy of the examination, the Board may compel an examination by its designated practitioners at its own expense.

(h) A licensee may, with the consent of the Board, voluntarily relinquish his license at any time. The Board may delay or refuse the granting of its consent as it may deem necessary in order to investigate any pending complaint, allegation, or issue regarding violation of any provision of this Article by the licensee.

(i) The Board may adopt such rules and regulations as it deems reasonable and appropriate to interpret and implement the provisions of this section."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of June, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives