

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 543

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

Short Title: Emp. Assist. Program Cert.

(Public)

Sponsors:

Referred to: Judiciary I.

March 24, 1993

A BILL TO BE ENTITLED

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

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

The General Assembly of North Carolina enacts:

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

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

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

(1) To adopt rules regarding the

a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated

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

1 certified under other provisions of the General Statutes provided that
 2 the professional certification board evaluates applicants on a basis
 3 which protects the public health, safety or welfare;

4 (7) Except where rule making authority is assigned under that Article to
 5 the Secretary of the Department of Human Resources, to adopt rules to
 6 implement Article 3 of Chapter 122C of the General Statutes;

7 (8) To adopt rules specifying procedures for waiver of rules adopted by
 8 the ~~Commission~~-Commission; and

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

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

14 **"ARTICLE 2A.**

15 **"CERTIFICATION OF PROVIDERS OF EMPLOYEE ASSISTANCE**
 16 **PROGRAMS.**

17 **"§ 122C-35. Providers of Employee Assistance Programs; purpose.**

18 The purpose of this Article is to provide for certification of providers of employee
 19 assistance programs in order to ensure that the public has a means of protecting itself
 20 from the unprofessional, improper, unauthorized, and unqualified use of certain titles by
 21 persons who provide employee assistance programs.

22 **"§ 122C-36. Employee Assistance Program defined.**

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

30 **"§ 122C-37. Providers of Employee Assistance Programs; certification**
 31 **requirements.**

32 (a) No person who is not certified under this Article shall use a title or
 33 description such as 'certified provider of employee assistance program' or any other
 34 name, style, or description denoting that the person is a certified provider of employee
 35 assistance programs. Nothing in this section prohibits any person from advertising the
 36 performance of employee assistance services, the persons from whom services may be
 37 obtained, and prices.

38 (b) The Secretary shall make applications for certificates required by this section
 39 available, and each application filed with the Secretary shall contain all information
 40 requested by the Secretary. A certificate shall be granted to the applicant upon a
 41 determination by the Secretary that the applicant has complied with the provisions of
 42 this Article and the rules promulgated by the Commission pursuant to this Article.

43 (c) The Secretary shall renew the certificate in accordance with the rules of the
 44 Commission.

1 (d) The Commission shall adopt rules to implement the provisions and purposes
2 of this Article.

3 **"§ 122C-38. Providers of Employee Assistance Programs; adverse action on a**
4 **certificate.**

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

10 **"§ 122C-39. Providers of Employee Assistance Programs; fees.**

11 The Commission shall adopt rules providing for a fee, not to exceed two hundred
12 dollars (\$200.00), to be charged to each applicant. The fee shall be payable to the
13 Secretary by the applicant at the time of filing application.

14 **"§ 122C-40. Providers of Employee Assistance Programs; violation an infraction.**

15 Any person not certified as a provider of employee assistance programs under this
16 Article who on or after July 1, 1994, holds out to be or advertises as a certified provider
17 of employee assistance programs has committed an infraction and upon conviction may
18 be punishable by fine of not more than one hundred dollars (\$100.00)."

19 **"§ 122C-41. Providers of Employee Assistance Programs; injunction.**

20 As an additional remedy, the Secretary may proceed in a superior court to enjoin and
21 restrain any person from violating this Article. The Secretary shall not be required to
22 post bond in connection with this proceeding."

23 Sec. 4. This act becomes effective July 1, 1993, and applies to programs
24 offered on or after that date.