

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

3

SENATE BILL 543

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

Judiciary I Committee Substitute Adopted 6/16/93

Short Title: Emp. Assist. Program Cert.

(Public)

Sponsors:

Referred to: Finance.

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 following:

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

1 licensed or certified. Such rules may include the recognition of
 2 professional certification boards for those professions not licensed or
 3 certified under other provisions of the General Statutes provided that
 4 the professional certification board evaluates applicants on a basis
 5 which protects the public health, safety or ~~welfare~~; welfare.

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

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

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

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

16 **"ARTICLE 2A.**

17 **"CERTIFICATION OF PROVIDERS OF EMPLOYEE ASSISTANCE**
 18 **PROGRAMS.**

19 **"§ 122C-35. Purpose.**

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

24 **"§ 122C-36. Employee Assistance Program defined.**

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

32 **"§ 122C-37. Certification requirements.**

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

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

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

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

5 **"§ 122C-38. Adverse action on a certificate.**

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

11 **"§ 122C-39. Fees.**

12 A fee of one hundred dollars (\$100.00) shall be charged to each applicant. The fee
13 shall be payable by the applicant at the time of the filing of the application.

14 **"§ 122C-40. Violations.**

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

19 **"§ 122C-41. Injunction as an additional remedy.**

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

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