

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 279
Second Edition Engrossed 4/2/15
House Committee Substitute Favorable 9/15/15
Fourth Edition Engrossed 9/16/15
Proposed Conference Committee Substitute S279-PCCS15284-TH-1

Short Title: Amend Qual./Counseling/Local Preemption.

(Public)

Sponsors:

Referred to:

March 16, 2015

A BILL TO BE ENTITLED

AN ACT AMENDING THE PROFESSIONAL COUNSELORS ACT TO MODIFY EDUCATIONAL QUALIFICATIONS FOR THE PRACTICE OF COUNSELING, TO REQUIRE LOCAL BOARDS OF EDUCATION TO ADDRESS SEX TRAFFICKING PREVENTION AND AWARENESS, AND AMENDING VARIOUS LAWS TO PROVIDE THAT STATE LAW PREEMPTS CERTAIN ORDINANCES AND RESOLUTIONS ADOPTED BY LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-336 reads as rewritten:

"§ 90-336. **Title and qualifications for licensure.**

(a) Each person desiring to be a licensed professional counselor associate, licensed professional counselor, or licensed professional counselor supervisor shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee.

(b) The Board shall issue a license as a "licensed professional counselor associate" to an applicant who applies on or before March 1, 2016, and meets all of the following criteria:

(1) Has earned a ~~minimum of 48 semester hours or 72 quarters~~specified minimum of credit hours of graduate training as defined by the Board, including (i) a master's degree in counseling or a related field from a regionally accredited institution of higher educationan institution of higher education that is regionally accredited or accredited by an organization recognized by the Council for Higher Education Accreditation and (ii) the applicant meets one of the following criteria:

a. ~~if~~If the applicant enrolled in the master's program before July 1, ~~2009;2009,~~ a minimum of 48 semester hours or a minimum of 72 quarter credit hours.

b. If the applicant enrolled in the master's program before July 1, 2013, but after June 30, 2009, a minimum of 54 semester hours or 81 quarter credit ~~hour~~hours.



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- 1 c. ~~If the applicant enrolled in the master's program after June 30, 2013,~~
2 ~~a minimum of 60 semester hours or 90 quarter credit hours, of~~
3 ~~graduate training as defined by the Board, including a master's~~
4 ~~degree in counseling or a related field from a regionally accredited~~
5 ~~institution of higher education if the applicant enrolled in the master's~~
6 ~~program before July 1, 2013, but after June 30, 2009; or a minimum~~
7 ~~of 60 semester hours or 90 quarter credit hours of graduate training~~
8 ~~as defined by the Board, including a master's degree in counseling or~~
9 ~~a related field from a regionally accredited institution of higher~~
10 ~~education if the applicant enrolled in the master's program after June~~
11 ~~30, 2013.~~
- 12 (2) Repealed by Session Laws 2009-367, s. 6, effective October 1, 2009.
- 13 (3) Has passed an examination in accordance with rules adopted by the Board.
- 14 (b1) The Board shall issue a license as a "licensed professional counselor associate" to an
15 applicant who applies after March 1, 2016, through June 30, 2022, and meets all of the
16 following criteria:
- 17 (1) Has earned a specified minimum of credit hours of graduate training as
18 defined by the Board, including (i) a master's degree in counseling or related
19 field from an institution of higher education that is either regionally
20 accredited or accredited by an organization both recognized by the Council
21 for Higher Education Accreditation and accredited by the Council for
22 Accreditation of Counseling and Related Educational Programs and (ii) the
23 applicant meets one of the following criteria:
- 24 a. If the applicant enrolled in the master's program before July 1, 2009,
25 a minimum of 48 semester hours or a minimum of 72 quarter credit
26 hours.
- 27 b. If the applicant enrolled in the master's program before July 1, 2013,
28 but after June 30, 2009, a minimum of 54 semester hours or 81
29 quarter credit hours.
- 30 c. If the applicant enrolled in the master's program after June 30, 2013,
31 a minimum of 60 semester hours or 90 quarter credit hours.
- 32 (2) Has passed an examination in accordance with rules adopted by the Board.
- 33 (b2) The Board shall issue a license as a "licensed professional counselor associate" to an
34 applicant who applies on or after July 1, 2022, and meets all of the following criteria:
- 35 (1) Has earned a minimum of 60 semester hours or 90 quarter hours of graduate
36 training as defined by the Board, including a master's degree in counseling
37 or related field from an institution of higher education that is accredited by
38 the Council for Accreditation of Counseling and Related Educational
39 Programs or a regional accreditation agency recognized by the Council for
40 Higher Education Accreditation.
- 41 (2) Has passed an examination in accordance with rules adopted by the Board.
- 42 (c) The Board shall issue a license as a "licensed professional counselor" to an applicant
43 who meets all of the following criteria:
- 44 (1) Has met all of the requirements under ~~subsection (b)~~ subsection (b), (b1), or
45 (b2) of this section.
- 46 (2) Has completed a minimum of 3,000 hours of supervised professional
47 practice as determined by the Board.
- 48 (d) A licensed professional counselor may apply to the Board for recognition as a
49 "licensed professional counselor supervisor" and receive the credential "licensed professional
50 counselor supervisor" upon meeting all of the following criteria:
- 51 (1) Has met all of the requirements under subsection (c) of this section.

- 1 (2) Has one of the following:
 2 a. At least five years of full-time licensed professional counseling
 3 experience, including a minimum of 2,500 hours of direct client
 4 contact;
 5 b. At least eight years of part-time licensed professional counseling
 6 experience, including a minimum of 2,500 hours of direct client
 7 contact; or
 8 c. A combination of full-time and part-time professional counseling
 9 experience, including a minimum of 2,500 hours of direct client
 10 contact as determined by the Board.
 11 (3) Has completed minimum education requirements in clinical supervision as
 12 approved by the Board.
 13 (4) Has an active license in good standing as a licensed professional counselor
 14 approved by the Board."

15 **SECTION 2.** G.S. 90-345(a)(1) reads as rewritten:

- 16 "(1) Applicant. – A person applying for licensure as a licensed professional
 17 counselor associate pursuant to ~~G.S. 90-336(b)~~G.S. 90-336(b), 90-336(b1),
 18 or 90-336(b2) or licensed professional counselor pursuant to
 19 G.S. 90-336(c)."

20 **SECTION 3.** G.S. 115C-81(e1)(4) reads as rewritten:

- 21 "(4) Each local school administrative unit shall provide a reproductive health and
 22 safety education program commencing in the seventh grade that includes the
 23 following instruction:
 24 a. Teaches that abstinence from sexual activity outside of marriage is
 25 the expected standard for all school-age children.
 26 b. Presents techniques and strategies to deal with peer pressure and
 27 offering positive reinforcement.
 28 c. Presents reasons, skills, and strategies for remaining or becoming
 29 abstinent from sexual activity.
 30 d. Teaches that abstinence from sexual activity is the only certain
 31 means of avoiding out-of-wedlock pregnancy, sexually transmitted
 32 diseases when transmitted through sexual contact, including
 33 HIV/AIDS, and other associated health and emotional problems.
 34 e. Teaches that a mutually faithful monogamous heterosexual
 35 relationship in the context of marriage is the best lifelong means of
 36 avoiding sexually transmitted diseases, including HIV/AIDS.
 37 f. Teaches the positive benefits of abstinence until marriage and the
 38 risks of premarital sexual activity.
 39 g. Provides opportunities that allow for interaction between the parent
 40 or legal guardian and the student.
 41 h. Provides factually accurate biological or pathological information
 42 that is related to the human reproductive system.
 43 i. Teaches about the preventable risks for preterm birth in subsequent
 44 pregnancies, including induced abortion, smoking, alcohol
 45 consumption, the use of illicit drugs, and inadequate prenatal care.

46 Materials used in this instruction shall be age appropriate for use with
 47 students. Information conveyed during the instruction shall be objective and
 48 based upon scientific research that is peer reviewed and accepted by
 49 professionals and credentialed experts in the ~~field~~fields of any of the
 50 following: sexual health education, adolescent psychology,

1 behavioral counseling, medicine, human anatomy, biology, ethics, or health
2 education."

3 **SECTION 4.** G.S. 115C-81(e1)(4a) reads as rewritten:

4 "(4a) Each local school administrative unit shall also include as part of the
5 instruction required under subdivision (4) of this subsection the following
6 instruction:

7 a. Teaches about sexually transmitted diseases. Instruction shall include
8 how sexually transmitted diseases are and are not transmitted, the
9 effectiveness and safety of all federal Food and Drug Administration
10 (FDA)-approved methods of reducing the risk of contracting sexually
11 transmitted diseases, and information on local resources for testing
12 and medical care for sexually transmitted diseases. Instruction shall
13 include the rates of infection among pre-teen and teens of each
14 known sexually transmitted disease and the effects of contracting
15 each sexually transmitted disease. In particular, the instruction shall
16 include information about the effects of contracting the Human
17 Papilloma Virus, including sterility and cervical cancer.

18 b. Teaches about the effectiveness and safety of all FDA-approved
19 contraceptive methods in preventing pregnancy.

20 c. Teaches awareness of sexual assault, sexual abuse, and risk
21 reduction. The instruction and materials shall:

22 1. Focus on healthy relationships.

23 2. Teach students what constitutes sexual assault and sexual
24 abuse, the causes of those behaviors, and risk reduction.

25 3. Inform students about resources and reporting procedures if
26 they experience sexual assault or sexual abuse.

27 4. Examine common misconceptions and stereotypes about
28 sexual assault and sexual abuse.

29 d. Teaches about sex trafficking prevention and awareness. Each local
30 school administrative unit shall:

31 1. Collaborate with a diverse group of outside consultants where
32 practical, including law enforcement with expertise in sex
33 trafficking prevention education, to address the threats of sex
34 trafficking.

35 2. Collaborate with a diverse group of outside consultants,
36 including law enforcement with expertise in sex trafficking,
37 on a referral protocol for high-risk pupils and minors.

38 Materials used in this instruction shall be age appropriate for use with
39 students. Information conveyed during the instruction shall be objective and
40 based upon scientific research that is peer reviewed and accepted by
41 professionals and credentialed experts in the field of sexual health education.
42 Law enforcement agencies, criminal justice agencies, and nongovernmental
43 organizations with expertise in sex trafficking prevention and awareness
44 may also provide materials and information. Each local board of education
45 shall adopt a policy and provide a mechanism to allow a parent or a guardian
46 to withdraw his or her child from instruction required under this
47 subdivision."

48 **SECTION 5.** G.S. 115C-81(e1)(4a), as amended by Section 4 of this act, reads as

49 rewritten:

1 "(4a) Each local school administrative unit shall also include as part of the
2 instruction required under subdivision (4) of this subsection the following
3 instruction:

- 4 a. Teaches about sexually transmitted diseases. Instruction shall include
5 how sexually transmitted diseases are and are not transmitted, the
6 effectiveness and safety of all federal Food and Drug Administration
7 (FDA)-approved methods of reducing the risk of contracting sexually
8 transmitted diseases, and information on local resources for testing
9 and medical care for sexually transmitted diseases. Instruction shall
10 include the rates of infection among pre-teen and teens of each
11 known sexually transmitted disease and the effects of contracting
12 each sexually transmitted disease. In particular, the instruction shall
13 include information about the effects of contracting the Human
14 Papilloma Virus, including sterility and cervical cancer.
- 15 b. Teaches about the effectiveness and safety of all FDA-approved
16 contraceptive methods in preventing pregnancy.
- 17 c. Teaches awareness of sexual assault, sexual abuse, and risk
18 reduction. The instruction and materials shall:
- 19 1. Focus on healthy relationships.
- 20 2. Teach students what constitutes sexual assault and sexual
21 abuse, the causes of those behaviors, and risk reduction.
- 22 3. Inform students about resources and reporting procedures if
23 they experience sexual assault or sexual abuse.
- 24 4. Examine common misconceptions and stereotypes about
25 sexual assault and sexual abuse.
- 26 d. Teaches about sex trafficking prevention and awareness. Each local
27 school administrative unit shall:
- 28 1. Collaborate with outside consultants, including law
29 enforcement with expertise in sex trafficking prevention
30 education, to address the threats of sex trafficking.
- 31 2. Collaborate with outside consultants, including law
32 enforcement with expertise in sex trafficking, on a referral
33 protocol for high-risk pupils and minors.

34 Materials used in this instruction shall be age appropriate for use with
35 students. Information conveyed during the instruction shall be objective and
36 based upon scientific research that is peer reviewed and accepted by
37 professionals and credentialed experts in the ~~field~~-fields of any of the
38 following: sexual health education, adolescent psychology,
39 behavioral counseling, medicine, human anatomy, biology, ethics, or health
40 education. Law enforcement agencies, criminal justice agencies, and
41 nongovernmental organizations with expertise in sex trafficking prevention
42 and awareness may also provide materials and information. Each local board
43 of education shall adopt a policy and provide a mechanism to allow a parent
44 or a guardian to withdraw his or her child from instruction required under
45 this subdivision."

46 **SECTION 6.** G.S. 95-25.1 reads as rewritten:

47 **"§ 95-25.1. Short title and legislative ~~purpose~~purpose; local governments preempted.**

48 (a) This Article shall be known and may be cited as the "Wage and Hour Act."

49 (b) The public policy of this State is declared as follows: The wage levels of employees,
50 hours of labor, payment of earned wages, and the well-being of minors are subjects of concern
51 requiring legislation to promote the general welfare of the people of the State without

1 jeopardizing the competitive position of North Carolina business and industry. The General
2 Assembly declares that the general welfare of the State requires the enactment of this law under
3 the police power of the State.

4 (c) The provisions of this Article supersede and preempt any ordinance or resolution
5 adopted by a city or county that purports to regulate or impose any requirement upon a business
6 pertaining to compensation of employees, such as the wage levels of employees, hours of labor,
7 payment of earned wages, benefits, leave, or well-being of minors in the workforce. This
8 subsection shall not apply to any of the following:

9 (1) A local government regulating, compensating, or controlling its own
10 employees.

11 (2) Economic development incentives awarded under Part 2H of Article 10 of
12 Chapter 143B of the General Statutes.

13 (3) Economic development incentives awarded under Article 1 of Chapter 158
14 of the General Statutes.

15 (4) A requirement of federal community development block grants.

16 (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

17 **SECTION 7.(a)** G.S. 41A-2 reads as rewritten:

18 "**§ 41A-2. Purpose.**~~Purpose; local governments preempted.~~

19 (a) The purpose of this Chapter is to provide fair housing throughout the State of North
20 Carolina.

21 (b) The provisions in this Chapter supersede and preempt any ordinance or resolution
22 adopted by a city or county that purports to regulate or impose any requirement upon a business
23 pertaining to housing practices. This subsection shall not apply to any of the following:

24 (1) A local government adopting any policy or practice with respect to property
25 owned by the local government entity.

26 (2) An ordinance adopted under G.S. 160A-499.2.

27 (3) A requirement of federal community development block grants.

28 (4) Redevelopment projects under Article 22 of Chapter 160A of the General
29 Statutes."

30 **SECTION 7.(b)** Article 1 of Chapter 42 of the General Statutes is amended by
31 adding a new section to read:

32 "**§ 42-14.5. Local government preemption.**

33 Except as provided in Part 4 of Article 18 of Chapter 153A of the General Statutes and Part
34 5 of Article 19 of Chapter 160A of the General Statutes, the provisions of this Chapter
35 supersede and preempt any ordinance or resolution adopted by a city or county that purports to
36 regulate or impose upon a business any requirement pertaining to the rights and duties of a
37 landlord and tenant. Nothing in this Chapter shall be construed to limit the authority of a local
38 government to adopt any policy or practice with respect to property owned by the local
39 government entity."

40 **SECTION 7.(c)** G.S. 42A-2 reads as rewritten:

41 "**§ 42A-2. Purpose and scope of act.**

42 (a) The General Assembly finds that the growth of the tourism industry in North
43 Carolina has led to a greatly expanded market of privately owned residences that are rented to
44 tourists for vacation, leisure, and recreational purposes. Rental transactions conducted by the
45 owners of these residences or licensed real estate brokers acting on their behalf present unique
46 situations not normally found in the rental of primary residences for long terms, and therefore
47 make it necessary for the General Assembly to enact laws regulating the competing interests of
48 landlords, real estate brokers, and tenants.

49 (b) Except as provided in Part 4 of Article 18 of Chapter 153A of the General Statutes
50 and Part 5 of Article 19 of Chapter 160A of the General Statutes, the provisions of this Chapter

1 supersede and preempt any ordinance or resolution adopted by a city or county that purports to
2 regulate or impose any requirement pertaining to the rights and duties of a landlord or tenant."

3 **SECTION 8.(a)** G.S. 153A-121 reads as rewritten:

4 **"§ 153A-121. General ordinance-making power.**

5 (a) A county may by ordinance define, regulate, prohibit, or abate acts, omissions, or
6 conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity
7 of the county; and may define and abate nuisances.

8 (b) ~~This section does not authorize a county to~~ No county shall have the authority to
9 regulate by ordinance any of the following:

10 (1) ~~regulate~~ Regulate or control vehicular or pedestrian traffic on a street or
11 highway under the control of the Board of ~~Transportation,~~ Transportation.

12 (2) ~~nor to regulate~~ Regulate or control any right-of-way or right-of-passage
13 belonging to a public utility, electric or telephone membership corporation,
14 or public agency of the State.

15 (3) ~~In addition, no county ordinance may regulate~~ Regulate or control a highway
16 right-of-way in a manner inconsistent with State law or an ordinance of the
17 Board of Transportation.

18 (4) Regulate or control the employment practices of nongovernmental
19 businesses in the jurisdiction of the county. This subsection shall not apply
20 to any of the following:

21 a. Regulation of sexually oriented businesses, as provided in
22 G.S. 160A-181.1.

23 b. Regulation of solicitation campaigns, flea markets, and itinerant
24 merchants, as provided in G.S. 153A-125.

25 c. A requirement of federal community development block grants.

26 (5) Mandate or prohibit the provision of goods, services, or accommodation to
27 any member of the public by nongovernmental businesses in the county,
28 except as provided in G.S. 158-7.1, 160A-458.3, 160A-503, and
29 160A-400.8.

30 (c) This section does not impair the authority of local boards of health to adopt rules
31 and regulations to protect and promote public health."

32 **SECTION 8.(b)** G.S. 160A-174 reads as rewritten:

33 **"§ 160A-174. General ordinance-making power.**

34 (a) A city may by ordinance define, prohibit, regulate, or abate acts, omissions, or
35 conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity
36 of the city, and may define and abate nuisances.

37 (b) A city ordinance shall be consistent with the Constitution and laws of North
38 Carolina and of the United States. An ordinance is not consistent with State or federal law
39 when:

40 (1) The ordinance infringes a liberty guaranteed to the people by the State or
41 federal Constitution;

42 (2) The ordinance makes unlawful an act, omission or condition which is
43 expressly made lawful by State or federal law;

44 (3) The ordinance makes lawful an act, omission, or condition which is
45 expressly made unlawful by State or federal law;

46 (4) The ordinance purports to regulate a subject that cities are expressly
47 forbidden to regulate by State or federal law;

48 (5) The ordinance purports to regulate a field for which a State or federal statute
49 clearly shows a legislative intent to provide a complete and integrated
50 regulatory scheme to the exclusion of local regulation;

1 (6) The elements of an offense defined by a city ordinance are identical to the
2 elements of an offense defined by State or federal law.
3 The fact that a State or federal law, standing alone, makes a given act, omission, or condition
4 unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition.

5 (c) No city shall have the authority to do any of the following:

6 (1) Regulate or control the employment practices of nongovernmental
7 businesses in the jurisdiction of the city. This subsection shall not apply to
8 any of the following:

9 a. Regulation of sexually oriented businesses, as provided in
10 G.S. 160A-181.1.

11 b. Regulation of solicitation campaigns, flea markets, and itinerant
12 merchants, as provided in G.S. 160A-178.

13 c. Regulation of taxis, as provided in G.S. 160A-304.

14 d. A requirement of federal community development block grants.

15 (2) Mandate or prohibit the provision of goods, services, or accommodation to
16 any member of the public by nongovernmental businesses in the city, except
17 as provided in G.S. 158-7.1, 160A-458.3, 160A-503, and 160A-400.8."

18 **SECTION 9.** Sections 1 and 2 of this act become effective October 1, 2015.
19 Section 3 of this act is effective when this act becomes law and applies beginning with the
20 2016-2017 school year. Section 4 of this act is effective when this act becomes law and applies
21 beginning with the spring semester of the 2015-2016 school year. Section 5 of this act becomes
22 effective January 1, 2016, and applies beginning with the 2016-2017 school year. Sections 6, 7,
23 and 8 of this act are effective when this act becomes law, and any pending enforcement of any
24 ordinance in violation of this section shall cease upon the effective date. The remainder of this
25 act is effective when it becomes law.