

(H. B. 1518)

(No. 160)

(Approved August 16, 2006)

AN ACT

To provide for the constitution of the Puerto Rico Professional Rehabilitation Counselors Association and to established the requirement of compulsory membership; to specify its purposes and powers; to determine the regulations; and to fix sanctions for the practice of Rehabilitation Counseling in thereof violation of this Act.

STATEMENT OF MOTIVES

The demand for professional rehabilitation counseling services has increased dramatically in the last decades in Puerto Rico. In accordance with statistics for the year 2002 provided by the Office of the Advocate for Persons with Disabilities, in Puerto Rico there are currently more than one million sixty-eight thousand forty (1,068,040) person with disabilities who require counseling related to making psychosocial adjustments to their condition or disability, educational and vocational needs, employment placement and retention, or independent living. It must be ensured that such services are provided by highly qualified and competent persons who have the adequate academic studies, are up to date with respect to the latest developments in their area of expertise and comply with the ethical and legal requirements that rule the profession.

Rehabilitation Counselors, as a professional class, have remained at the forefront of such demands. In March of 1969, they created their Association, which has remained active in the fulfillment of its purposes and goals and in the development of activities directed toward professional advancement and

excellence. Since the 80s, the members of the Rehabilitation Counselors Association of Puerto Rico, Inc., covered in regular and special assemblies, have approved three (3) mandates to initiate the works for the creation of a professional association, in order to render more efficient, effective and high quality services that result in benefits and opportunities for improvement for persons with disabilities in Puerto Rico.

Taking into consideration the demands of Public Law 101-336 of 1990, known as the “Americans with Disabilities Act” (ADA); Public Law 93-112 of 1973, as amended, known as the “Rehabilitation Act”; Act No. 97 of June 6, 2000, by virtue of which the recently created Vocational Rehabilitation Administration (VRA) was transferred from the Department of the Family to the Department of Labor and Human Resources as a Vocational Rehabilitation Administration (VRA) with the necessary autonomy as a Designated Commonwealth Agency by the Executive and Designated Commonwealth Unit (DCU), pursuant to the cited “Rehabilitation Act,” as amended; Public Law 91-23, as amended, known as the “Individuals with Disabilities Educational Act”; Act No. 51 of June 7, 1996, known as the “Integral Educational Services for Persons with Disabilities Act of Puerto Rico”; Public Law 105-220 of 1998, known as the “Workforce Investment Act” (WIA); Public Law 100-690 of 1988, known as the “Drug-Free Workplace Act”; the “Assistive Technology Act (AT-ACT) of 1998,” its Section 255 in particular; the “Hearing Aid Compatibility Act of 1998,” the “Television Decoder Circuitry Act of 1990,” and other statutes related to the protection of civil rights, with equal opportunity and access to services and quality of life for persons with disabilities, it is deemed to be in the public interest to create by law the “Professional Rehabilitation Counselors Association of Puerto Rico,” and to establish the requirement of compulsory membership.

The Legislature, aware of the implications that a “Professional Rehabilitation Counselors Association of Puerto Rico” may have for the strengthening of the services directed toward persons with disabilities, through the promotion of professional improvement activities and the institutions that render services, as well as through its affirmation and fulfillment of the ethical, philosophical and legal postulates that govern the profession, responds to the request of the Rehabilitation Counselors Association of Puerto Rico, Inc., and fosters, through this Act, the holding of a consultation for the Rehabilitation Counseling professionals of the Island to determine whether they wish that the referred entity be created with the requirement of compulsory membership, and if so, to legally effectuate its the constitution.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.– Title

This Act shall be known as the “Puerto Rico Professional Rehabilitation Counselors Association Act.”

Section 2.– Definitions

For the purposes of this Act, the following terms shall have the meaning indicated hereinbelow:

- (a) Association - means the Puerto Rico Professional Rehabilitation Counselors Association.
- (b) Rehabilitation Counselor - means the duly licensed, certified or re-certified Rehabilitation Counseling professional, who with the adequate knowledge of human behavior and development and of social institutions, uses the principles and techniques of rehabilitation counseling to provide disabled persons with the services compatible with their rehabilitation needs.

- (c) Rehabilitation Counseling - means the professional activity that establishes a relationship between the rehabilitation counselor and the disabled person in which the former, through his/her professional capabilities and skills, provides a learning experience to the latter, thus helping him/her to establish his/her own perspective and enables him/her to develop his/her potential for him/herself and society.
- (d) Persons with disabilities - means that person who suffers from one or more physical, developmental, cognitive, sensorineural and emotional or mental condition that limits his/her capabilities or possibilities of functioning in an occupational activity or from enjoying an independent and meaningful lifestyle, integrated with his/her surroundings or in community environment.
- (e) Board - means the Board of Examiners of Rehabilitation Counselors, created by virtue of Act No. 59 of May 27, 1976, as amended.

Section 3.- Authorization of a consultation in order to constitute the Association

Rehabilitation Counselors with license to practice as professionals in Puerto Rico, and with certification or re-certification, as applicable pursuant to the requirements established in Act No. 59, *supra*, that may apply, and the regulations of the Board, are hereby authorized to hold a consultation, as provided in Section 14 of this Act, in order of determine if they wish to be constituted as a juridical entity or quasi-public corporation under the name of the “Puerto Rico Professional Rehabilitation Counselors Association” and, if so decided in accordance with the guidelines of this Act, to provide that said Association shall be juridically constituted with the purposes, functions and faculties established herein.

Section 4.– Main Office of the Association

The main office of the “Puerto Rico Professional Rehabilitation Counselors Association” shall be in San Juan, Puerto Rico.

Section 5.– Purpose of the Association

The Puerto Rico Rehabilitation Counselors Association shall have the following purposes and objectives:

- (a) To protect the interests of its members and promote their professional development through training and continuing education courses in accordance with their needs and the requirements established by the Board. The continuing education program to be developed by the Association shall cover, as a minimum the following ten (10) subject matters established by the Council on Rehabilitation Education, (CORE): (1) Professional Identity; (2) Social and Cultural Diversity; (3) Human Development and Growth; (4) Development of Careers and Employment; (5) Counseling and Consulting; (6) Groups Work (7) Endorsements; (8) Programs Oversight and Assessment; (9) Medical Functional and Environmental Aspects of Disabilities and (10) Rehabilitation Resources and Services.
- (b) To promote and oversee compliance with the ethical values and principles that govern the profession and contribute to the formulation and interpretation of the standards of professional ethics.
- (c) To promote the development of Rehabilitation Counseling as a discipline of study and the finding and development of research, as well as the holding of activities related to said discipline, with its professional practice and social mission of human service.
- (d) To develop and implement community service programs.

- (e) To collaborate with public entities in the design and implementation of a public policy to impact the populations in terms of their full integration into society.
- (f) To collaborate with institutions, entities and bodies of the Island that render support services to the Rehabilitation Counseling process and contribute, whenever possible, to its development and improvement.
- (g) To establish relationships with professional groups and associations concerned with the rehabilitation of citizens with disabilities to promote shared activities to the benefit of Rehabilitation Counseling as a discipline of study and as a profession.
- (h) To contribute toward the establishment and development of work relationships that are characterized by a high sense of sensibility and commitment to the population served.
- (i) To guarantee and protect the principle of confidentiality of the relationships between Professional Rehabilitation Counselors and those who use their professional services.
- (j) To promote excellence in the practice of Rehabilitation Counseling to guarantee faithful compliance of such professional services and to ensure that the population that receives them is fully protected.

Section 5.– Powers

The Association shall have the following powers:

- (a) To subsist and operate under its name.
- (b) To adopt and use an official seal, which it may alternate as provided in its Bylaws.
- (c) To adopt Bylaws as provided in a General Assembly, which shall be compulsory for all its members, and submit them to any amendments necessary in accordance with the rules established therein.

- (d) To sue and be sued as a juridical person.
- (e) To acquire rights and property, personal and real, through purchase, donation, exchange, legacy or any other legal means; to own, mortgage, lease or dispose thereof in any legal manner and in accordance with its Bylaws.
- (f) To make loans and constitute guarantees for the payment of such duly approved commitments, as provided in the approved Bylaws in effect.
- (g) To designate its directors, employees and officers.
- (h) To create voluntary participation insurance systems and special protection funds for its members.
- (i) To provide, through the Bylaws, for the collection of membership fees.
- (j) To exercise the incidental and necessary or convenient powers to fulfill its obligations and purposes in accordance with this Act.

Section 6.– Power of special investigation

The Association shall be empowered, as specified in its Bylaws, to investigate any action in the practice of the profession of any of its members that may implicate a violation of the principles of ethics and the laws by which it is governed upon request of a party through the presentation of a written claim under oath. After the interested parties have been given an opportunity to be heard, if it finds well-founded grounds for possible unethical or unlawful conduct, it shall file the corresponding complaint before the Board of Examiners. The herein provided shall not be construed as a modification or limitation of the power of the Board to initiate an investigation on its own initiative or a disciplinary proceeding, when it so deems appropriate pursuant to Section 8 of Act No. 59, *supra*.

Section 7.– Membership requirements

Every person interested in becoming a member of the Association must hold a license issued by the Board of Examiners, authorizing same to practice the Rehabilitation Counseling profession in Puerto Rico, in accordance with the provisions established in Act No. 59 of May 27, 1976, as amended. The referred license shall be in effect and the Rehabilitation Counseling Professional shall fulfill the certification or re-certification requirements as of the date that may apply.

Section 8.– Compulsory membership for the practice of Rehabilitation Counseling

- (a) Twelve (12) months after the constitution of the Association, as provided in Section 14 of this Act, a person who is not a member thereof or who is completing the process to become or to be admitted as a member may not practice as a Rehabilitation Counselor. Once the Association is constituted, the Association shall publish edicts in at least two (2) newspapers of general circulation in Puerto Rico in intervals of fifteen (15) days during three (3) months to notify the Professional Rehabilitation Counselors in the practice of the profession in the Island of said provision.
- (b) No person or private entity, agency or dependency of the Commonwealth of Puerto Rico shall enter into a contract, agreement, or covenant, or shall solicit or receive Rehabilitation Counseling services from natural or juridical persons that do not comply or show evidence of compliance with the requirements established in this Act and in the Bylaws approved thereunder. The Association is hereby empowered by this provision to initiate the corresponding action in order to enforce this Act. In the case of a juridical person, the action may be filed either against it or against any other person related,

contracted or hired by it who is in the practice of the profession of Rehabilitation Counseling in violation of the provisions of this Act.

- (c) All persons authorized to practice the profession of Rehabilitation Counselor in accordance with the criteria established in Section 9 of Act No. 59, *supra*, shall meet the requirement of compulsory membership provided in this Section.

Section 9.– Organization and Government; Bylaws

- (a) The destiny and decisions of the Association shall be governed, first by the resolutions and valid agreements of its General Assembly; and second, by the determinations and valid agreements of the governing bodies of the institution.
- (b) The first Board of Directors of the Association shall be elected in a Constitutional Convention by secret vote of the attending members. Said Board of Directors shall consist, as a minimum, of one president, one vice president, one secretary, one under-secretary, one treasurer, one under-treasurer and three members. Henceforth, the members of the Board of Directors shall be elected in General Assembly, in accordance with the procedures established by the Association in the bylaws.
- (c) The Bylaws of the Association shall provide on all matters that are necessary for faithful compliance with the purposes for which the Association is established, including among other things, matters related to the composition and the name of its governing bodies; the admission procedures; functions, duties and procedures of all its entities and officers; calls, dates, quorum and the manner and requirements of the general or special assemblies and sessions of the governing bodies; the election of directors and officers; the

committees; terms of all the positions; the vacancies and the method for filling them; the budget; the investment of funds and the disposal of the assets of the Association. The Bylaws shall also provide for the Association to hold at least one regular assembly each year. The terms of the Governing Board, including its President and Vice president, shall not exceed two (2) consecutive years.

Section 10.– Membership fees

- (a) The annual membership fees of the Association shall be fixed in the Constitutional Convention provided in Section 14 of this Act, by majority vote, which shall not be less than twenty-five (25) percent of the total number of professionals with license, certification and recertified to practice Rehabilitation Counseling en Puerto Rico. Said membership fees may vary from time to time if so provided by a majority consisting of two thirds (2/3) of the members attending a General Assembly called for such purposes. The minimum quorum in an assembly for the purpose of changing the membership fees shall be the one established in the Bylaws, but shall not be less than twenty-five (25) percent of the total number of active members.
- (b) Any member who ceases the active practice of Rehabilitation Counseling in Puerto Rico to pursue other activities, to leave Puerto Rico or which the intention of retiring definitely from the practice of the profession may continue to be a member of the Association, or cancel membership by submitting a sworn application for such purpose to the Board of Directors. Any member who avails him/herself of this last option shall not be bound to pay membership fees for the period of voluntary inactivity, but shall also not be entitled to the benefits the Association offers to its members, or practice

Rehabilitation Counseling in Puerto Rico. The member shall also notify the Board through a copy of the application to cancel membership in order for the license to be deactivated, excepting when the license is required by the corresponding authorities for the practice of Rehabilitation Counseling in another jurisdiction, which shall be duly justified. The member shall not return to the active practice of the profession in Puerto Rico until he/she reactivates his/her membership and license. Applications to cancel membership that are not notified to the Board shall have no effect.

Section 11.– Objections to the use of membership fees

Rehabilitation Counseling professionals shall have the right to object the use of the membership fees by the Association to hold activities in which ideological, sectarian, labor union, religious, sexist, racist or class interests exist. For such purposes, the Association shall establish a simple and easily implemented procedure in its Bylaws for whoever wishes to object, in accordance with the applicable constitutional parameters.

Section 12.– Suspension of the Rehabilitation Counseling practice

The failure to pay the annual membership fee by any member as of the deadline for such payment established in the Bylaws shall entail the suspension of membership in the Association and the suspension of the license to practice Rehabilitation Counseling, which shall be decreed by the Board upon request by the Association. The procedure for these suspensions shall be established in the Bylaws by the Board and its final decision may be reviewed judicially at the request of the person adversely affected thereby, pursuant to the provisions of Section 8 of Act No. 59, *supra*, as amended, and in Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico.” The person shall not practice Rehabilitation

Counseling for the duration of the suspension, but the Board shall restore it completely once the person pays the total debt. Temporary suspensions or permanent revocations that are final and binding decreed by the Board against any Rehabilitation Counselor and for the causes established in the code of ethics shall also entail the automatic suspension of the member of the Association for the duration of the suspension or revocation decreed by the Board. For such purposes, the Board shall officially notify in writing all suspension or revocation to the Association within a term of not more than five (5) work days.

Section 13.– Penalties

The practice of Rehabilitation Counseling in violation of the provisions of this Act shall constitute a misdemeanor and upon conviction, the person shall be sanctioned with a penalty that shall not exceed six (6) months or a fine which shall not exceed five thousand (5,000) dollars or both penalties.

Section 14.– Transitional Provisions

Within ninety (90) days after the effective date of this Act, and for the purpose established in Section 3, the Puerto Rico Rehabilitation Counselors Association, Inc. (ACER, Spanish acronym) shall appoint a Consultation Committee composed of twelve (12) members, all of whom shall be licensed, certified and recertified Rehabilitation Counseling professionals in the practice of the Puerto Rico Rehabilitation Counseling profession of which at least four (4) shall be opposed to compulsory membership and four (4) shall be delegates of the Puerto Rico Rehabilitation Counselors Association, and four (4) shall be non-members Rehabilitation Counselors. The main specializations of Rehabilitation Counseling shall be represented in this Committee. There shall also be twelve (12) members in representation of the Rehabilitation Counseling professionals from the different geographical locations throughout the Island. The Board may advise and collaborate in the consultation process.

- (a) The main function of the Consultation Committee shall be to hold a consultation through which it shall be decided whether compulsory membership is accepted or not. Said Committee shall give orientations to all the Rehabilitation Counseling professionals on the purposes and consequences of the consultation, and shall hold same in accordance with this Act. The Committee shall design and adopt those mechanisms it deems necessary for the consultation and the tally sheets.
- (b) Once the Committee is constituted, the Board shall provide it with an updated list of the name, address and license number of each Rehabilitation Counseling professional authorized to practice the profession in Puerto Rico and compelled, pursuant to this Act to become a member of the Association, if it is finally constituted.
- (c) Within forty-five (45) days as of its constitution, the Consultation Committee shall publish a notice on the holding of the Consultation and its purposes. Said notice shall be published on at least two (2) occasions, in two (2) newspapers of general circulation in Puerto Rico.
- (d) Within sixty (60) days after its constitution, the Consultation Committee shall remit by certified mail with receipt acknowledgement the consultation sheet, with to all licensed Rehabilitation Counselors certified as active by the Board which shall returned by regular mail.
- (e) To approve compulsory membership in this consultation, the participation of fifty (50) percent of the licensed Rehabilitation Counselors certified as active by the Board of Examiners of Rehabilitation Counselors de Puerto Rico shall be required. Furthermore, for compulsory membership to be approved, the

affirmative vote of fifty percent of the participating voters shall be required.

- (f) Should the result of the consultation herein provided be affirmative, the Consultation Committee shall become a Convocation Committee of the Constitutional Convention of the Puerto Rico Rehabilitation Counselors Association. As such, the Committee shall convoke to a Constitutional Convention within the sixty (60) days following the date on which the affirmative result of the consultation is certified, all Rehabilitation Counseling professionals who as of said date are entitled to be members of the Association, through the publication of a call for elections concerning this matter in at least two (2) newspapers of general circulation in Puerto Rico. The Constitutional Convention shall be held in the city of San Juan, Puerto Rico not before fifteen (15) days following the publication of the call for elections. On that first Constitutional Convention, quorum shall be constituted by fifty (50) percent of the Rehabilitation Counseling professionals entitled to membership.
- (g) The Committee shall appoint designate a Credentials Committee to determine the right of those interested in participating in the Constitutional Convention, pursuant to the applicable provisions of Section 7 of this Act.
- (h) Should the first consultation fail to achieve the required participation percentage and a majority has expressed itself in favor of compulsory membership, the Consultation Committee shall select a new date to begin a second consultation with the same purposes and the minimum participation requirement shall be forty (40) percent of the licensed Rehabilitation Counselors certified as active by the Board. Likewise,

for the approval of compulsory membership in the second consultation, the affirmative vote of fifty (50) percent of the participants shall be required. If once again the percentage of participation required herein is not reached, it shall be understood that the Rehabilitation Counselors reject compulsory membership and that the Consultation Committee shall not be empowered to call for a new consultation for the purposes authorized in this Act.

- (i) The first Board of Directors shall be elected in accordance with the provisions in Section 9, subsection b of this Act. Its initial and main task shall be to draft the bylaws of the Association, which shall be completed no later than six (6) months as of the date on which the Board of Director is constituted.
- (j) The Puerto Rico Rehabilitation Counselors Association of Puerto Rico shall defray all expenses incurred by the Consultation Committee in the implementation and execution of the consultation and other duties imposed upon the Convocation Committee by this Act.

Section 15.– Separability Clause

Should any Section, subsection, part, paragraph or clause of this Act or its application to any person or circumstance were ruled unconstitutional by a Court with jurisdiction, said ruling shall not affect or invalidate the remaining provisions of this Act.

Section 16.– Effectiveness

This Act shall take effect immediately after its approval. However, should the required majority in favor of compulsory membership not be obtained by means of consultation, this Act shall be rendered ineffective.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 160 (H.B. 1518) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to provide for the constitution of the Puerto Rico Professional Rehabilitation Counselors Association and to established the requirement of compulsory membership; to specify its purposes and powers; to determine the regulations; and to fix sanctions for the practice of Rehabilitation Counseling in thereof violation of this Act,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 14th of December of 2007.

Francisco J. Domenech
Director