

March 23, 2009

**H 746. AMEND PROFESSIONAL COUNSELORS ACT/FEEES.** Filed 3/23/09. *AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.*

To be summarized in tomorrow's *Daily Bulletin*.

**Intro. by Insko.**

GS 90

March 24, 2009

**H 746. AMEND PROFESSIONAL COUNSELORS ACT/FEEES.** Filed 3/23/09. *AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.*

*Definitions.* Amends the catch line of GS 90-330 to read *Definitions; practice of counseling* (was, practice of marriage and family therapy). Adds definitions for a *licensed professional counselor associate* and a *licensed professional counselor supervisor*. Amends the term *counseling* to apply to offering assistance through evaluating and diagnosing mental disorders and other conditions. Modifies the definition for *supervisor* to include a licensed professional counselor supervisor (LPCS). Provides that when an LPCS is inaccessible that *supervisor applies* to (1) a licensed professional counselor (LPC) or (2) an equivalently and actively licensed mental health professional (was, equivalently credentialed mental health professional with a minimum of five years of counseling experience) as determined by the NC Board of Licensed Professional Counselors (Board).

Provides that persons who are an LPC or a Licensed Professional Counselor Associate (LPCA) are not permitted to identify themselves as a marriage and family therapist (was, licensed marriage and family therapist), psychologist (was, licensed practicing psychologist), clinical social worker (was, licensed clinical social worker), or psychological associate unless specifically authorized under other provisions of law.

Makes technical changes.

*Prohibitions.* Amends the catch line of GS 90-331 to *Unlawful use of title* (was, Prohibitions). Makes it unlawful for a person who is not licensed under the Licensed Professional Counselors Act (Act) to use the following titles or acronyms in any way to indicate or imply that the person is a licensed professional counselor: (1) Licensed Professional Counselor Associate (LPCA), (2) Licensed Professional Counselor Supervisor (LPCS), or (3) Licensed Professional Counselor (LPC).

*Exemptions from licensure.* Clarifies that members of other regulated professions who do counseling in the normal course of their profession are not regulated by this Act. Deletes the following from the persons who are exempt from the licensure provisions of this act: (1) any person counseling as a supervised counselor in a supervised professional practice under GS 90-336(b)(2); (2) persons performing counseling solely as an employee of an area facility as defined in GS 122C-3(14)a providing that certain conditions apply; (3) any person performing counseling as an employee at a hospital or other health care facility licensed under Chapter 131D, 131E, or 122C; and (4) any employee assistance professional providing core specific employee assistance program activities.

*Board.* Amends GS 90-333 to clarify that any state or nationally recognized professional association representing professional counselors may provide recommendations to the Governor for appointment to the Board. Provides that Board appointees are to continue to serve until a successor is appointed and qualified. Amends GS 90-334 to delete the requirement that Board expenditures may not exceed revenues during any fiscal year. Increases fees than the Board may collect to no more than \$300 for initial or renewal application (was, not to exceed \$100) and no more than \$150 for late renewal (was, not to exceed \$25). Makes technical changes.

*Title and qualifications for licensure.* Amends GS 90-336 to add title and qualifications for licensure for the positions of LPCA and LPCS. Also modifies licensure and qualifications for LPC. Defines qualifications and licensure for LPC, LPCA, and LPCS in terms of education

requirements, exam requirements, hours of supervised professional practice, and hours of professional experience.

Amends GS 90-338 to provide that applicants who have certificates as Registered Practicing Counselors and are in good standing with the Board are to be issued licenses as LPCs without meeting the proposed new qualifications and licensure requirements for an LPC. Also exempts certain applicants for LPCA from the academic qualifications required under this act providing that such applicants meet specified experience requirements.

*Protection of the public.* Makes substantial changes to GS 90-340 regarding the Board's authority in accordance with the provisions of GS Chapter 150B to deny, suspend, revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Act (was, the Board may refuse to grant or to renew, may suspend or may revoke the license of any person licensed under this Act). Provides detailed acts or omissions that constitute grounds for the Board to take action against a person licensed under this Act. A partial listing of those grounds includes: (1) being convicted of a felony or entering a plea of nolo contendere to any felony charge under federal law or the law of any state; (2) being convicted of or entering a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public or conduct otherwise relevant to fitness to practice professional counseling; (3) engaging in fraud or deceit in securing or attempting to secure or renew a license under this Act; (4) practicing professional counseling in a manner that endangers the welfare of clients; (5) exercising undue influence in order to exploit the client for financial or other personal advantage; or (6) harassing or abusing, sexually or otherwise, a client, patient, student, supervisee, or trainee.

Provides additional disciplinary actions available to the Board in lieu of denial, suspension, or revocation of license. Also authorizes the Board to impose conditions of probation or restrictions on continued practice of professional counseling at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended license. Permits the Board to assess the cost of a disciplinary action against the applicant or licensee found to be in violation of this Act. Authorizes the Board to petition a court of competent jurisdiction to order an applicant or licensee whose physical or mental competence is in question to submit to a psychological or physical evaluation or both. Provides that except as otherwise provided in this Act, the procedures for disciplinary actions are to be in accordance with GS Chapter 150B. Requires the Board to provide the opportunity for a hearing under GS Chapter 150B to any applicant whose license or health services provider certification is denied or who is under any restrictions, probation, or other disciplinary actions allowed under this Act. Clarifies that no person is entitled to a hearing to contest failing to pass an examination. Provides additional guidelines regarding a hearing under GS Chapter 150B. Provides that 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 is not considered public record within the meaning of GS Chapter 132. Provides that any notice or statement of charges against any licensee or applicant or any notice to a licensee or applicant of a hearing in any proceeding is a public record within the meaning of GS Chapter 132, although the record may contain information that was collected and compiled as a result of the investigation, inquiry, or hearing.

Permits a person whose license was denied or revoked to apply to the Board for licensure after one calendar year from the date that the denial or revocation has passed. Also provides provisions for a licensee to voluntarily relinquish a license. Authorizes the Board to adopt rules to interpret and implement GS 90-340 (Protection of the public).

Repeals GS 90-344 (regarding third-party reimbursements).

*Criminal history record checks.* Enacts new GS 90-345 to provide for criminal history record checks for persons applying for licensure as an LPCA under GS 90-336(b) as amended or an LPC under proposed GS 90-336(c). Defines *criminal history* and *applicant*. Authorizes the Board to request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation for alleged criminal offenses in violation of this Act consent to a criminal history check. Provides that the Board may deny licensure, deny reinstatement of a license, or revoke a license of an applicant or licensee who refuses to consent to a criminal history record check. Directs the Board to ensure that an applicant's state and national criminal history record is checked. Provides additional responsibilities of the Board with regards to criminal

history checks of applicants for licensure. Provides the Board with limited immunity from civil liability for denying licensure or reinstatement of a license or revoking a license based on information provided in the applicant or licensee's criminal history record check, provided that the Board and its officers and employees were acting in good faith and in compliance with this proposed section.

Enacts new GS 114-19.26 to authorize the Department of Justice to provide the criminal history of any applicant for licensure or reinstatement of a license under GS Chapter 90, Article 24 (Licensed Professional Counselors Act), to the Board. Provides additional guidelines for the submittal of information by the Board and the process of performing the criminal history check.

Provides that licensed professional counselors who are approved by the Board as qualified clinical supervisors before July 1, 2012, are to have until July 1, 2014, to meet the licensed professional supervisor requirements of GS 90-335(d) as enacted in this Act.

**Intro. by Insko.**

GS 90, 114

April 30, 2009

**H 746. AMEND PROFESSIONAL COUNSELORS ACT/FEES.** Filed 3/23/09. House committee substitute makes the following changes to 1st edition. Removes from the proposed amended definition of *practice of counseling*, in GS 90-330, that counseling services include assisting individuals, groups, and families through the counseling relationship by diagnosing mental disorders and other conditions through the use of a combination of specified methods. Restores (1) the current law definition of *appraisal activities*; (2) the prohibition on licensed professional counselors or licensed professional counselor associates (who are added to the provision in the first edition) from holding themselves out to the public as *licensed* marriage counselors and family therapists, *licensed* practicing psychologists, psychological associates, or *licensed* clinical social workers unless specifically authorized by law; and (3) the current law caption for GS 90-331, Prohibitions.

May 20, 2009

**H 746. AMEND PROFESSIONAL COUNSELORS ACT/FEES.** Filed 3/23/09. House committee substitute makes the following changes to 2nd edition. Amends GS 90-334 to decrease the cap on fees that the NC Board of Licensed Professional Counselors may receive to \$200 (was, \$300 in previous edition) for initial or renewal applications and to \$75 (was, \$150 in previous edition) for late renewal.

June 17, 2009

**H 746. AMEND PROFESSIONAL COUNSELORS ACT/FEES.** Filed 3/23/09. Senate committee substitute makes the following changes to 3rd edition. Makes technical changes to proposed amended GS 90-336(b). Deletes the repeal of GS 90-344, which specifies that nothing in GS Chapter 90, Article 24, Licensed Professional Counselors Act, is to be construed to require direct third-party reimbursement to persons licensed under the Article. Changes the effective date from when the act becomes law to October 1, 2009.

July 27, 2009

**SL 2009-367 (H 746). AMEND PROFESSIONAL COUNSELORS ACT/FEES. AN ACT AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.** Summarized in *Daily Bulletin* 3/24/09, 4/30/09, 5/20/09, and 6/17/09. Enacted July 27, 2009. Effective October 1, 2009.