

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 678*

Short Title: Bd of Licensed Clinical Mental Health Couns. (Public)

Sponsors: Representatives Potts, Dobson, and Lambeth (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Rules, Calendar, and Operations of the House

April 11, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA BOARD OF LICENSED
3 PROFESSIONAL COUNSELORS TO THE NORTH CAROLINA BOARD OF LICENSED
4 CLINICAL MENTAL HEALTH COUNSELORS, TO ALLOW THAT BOARD TO
5 CREATE A PROGRAM FOR LICENSEES WHO MAY BE EXPERIENCING MENTAL
6 HEALTH CONCERNS, AND TO ALLOW THAT BOARD TO ENTER INTO
7 RECIPROCITY AGREEMENTS WITH OTHER STATES.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. CHANGES TO THE LICENSED PROFESSIONAL COUNSELORS ACT**

11 **SECTION 1.** Article 24 of Chapter 90 of the General Statutes reads as rewritten:

12 "Article 24.

13 "~~Licensed Professional~~ Clinical Mental Health Counselors Act.

14 **"§ 90-329. Declaration of policy.**

15 It is declared to be the public policy of this State that the activities of persons who render
16 counseling services to the public be regulated to insure the protection of the public health, safety,
17 and welfare.

18 **"§ 90-330. Definitions; practice of counseling.**

19 (a) Definitions. – ~~As used in this Article certain terms are defined as follows:~~The
20 following definitions apply in this Article:

21 (1) Repealed by Session Laws 1993, c. 514, s. 1.

22 (1a) The "Board" means the Board of Licensed ~~Professional~~ Clinical Mental
23 Health Counselors.

24 (2) A "licensed ~~professional~~ clinical mental health counselor" is a person engaged
25 in the practice of counseling who holds a license as a licensed ~~professional~~
26 clinical mental health counselor issued under the provisions of this Article.

27 (2a) A "licensed ~~professional~~ clinical mental health counselor associate" is a
28 person engaged in the supervised practice of counseling who holds a license
29 as a licensed ~~professional~~ clinical mental health counselor associate issued
30 under the provisions of this Article.

31 (2b) A "licensed ~~professional~~ clinical mental health counselor supervisor" is a
32 person engaged in the practice of counseling who holds a license as a licensed
33 ~~professional~~ clinical mental health counselor and is approved by the Board to
34 provide clinical supervision under the provisions of this Article.



1 (3) The "practice of counseling" means holding oneself out to the public as a
2 ~~professional-clinical mental health~~ counselor offering counseling services that
3 include, but are not limited to, the following:

4 ...

5 The "practice of counseling" does not include the facilitation of
6 communication, understanding, reconciliation, and settlement of conflicts by
7 mediators at community mediation centers authorized by G.S. 7A-38.5.

8 (4) A "supervisor" means any licensed ~~professional-clinical mental health~~
9 counselor supervisor or, when one is inaccessible, a licensed ~~professional~~
10 clinical mental health counselor or an equivalently and actively licensed
11 mental health professional, as determined by the Board, who meets the
12 qualifications established by the Board.

13 (b) Repealed by Session Laws 1993, c. 514, s. 1.

14 (c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person
15 licensed as a licensed ~~professional-clinical mental health~~ counselor or licensed ~~professional~~
16 clinical mental health counselor associate under the provisions of this Article shall be allowed to
17 hold himself or herself out to the public as a licensed marriage and family therapist, licensed
18 practicing psychologist, psychological associate, or licensed clinical social worker unless
19 specifically authorized by other provisions of law.

20 **"§ 90-331. Prohibitions.**

21 It shall be unlawful for any person who is not licensed under this Article to engage in the
22 practice of counseling, use the title "Licensed ~~Professional-Clinical Mental Health~~ Counselor
23 Associate," "Licensed ~~Professional-Clinical Mental Health~~ Counselor," or "Licensed
24 ~~Professional-Clinical Mental Health~~ Counselor Supervisor," use the letters "~~LPCA,~~" "~~LPC,~~" or
25 "~~LPCS,~~" "~~LCMHCA,~~" "~~LCMHC,~~" or "~~LCMHCS,~~" use any facsimile or combination of these
26 words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other
27 way that the person is a licensed ~~professional-clinical mental health~~ counselor.

28 **"§ 90-332. Use of title by firm.**

29 It shall be unlawful for any firm, partnership, corporation, association, or other business or
30 professional entity to assume or use the title of licensed ~~professional-clinical mental health~~
31 counselor unless each of the members of the firm, partnership, or association is licensed by the
32 Board.

33 **"§ 90-332.1. Exemptions from licensure.**

34 ...

35 (b) Persons who claim to be exempt under subsection (a) of this section are prohibited
36 from advertising or offering themselves as "licensed ~~professional-clinical mental health~~
37 counselors".

38 ...

39 **"§ 90-333. North Carolina Board of Licensed ~~Professional-Clinical Mental Health~~
40 Counselors; appointments; terms; composition.**

41 (a) For the purpose of carrying out the provisions of this Article, there is hereby created
42 the North Carolina Board of Licensed ~~Professional-Clinical Mental Health~~ Counselors which
43 shall consist of seven members appointed by the Governor in the manner hereinafter prescribed.
44 Any State or nationally recognized professional association representing ~~professional-clinical~~
45 mental health counselors may submit recommendations to the Governor for Board membership.
46 The Governor may remove any member of the Board for neglect of duty or malfeasance or
47 conviction of a felony or other crime of moral turpitude, but for no other reason.

48 (b) At least five members of the Board shall be licensed ~~professional-clinical mental~~
49 health counselors except that initial appointees shall be persons who meet the educational and
50 experience requirements for licensure as licensed ~~professional-clinical mental health~~ counselors
51 under the provisions of this Article; and two members shall be public-at-large members appointed

1 from the general public. Composition of the Board as to the race and sex of its members shall
2 reflect the population of the State and each member shall reside in a different congressional
3 district.

4 (c) At all times the Board shall include at least one counselor primarily engaged in
5 counselor education, at least one counselor primarily engaged in the public sector, at least one
6 counselor primarily engaged in the private sector, and two licensed ~~professional-clinical mental~~
7 health counselors at large.

8 ...

9 **"§ 90-334. Functions and duties of the Board.**

10 (a) The Board shall administer and enforce the provisions of this Article.

11 ...

12 (i) The Board shall establish the criteria for determining the qualifications constituting
13 "supervised ~~professional-clinical mental health~~ practice".

14 (j) The Board may examine, approve, issue, deny, revoke, suspend, and renew the
15 licenses of counselor applicants and licensees under this Article, and conduct hearings in
16 connection with these actions.

17 (k) The Board shall investigate, subpoena individuals and records, and take necessary
18 appropriate action to properly discipline persons licensed under this Article and to enforce this
19 Article.

20 (l) The Board shall establish a program for licensees who may be experiencing substance
21 use disorders, burnout, compassion fatigue, and other mental health concerns. In establishing this
22 program, the Board is authorized to enter into agreements with existing professional health care
23 programs. The Board is also authorized to refer any licensee to this program as part of the
24 disciplinary process. The Board may adopt rules implementing this program.

25 **"§ 90-335. Board general provisions.**

26 The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

27 **"§ 90-336. Title and qualifications for licensure.**

28 (a) Each person desiring to be a licensed ~~professional-clinical mental health~~ counselor
29 associate, licensed ~~professional-clinical mental health~~ counselor, or licensed ~~professional-clinical~~
30 mental health counselor supervisor shall make application to the Board upon such forms and in
31 such manner as the Board shall prescribe, together with the required application fee.

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

35 ...

36 (b1) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
37 counselor associate" to an applicant who applies after March 1, 2016, through June 30, 2022, and
38 meets all of the following criteria:

39 ...

40 (b2) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
41 counselor associate" to an applicant who applies on or after July 1, 2022, and meets all of the
42 following criteria:

43 ...

44 (c) The Board shall issue a license as a "licensed ~~professional-clinical mental health~~
45 counselor" to an applicant who meets all of the following criteria:

46 (1) Has met all of the requirements under subsection (b), (b1), or (b2) of this
47 section, as applicable.

48 (2) Has completed a minimum of 3,000 hours of supervised ~~professional-clinical~~
49 mental health practice as determined by the Board.

50 (d) A licensed ~~professional-clinical mental health~~ counselor may apply to the Board for
51 recognition as a "licensed ~~professional-clinical mental health~~ counselor supervisor" and receive

1 the credential "licensed professional-clinical mental health counselor supervisor" upon meeting
2 all of the following criteria:

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

18 **"§ 90-337. Persons credentialed in other states.**

19 (a) The Board may license any person who is currently licensed, certified, or registered
20 by another state if the individual has met requirements determined by the Board to be
21 substantially similar to or exceeding those established under this Article.

22 (b) The Board may enter into reciprocity agreements with another state that has
23 requirements for licensure as a clinical mental health counselor that are substantially similar or
24 that exceed requirements established under this Article.

25 **~~"§ 90-338. Exemptions.~~**

26 ~~Applicants holding certificates of registration as Registered Practicing Counselors and in~~
27 ~~good standing with the Board shall be issued licenses as licensed professional counselors without~~
28 ~~meeting the requirements of G.S. 90-336(c). The following applicants shall be exempt from the~~
29 ~~academic qualifications required by this Article for licensed professional counselor associates or~~
30 ~~licensed professional counselors and shall be licensed upon passing the Board examination and~~
31 ~~meeting the experience requirements:~~

- 32 (1) ~~An applicant who was engaged in the practice of counseling before July 1,~~
33 ~~1993, and who applied to the Board prior to January 1, 1996.~~
- 34 (2) ~~An applicant who holds a masters degree from a college or university~~
35 ~~accredited by one of the regional accrediting associations or from a college or~~
36 ~~university determined by the Board to have standards substantially equivalent~~
37 ~~to a regionally accredited institution, provided the applicant was enrolled in~~
38 ~~the masters program prior to July 1, 1994.~~

39 ...

40 **"§ 90-340. Protection of the public.**

41 (a) The Board may, in accordance with the provisions of Chapter 150B of the General
42 Statutes, deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or
43 require examination, remediation, or rehabilitation of any person licensed under this Article on
44 one or more of the following grounds:

- 45 (1) Has been convicted of a felony or entered a plea of guilty or nolo contendere
46 to any felony charge under the laws of the United States or of any state of the
47 United States.
- 48 (2) Has been convicted of or entered a plea of guilty or nolo contendere to any
49 misdemeanor involving moral turpitude, misrepresentation, or fraud in
50 dealing with the public, or conduct otherwise relevant to fitness to practice
51 professional-clinical mental health counseling, or a misdemeanor charge

- 1 reflecting the inability to practice ~~professional~~clinical mental health
2 counseling with due regard to the health and safety of clients or patients.
- 3 (3) Has engaged in fraud or deceit in securing or attempting to secure or renew a
4 license under this Article or has willfully concealed from the Board material
5 information in connection with application for a license or renewal of a license
6 under this Article.
- 7 (4) Has practiced any fraud, deceit, or misrepresentation upon the public, the
8 Board, or any individual in connection with the practice of ~~professional~~
9 clinical mental health counseling, the offer of ~~professional~~clinical mental
10 health counseling services, the filing of Medicare, Medicaid, or other claims
11 to any third-party payor, or in any manner otherwise relevant to fitness for the
12 practice of ~~professional~~clinical mental health counseling.
- 13 (5) Has made fraudulent, misleading, or intentionally or materially false
14 statements pertaining to education, licensure, license renewal, certification as
15 a health services provider, supervision, continuing education, any disciplinary
16 actions or sanctions pending or occurring in any other jurisdiction,
17 professional credentials, or qualifications or fitness for the practice of
18 ~~professional~~clinical mental health counseling to the public, any individual,
19 the Board, or any other organization.
- 20 (6) Has had a license or certification for the practice of ~~professional~~clinical
21 mental health counseling in any other jurisdiction suspended or revoked, or
22 has been disciplined by the licensing or certification board in any other
23 jurisdiction for conduct which would subject him or her to discipline under
24 this Article.
- 25 (7) Has violated any provision of this Article or any rules adopted by the Board.
- 26 (8) Has aided or abetted the unlawful practice of ~~professional~~clinical mental
27 health counseling by any person not licensed by the Board.
- 28 (9) Has been guilty of immoral, dishonorable, unprofessional, or unethical
29 conduct as defined in this subsection or in the current code of ethics of the
30 American Counseling Association. However, if any provision of the code of
31 ethics is inconsistent and in conflict with the provisions of this Article, the
32 provisions of this Article shall control.
- 33 (10) Has practiced ~~professional~~clinical mental health counseling in such a manner
34 as to endanger the welfare of clients.
- 35 (11) Has demonstrated an inability to practice ~~professional~~clinical mental health
36 counseling with reasonable skill and safety by reason of illness, inebriation,
37 misuse of drugs, narcotics, alcohol, chemicals, or any other substance
38 affecting mental or physical functioning, or as a result of any mental or
39 physical condition.
- 40 (12) Has practiced ~~professional~~clinical mental health counseling outside the
41 boundaries of demonstrated competence or the limitations of education,
42 training, or supervised experience.
- 43 (13) Has exercised undue influence in such a manner as to exploit the client,
44 patient, student, supervisee, or trainee for the financial or other personal
45 advantage or gratification of the licensed ~~professional~~clinical mental health
46 counselor associate, licensed ~~professional~~clinical mental health counselor, or
47 a third party.
- 48 (14) Has harassed or abused, sexually or otherwise, a client, patient, student,
49 supervisee, or trainee.
- 50 (15) Has failed to cooperate with or to respond promptly, completely, and honestly
51 to the Board, to credentials committees, or to ethics committees of

- 1 professional associations, hospitals, or other health care organizations or
2 educational institutions, when those organizations or entities have jurisdiction.
- 3 (16) Has refused to appear before the Board after having been ordered to do so in
4 writing by the chair.
- 5 (17) Has a finding listed on the Division of Health Service Regulation of the
6 Department of Health and Human Services Health Care Personnel Registry.
- 7 (b) The Board may, in lieu of denial, suspension, or revocation, take any of the following
8 disciplinary actions:
- 9 (1) Issue a formal reprimand or formally censure the applicant or licensee.
- 10 (2) Place the applicant or licensee on probation with the appropriate conditions
11 on the continued practice of ~~professional~~clinical mental health counseling
12 deemed advisable by the Board.
- 13 (3) Require examination, remediation, or rehabilitation for the applicant or
14 licensee, including care, counseling, or treatment by a professional or
15 professionals designated or approved by the Board, the expense to be borne
16 by the applicant or licensee.
- 17 (4) Require supervision of the ~~professional~~clinical mental health counseling
18 services provided by the applicant or licensee by a licensee designated or
19 approved by the Board, the expense to be borne by the applicant or licensee.
- 20 (5) Limit or circumscribe the practice of ~~professional~~clinical mental health
21 counseling provided by the applicant or licensee with respect to the extent,
22 nature, or location of the ~~professional~~clinical mental health counseling
23 services provided, as deemed advisable by the Board.
- 24 (6) Discipline and impose any appropriate combination of the types of
25 disciplinary action listed in this section.

26 In addition, the Board may impose conditions of probation or restrictions on continued
27 practice of ~~professional~~clinical mental health counseling at the conclusion of a period of
28 suspension or as a requirement for the restoration of a revoked or suspended license. In lieu of or
29 in connection with any disciplinary proceedings or investigation, the Board may enter into a
30 consent order relative to discipline, supervision, probation, remediation, rehabilitation, or
31 practice limitation of a licensee or applicant for a license.

32 (c) The Board may assess costs of disciplinary action against an applicant or licensee
33 found to be in violation of this Article.

34 (d) When considering the issue of whether an applicant or licensee is physically or
35 mentally capable of practicing ~~professional~~clinical mental health counseling with reasonable
36 skill and safety with patients or clients, upon a showing of probable cause to the Board that the
37 applicant or licensee is not capable of practicing ~~professional~~clinical mental health counseling
38 with reasonable skill and safety with patients or clients, the Board may petition a court of
39 competent jurisdiction to order the applicant or licensee in question to submit to a psychological
40 evaluation by a psychologist to determine psychological status or a physical evaluation by a
41 physician to determine physical condition, or both. The psychologist or physician shall be
42 designated by the court. The expenses of the evaluations shall be borne by the Board. Where the
43 applicant or licensee raises the issue of mental or physical competence or appeals a decision
44 regarding mental or physical competence, the applicant or licensee shall be permitted to obtain
45 an evaluation at the applicant or licensee's expense. If the Board suspects the objectivity or
46 adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners
47 at its own expense.

48 ...

49 **"§ 90-343. Disclosure.**

50 Any individual, or employer of an individual, who is licensed under this Article may not
51 charge a client or receive remuneration for ~~professional~~clinical mental health counseling services

1 unless, prior to the performance of those services, the client is furnished a copy of a Professional
 2 Disclosure Statement that includes the licensee's professional credentials, the services offered,
 3 the fee schedule, and other provisions required by the Board.

4 ...

5 **"§ 90-345. Criminal history record checks of applicants for licensure as ~~professional~~**
 6 **clinical mental health counselors.**

7 (a) Definitions. – The following definitions shall apply in this section:

8 (1) Applicant. – A person applying for licensure as a licensed ~~professional~~clinical
 9 mental health counselor associate pursuant to G.S. 90-336(b), 90-336(b1), or
 10 90-336(b2) or licensed ~~professional~~clinical mental health counselor pursuant
 11 to G.S. 90-336(c).

12 (2) Criminal history. – A history of conviction of a State or federal crime, whether
 13 a misdemeanor or felony, that bears on an applicant's fitness for licensure to
 14 practice ~~professional~~clinical mental health counseling. The crimes include the
 15 criminal offenses set forth in any of the following Articles of Chapter 14 of
 16 the General Statutes: Article 5, Counterfeiting and Issuing Monetary
 17 Substitutes; Article 5A, Endangering Executive and Legislative Officers;
 18 Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8,
 19 Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury
 20 or Damage by Use of Explosive or Incendiary Device or Material; Article 14,
 21 Burglary and Other Housebreakings; Article 15, Arson and Other Burnings;
 22 Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article
 23 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services
 24 by False or Fraudulent Use of Credit Device or Other Means; Article 19B,
 25 Financial Transaction Card Crime Act; Article 20, Frauds; Article 21,
 26 Forgery; Article 26, Offenses Against Public Morality and Decency; Article
 27 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury;
 28 Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35,
 29 Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and
 30 Emergencies; Article 39, Protection of Minors; Article 40, Protection of the
 31 Family; Article 59, Public Intoxication; and Article 60, Computer-Related
 32 Crime. The crimes also include possession or sale of drugs in violation of the
 33 North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the
 34 General Statutes and alcohol-related offenses including sale to underage
 35 persons in violation of G.S. 18B-302 or driving while impaired in violation of
 36 G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes
 37 listed in this subdivision, such crimes also include similar crimes under federal
 38 law or under the laws of other states.

39"

40
 41 **PART II. TECHNICAL AND CONFORMING CHANGES RELATED TO THE**
 42 **RENAMING OF THE LICENSED CLINICAL MENTAL HEALTH COUNSELORS**
 43 **ACT**

44 **SECTION 2.** G.S. 8-53.8 read as rewritten:

45 **"§ 8-53.8. Counselor privilege.**

46 No person, duly licensed pursuant to Chapter 90, Article 24, of the General Statutes, shall be
 47 required to disclose any information which he or she may have acquired in rendering ~~professional~~
 48 clinical mental health counseling services, and which information was necessary to enable him
 49 or her to render ~~professional~~clinical mental health counseling services: Provided, that the
 50 presiding judge of a superior or district court may compel such disclosure, if in the court's opinion

1 the same is necessary to a proper administration of justice and such disclosure is not prohibited
2 by other statute or regulation."

3 **SECTION 3.** G.S. 48-10-103(a)(3) reads as rewritten:

4 "(3) Counseling services for a parent or the adoptee that are directly related to the
5 adoption and are provided by a licensed psychiatrist, licensed psychologist,
6 licensed marriage and family therapist, licensed ~~professional~~clinical mental
7 health counselor, licensed or certified social worker, fee-based practicing
8 pastoral counselor or other licensed ~~professional~~clinical mental health
9 counselor, or an employee of an agency;"

10 **SECTION 4.** G.S. 55B-2(6) reads as rewritten:

11 "(6) The term "professional service" means any type of personal or professional
12 service of the public which requires as a condition precedent to the rendering
13 of such service the obtaining of a license from a licensing board as herein
14 defined, and pursuant to the following provisions of the General Statutes:
15 Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93,
16 "Public Accountants"; and the following Articles in Chapter 90: Article 1,
17 "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article
18 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act,"
19 with regard to registered nurses, Article 11, "Veterinarians," Article 12A,
20 "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage
21 and Family Therapy Licensure," Article 18D, "Occupational Therapy,"
22 Article 22, "Licensure Act for Speech and Language Pathologists and
23 Audiologists," and Article 24, "Licensed ~~Professional~~Clinical Mental Health
24 Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A,
25 "Landscape Architects"; Chapter 90B, "Social Worker Certification and
26 Licensure Act" with regard to Licensed Clinical Social Workers as defined by
27 G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and
28 Chapter 89F, "North Carolina Soil Scientist Licensing Act"."

29 **SECTION 5.** G.S. 55B-14(c)(4) reads as rewritten:

30 "(4) A physician, a licensed psychologist, a licensed clinical social worker, or each
31 of them and a certified clinical specialist in psychiatric and mental health
32 nursing, a licensed marriage and family therapist, a licensed ~~professional~~
33 clinical mental health counselor, or each of them, to render psychotherapeutic
34 and related services that the respective stockholders are licensed, certified, or
35 otherwise approved to provide."

36 **SECTION 6.** G.S. 58-3-192(a) reads as rewritten:

37 "(a) As used in this section, the following definitions apply:

38 (1) Adaptive behavior treatment. – Behavioral and developmental interventions
39 that systematically manage instructional and environmental factors or the
40 consequences of behavior that have been shown to be clinically effective
41 through research published in peer reviewed scientific journals and based
42 upon randomized, quasi-experimental, or single subject designs. Both of the
43 following requirements must be met:

- 44 a. The intervention must be necessary to (i) increase appropriate or
45 adaptive behaviors, (ii) decrease maladaptive behaviors, or (iii)
46 develop, maintain, or restore, to the maximum extent practicable, the
47 functioning of an individual.
48 b. The treatment must be ordered by a licensed physician or licensed
49 psychologist and the treatment must be provided or supervised by one
50 of the following professionals, so long as the services or supervision

provided is commensurate with the professional's training, experience, and scope of practice:

1. A licensed psychologist or psychological associate.
2. A licensed psychiatrist or developmental pediatrician.
3. A licensed speech and language pathologist.
4. A licensed occupational therapist.
5. A licensed clinical social worker.
6. A licensed ~~professional~~-clinical mental health counselor.
7. A licensed marriage and family therapist.
8. A board certified behavior analyst.

...

(8) Therapeutic care. – Direct or consultative services provided by a licensed speech therapist, licensed occupational therapist, licensed physical therapist, licensed clinical social worker, licensed ~~professional~~-clinical mental health counselor, or licensed marriage and family therapists.

...."

SECTION 7. G.S. 58-50-30(b)(12) reads as rewritten:

"(12) A ~~professional~~-clinical mental health counselor licensed by the North Carolina Board of Licensed ~~Professional-Clinical Mental Health~~ Counselors pursuant to Article 24 of Chapter 90 of the General Statutes."

SECTION 8. G.S. 90-21.41(2) reads as rewritten:

"(2) Psychotherapist. – A psychiatrist licensed in accordance with Article 1 of Chapter 90 of the General Statutes, a psychologist as defined in G.S. 90-270.2(9), a licensed ~~professional~~-clinical mental health counselor as defined in ~~G.S. 90-330(a)(2)~~, G.S. 90-330(a), a substance abuse professional as defined in G.S. 90-113.31(8), a social worker engaged in a clinical social work practice as defined in G.S. 90B-3(6), a fee-based pastoral counselor as defined in G.S. 90-382(4), a licensed marriage and family therapist as defined in G.S. 90-270.47(3), or a mental health service provider, who performs or purports to perform psychotherapy."

SECTION 9. G.S. 90-270.48A(a) reads as rewritten:

"(a) This Article does not prevent members of the clergy or licensed, certified, or registered members of professional groups recognized by the Board from advertising or performing services consistent with their own profession. Members of the clergy include, but are not limited to, persons who are ordained, consecrated, commissioned, or endorsed by a recognized denomination, church, faith group, or synagogue. Professional groups the Board shall recognize include, but are not limited to, licensed or certified social workers, licensed ~~professional~~-clinical mental health counselors, fee-based pastoral counselors, licensed practicing psychologists, psychological associates, physicians, and attorneys-at-law. However, in no event may a person use the title "Licensed Marriage and Family Therapist" or "Licensed Marriage and Family Therapy Associate," use the letters "LMFT" or "LMFTA," or in any way imply that the person is a licensed marriage and family therapist or a licensed marriage and family therapy associate unless the person is licensed as such under this Article."

SECTION 10. G.S. 122C-263.1(a) reads as rewritten:

"(a) Physicians and eligible psychologists are qualified to perform the commitment examinations required under G.S. 122C-263(c) and G.S. 122C-283(c). The Secretary of Health and Human Services may individually certify to perform the first commitment examinations required by G.S. 122C-261 through G.S. 122C-263 and G.S. 122C-281 through G.S. 122C-283 other health, mental health, and substance abuse professionals whose scope of practice includes diagnosing and documenting psychiatric or substance use disorders and conducting mental status examinations to determine capacity to give informed consent to treatment as follows:

- 1 (1) The Secretary has received a request:
- 2 a. To certify a licensed clinical social worker, a master's or higher level
- 3 degree nurse practitioner, a licensed ~~professional-clinical mental~~
- 4 health counsellor, or a physician's assistant to conduct the first
- 5 examinations described in G.S. 122C-263(c) and G.S. 122C-283(c).
- 6 b. To certify a master's level licensed clinical addictions specialist to
- 7 conduct the first examination described in G.S. 122C-283(c).

8 ...

9 (4) A certification granted by the Secretary under this section shall be in effect

10 for a period of up to three years and may be rescinded at any time within this

11 period if the Secretary finds the certified individual has failed to meet the

12 requirements of this section. Certification may be renewed every three years

13 upon completion of a refresher training program approved by the Department.

14 (5) In no event shall the certification of a licensed clinical social worker, master's

15 or higher level degree nurse practitioner, licensed ~~professional-clinical mental~~

16 health counsellor, physician assistant, or master's level certified clinical

17 addictions specialist under this section be construed as authorization to expand

18 the scope of practice of the licensed clinical social worker, the master's level

19 nurse practitioner, licensed ~~professional-clinical mental health~~ counsellor,

20 physician assistant, or the master's level certified clinical addictions specialist.

21"

22 **SECTION 11.** G.S. 143B-957 reads as rewritten:

23 "**§ 143B-957. Criminal record checks of applicants for licensure as ~~professional~~**

24 **counselors-clinical mental health counselors.**

25 The Department of Public Safety may provide to the North Carolina Board of Licensed

26 ~~Professional-Clinical Mental Health~~ Counselors from the State and National Repositories of

27 Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license

28 or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the

29 Board shall provide to the Department of Public Safety the fingerprints of the applicant or

30 licensee, a form signed by the applicant or licensee consenting to the criminal record check and

31 use of fingerprints and other identifying information required by the State and National

32 Repositories, and any additional information required by the Department of Public Safety. The

33 applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a

34 search of the State's criminal history record file, and the State Bureau of Investigation shall

35 forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history

36 record check. The Board shall keep all information obtained pursuant to this section confidential.

37 The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a

38 criminal record check under this section. The fee shall not exceed the actual cost of locating,

39 editing, researching, and retrieving the information."

40 **SECTION 12.** The Codifier of Rules shall make any conforming rule changes

41 necessary to reflect the name changes made by this act.

42 **SECTION 13.** This act is effective January 1, 2020.