Article 24.

Licensed Clinical Mental Health Counselors Act.

§ 90-329. Declaration of policy.

It is declared to be the public policy of this State that the activities of persons who render counseling services to the public be regulated to insure the protection of the public health, safety, and welfare. (1983, c. 755, s. 1; 1993, c. 514, s. 1.)

§ 90-330. Definitions; practice of counseling.

(a) Definitions. – The following definitions apply in this Article:

(1) Repealed by Session Laws 1993, c. 514, s. 1.

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

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

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

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

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

a. Counseling. – Assisting individuals, groups, and families through the counseling relationship by evaluating and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.

b. Appraisal Activities. – Administering and interpreting tests for assessment of personal characteristics.

c. Consulting. – Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.

d. Referral Activities. – Identifying problems requiring referral to other specialists.

e. Research Activities. – Designing, conducting, and interpreting research with human subjects.

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

(4) A "supervisor" means any licensed clinical mental health counselor supervisor or, when one is inaccessible, a licensed clinical mental health counselor or an

equivalently and actively licensed mental health professional, as determined by the Board, who meets the qualifications established by the Board.

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

(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person licensed as a licensed clinical mental health counselor or licensed clinical mental health counselor associate under the provisions of this Article shall be allowed to hold himself or herself out to the public as a licensed marriage and family therapist, licensed practicing psychologist, psychological associate, or licensed clinical social worker unless specifically authorized by other provisions of law. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 1995, c. 157, s. 4; 1999-354, s. 3; 2001-487, s. 40(j); 2009-367, s. 1; 2019-240, s. 2(a).)

§ 90-331. Prohibitions.

It shall be unlawful for any person who is not licensed under this Article to engage in the practice of counseling, use the title "Licensed Clinical Mental Health Counselor Associate," "Licensed Clinical Mental Health Counselor," or "Licensed Clinical Mental Health Counselor Supervisor," use the letters "LCMHCA," "LCMHC," or "LCMHCS," use any facsimile or combination of these words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other way that the person is a licensed clinical mental health counselor. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 2001-487, s. 40(k); 2009-367, s. 2; 2019-240, s. 2(a).)

§ 90-332. Use of title by firm.

It shall be unlawful for any firm, partnership, corporation, association, or other business or professional entity to assume or use the title of licensed clinical mental health counselor unless each of the members of the firm, partnership, or association is licensed by the Board. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 2019-240, s. 2(a).)

§ 90-332.1. Exemptions from licensure.

(a) It is not the intent of this Article to regulate members of other regulated professions who do counseling in the normal course of the practice of their profession. Accordingly, this Article does not apply to:

(1) Lawyers licensed under Chapter 84, doctors licensed under Chapter 90, and any other person registered, certified, or licensed by the State to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which the person is registered, certified, or licensed.

(2) Any school counselor certified by the State Board of Education while counseling within the scope of employment by a board of education or private school.

(3) Any student intern or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if the intern or trainee is a designated "counselor intern" and the activities and services constitute a part of the supervised course of study.

(4) Repealed by Session Laws 2009-367, s. 3, effective October 1, 2009.

(4a) Any person counseling within the scope of employment at: (i) a local community college as defined in G.S. 115D-2(2); (ii) a public higher education

institution as defined in G.S. 116-2(4); or (iii) a nonprofit postsecondary educational institution as described in G.S. 116-280.

(4b) Repealed by Session Laws 2009-367, s. 3, effective October 1, 2009.

(5) Any ordained minister or other member of the clergy while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide counseling to its members when the service is not performed for more than 30 days a year.

(6) Any nonresident temporarily employed in this State to render counseling services for not more than 30 days in a year, if the person holds a license or certificate required for counselors in another state.

(7) Any person employed by State, federal, county, or municipal government while counseling within the scope of employment.

(8) through (10) Repealed by Session Laws 2009-367, s. 3, effective October 1, 2009.

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

(c) Persons licensed under this Article are exempt from rules pertaining to counseling adopted by other occupational licensing boards.

(d) Nothing in this Article shall prevent a person from performing substance abuse counseling or substance abuse prevention consulting as defined in Article 5C of this Chapter. (1993, c. 514, s. 1; 1993 (Reg. Sess., 1994), c. 591, ss. 12, 16(a), 16(b); c. 685, s. 2; 1997-456, s. 27; 2001-487, s. 40(l); 2009-367, s. 3; 2011-145, s. 9.18(e); 2019-240, s. 2(a).)

§ 90-333. North Carolina Board of Licensed Clinical Mental Health Counselors; appointments; terms; composition.

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

(b) At least five members of the Board shall be licensed clinical mental health counselors except that initial appointees shall be persons who meet the educational and experience requirements for licensure as licensed clinical mental health counselors under the provisions of this Article; and two members shall be public-at-large members appointed from the general public. Composition of the Board as to the race and sex of its members shall reflect the population of the State and each member shall reside in a different congressional district.

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

(d) All members of the Board shall be residents of the State of North Carolina, and, with the exception of the public-at-large members, shall be licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of counseling or in the education and training of students in counseling, and have been for at least

three years prior to their appointment to the Board. The engagement in this activity during the two years preceding the appointment shall have occurred primarily in this State.

(e) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term. Appointees to the Board shall continue to serve until a successor is appointed and qualified.

(g) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(h) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 2009-367, s. 4; 2019-240, s. 2(a).)

§ 90-334. Functions and duties of the Board.

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

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for licenses under this Article, and shall issue a license or renewal of license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Article from fees paid to the Board pursuant to this section. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed two hundred dollars ($200.00) for initial or renewal application and not to exceed seventy-five dollars ($75.00) for late renewal, maintain Board accounts of all receipts, and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Article.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for licensure and license renewal, including but not limited to the power to adopt or use examination materials and accreditation standards of any recognized counselor accrediting agency and the power to establish reasonable standards for continuing counselor education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules to carry out the purposes of this Article, including but not limited to the power to adopt ethical and disciplinary standards.

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

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

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

(*l*) The Board shall establish a program for licensees who may be experiencing substance use disorders, burnout, compassion fatigue, and other mental health concerns. In establishing this program, the Board is authorized to enter into agreements with existing professional health care programs. The Board is also authorized to refer any licensee to this program as part of the disciplinary process. The Board may adopt rules implementing this program. (1983, c. 755, s. 1; 1987, c. 827, s. 1; 1993, c. 514, s. 1; 2009-367, s. 5; 2019-240, s. 2(a).)

§ 90-335. Board general provisions.

The Board shall be subject to the provisions of Chapter 93B of the General Statutes. (1983, c. 755, s. 1.)

§ 90-336. Title and qualifications for licensure.

(a) Each person desiring to be a licensed clinical mental health counselor associate, licensed clinical mental health counselor, or licensed clinical mental health 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 clinical mental health counselor associate" to an applicant who applies on or before March 1, 2016, and meets all of the following criteria:

(1) Has earned a 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 an 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 the applicant enrolled in the master's program before July 1, 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 hours.

c. If the applicant enrolled in the master's program after June 30, 2013, a minimum of 60 semester hours or 90 quarter credit hours.

(2) Repealed by Session Laws 2009-367, s. 6, effective October 1, 2009.

(3) Has passed an examination in accordance with rules adopted by the Board.

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

(1) Has earned a specified minimum of credit hours of graduate training as defined by the Board, including (i) a master's degree in counseling or related field from an institution of higher education that is either regionally accredited or accredited by an organization both recognized by the Council for Higher

Education Accreditation and accredited by the Council for Accreditation of Counseling and Related Educational Programs and (ii) the applicant meets one of the following criteria:

a. If the applicant enrolled in the master's program before July 1, 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 hours.
c. If the applicant enrolled in the master's program after June 30, 2013, a minimum of 60 semester hours or 90 quarter credit hours.

(2) Has passed an examination in accordance with rules adopted by the Board.

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

(1) Has earned a minimum of 60 semester hours or 90 quarter hours of graduate training as defined by the Board, including a master's degree in counseling or related field from an institution of higher education that is accredited by the Council for Accreditation of Counseling and Related Educational Programs.
(2) Has passed an examination in accordance with rules adopted by the Board.

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

(1) Has met all of the requirements under subsection (b), (b1), or (b2) of this section, as applicable.
(2) Has completed a minimum of 3,000 hours of supervised clinical mental health practice as determined by the Board.

(d) A licensed clinical mental health counselor may apply to the Board for recognition as a "licensed clinical mental health counselor supervisor" and receive the credential "licensed clinical mental health counselor supervisor" upon meeting all of the following criteria:

(1) Has met all of the requirements under subsection (c) of this section.
(2) Has one of the following:
a. At least five years of full-time licensed clinical mental health counseling experience, including a minimum of 2,500 hours of direct client contact;
b. At least eight years of part-time licensed clinical mental health counseling experience, including a minimum of 2,500 hours of direct client contact; or
c. A combination of full-time and part-time clinical mental health counseling experience, including a minimum of 2,500 hours of direct client contact as determined by the Board.
(3) Has completed minimum education requirements in clinical supervision as approved by the Board.
(4) Has an active license in good standing as a licensed clinical mental health counselor approved by the Board. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 2009-367, s. 6; 2015-279, s. 1; 2019-240, s. 2(a).)

§ 90-337. Persons credentialed in other states.

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

(b) The Board may enter into reciprocity agreements with another state. (1983, c. 755, s. 1; 1993, c. 514, s. 1; 2019-240, s. 2(a).)

§ 90-338: Repealed by Session Laws 2019-240, s. 2(a), effective January 1, 2020.

§ 90-339. Renewal of licenses.

(a) All licenses shall be effective upon the date of issuance by the Board, and shall expire on the second June 30 thereafter.

(b) All licenses issued hereunder shall be renewed at the times and in the manner provided by this section. At least 45 days prior to expiration of each license, the Board shall mail a notice for license renewal to the person licensed for the current licensure period. At least 10 days before the current license expires, the applicant must return the notice properly completed, together with a renewal fee established by the Board and evidence of continuing counselor education as approved by the Board, upon receipt of which the Board shall issue to the person to be licensed the renewed license for the period stated on the license.

(c) Any person licensed who allows the license to lapse for failure to apply for renewal within 45 days after notice shall be subject to the late renewal fee. Failure to apply for renewal of a license within one year after the license's expiration date will require that a license be reissued only upon application as for an original license. (1983, c. 755, s. 1; 1993, c. 514, s. 1.)

§ 90-340. Protection of the public.

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

(1) Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge under the laws of the United States or of any state of the United States.

(2) Has been convicted of or entered 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 clinical mental health counseling, or a misdemeanor charge reflecting the inability to practice clinical mental health counseling with due regard to the health and safety of clients or patients.

(3) Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license or renewal of a license under this Article.

(4) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of clinical mental health counseling, the offer of clinical mental health counseling services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any

manner otherwise relevant to fitness for the practice of clinical mental health counseling.

(5) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of clinical mental health counseling to the public, any individual, the Board, or any other organization.

(6) Has had a license or certification for the practice of clinical mental health counseling in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article.

(7) Has violated any provision of this Article or any rules adopted by the Board.

(8) Has aided or abetted the unlawful practice of clinical mental health counseling by any person not licensed by the Board.

(9) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the American Counseling Association. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.

(10) Has practiced clinical mental health counseling in such a manner as to endanger the welfare of clients.

(11) Has demonstrated an inability to practice clinical mental health counseling with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition.

(12) Has practiced clinical mental health counseling outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.

(13) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the licensed clinical mental health counselor associate, licensed clinical mental health counselor, or a third party.

(14) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.

(15) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction.

(16) Has refused to appear before the Board after having been ordered to do so in writing by the chair.

(17) Has a finding listed on the Division of Health Service Regulation of the Department of Health and Human Services Health Care Personnel Registry.

(b) The Board may, in lieu of denial, suspension, or revocation, take any of the following disciplinary actions:

(1) Issue a formal reprimand or formally censure the applicant or licensee.

(2) Place the applicant or licensee on probation with the appropriate conditions on the continued practice of clinical mental health counseling deemed advisable by the Board.
(3) Require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee.
(4) Require supervision of the clinical mental health counseling services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee.
(5) Limit or circumscribe the practice of clinical mental health counseling provided by the applicant or licensee with respect to the extent, nature, or location of the clinical mental health counseling services provided, as deemed advisable by the Board.
(6) Discipline and impose any appropriate combination of the types of disciplinary action listed in this section.

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

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

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

(e) Except as otherwise provided in this Article, the procedure for revocation, suspension, denial, limitations of the license, or other disciplinary, remedial, or rehabilitative actions shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license or health services provider certification is denied or to whom licensure or health services provider certification is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or health services provider certificate or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial,

revocation, suspension, or other proposed action becomes final without a hearing having been conducted. Notwithstanding the provisions of this subsection, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients who have not consented to the public disclosure of services provided by the licensee or applicant. The Board may close a hearing to the public and receive in closed session evidence involving or concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services as may be necessary for the protection and rights of the client of the accused applicant or licensee and the full presentation of relevant evidence.

(f) All records, papers, and other documents containing 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 shall not be considered public records within the meaning of Chapter 132 of the General Statutes. However, any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, though the record may contain information collected and compiled as a result of the investigation, inquiry, or hearing. Any identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services may be deleted. If any record, paper, or other document containing information collected and compiled by or on behalf of the Board, as provided in this section, is received and admitted in evidence in any hearing before the Board, it shall be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of treatment or services.

(g) A person whose license has been denied or revoked may reapply to the Board for licensure after one calendar year from the date of the denial or revocation.

(h) A licensee may voluntarily relinquish his or her license at any time. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is relinquished under this subsection and, upon proof of any violation of this Article by the person, the Board may take disciplinary action as authorized by this section.

(i) The Board may adopt rules deemed necessary to interpret and implement this section. (1983, c. 755, s. 1; 1987, c. 827, s. 1; 1993, c. 514, s. 1; 2009-367, s. 8; 2019-240, s. 2(a).)

§ 90-341. Violation a misdemeanor.

Any person violating any provision of this Article is guilty of a Class 1 misdemeanor. (1983, c. 755, s. 1; 1993, c. 539, s. 651; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 90-342. Injunction.

As an additional remedy, the Board may proceed in a superior court to enjoin and restrain any person from violating the prohibitions of this Article. The Board shall not be required to post bond in connection with such proceeding. (1983, c. 755, s. 1.)

§ 90-343. Disclosure.

Any individual, or employer of an individual, who is licensed under this Article may not charge a client or receive remuneration for clinical mental health counseling services unless, prior to the performance of those services, the client is furnished a copy of a Professional Disclosure Statement that includes the licensee's professional credentials, the services offered, the fee schedule, and other provisions required by the Board. (1993, c. 514, s. 1; 2019-240, s. 2(a).)

§ 90-344. Third-party reimbursements.

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article. (1993, c. 514, s. 1.)

§ 90-345. Criminal history record checks of applicants for licensure as clinical mental health counselors.

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

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

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

(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to

a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the State Bureau of Investigation the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the State Bureau of Investigation in accordance with G.S. 143B-1209.38. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the State Bureau of Investigation and shall remit the fees to the State Bureau of Investigation for expenses associated with conducting the criminal history record check.

(c) If an applicant or licensee's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant or licensee's criminal history disqualifies the applicant or licensee for licensure, the Board may deny licensure or reinstatement of the license of the applicant or revoke the license of the licensee. The Board may disclose to the applicant or licensee information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant or licensee. The applicant or licensee shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure or reinstatement of a license to an applicant or revoking a licensee's license based on information provided in the applicant or licensee's criminal history record check. (2009-367, s. 9; 2012-12, s. 2(*ll*); 2014-100, s. 17.1(*ll*); 2015-279, s. 2; 2015-181, s. 47; 2019-240, s. 2(a); 2023-134, s. 19F.4(cc).)

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