

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 938*

Short Title: Amend Marriage & Family Licensure Laws/Fees. (Public)

Sponsors: Representative England.

Referred to: Health, if favorable, Finance.

April 1, 2009

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE MARRIAGE AND FAMILY THERAPY LICENSURE LAWS
3 AND AUTHORIZING THE NORTH CAROLINA MARRIAGE AND FAMILY
4 THERAPY LICENSURE BOARD TO INCREASE FEES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 90-270.47 reads as rewritten:

7 "§ 90-270.47. Definitions.

8 As used in this Article, unless the context clearly requires a different meaning:

9 (1) ~~"Allied mental health field" and "degree" mean:~~ Related degree means:

- 10 a. Master's or doctoral degree in clinical social work;
11 b. Master's or doctoral degree in psychiatric nursing;
12 c. Master's or doctoral degree in counseling or clinical or counseling
13 psychology;
14 d. Doctor of medicine or doctor of osteopathy degree with an
15 appropriate residency training in psychiatry; or
16 e. Master's or doctoral degree in any mental health field the course of
17 study of which is equivalent to the master's degree in marriage and
18 family therapy.

19 (2) "Board" means the North Carolina Marriage and Family Therapy Licensure
20 Board.

21 (2a) 'Clinical experience' means face-to-face therapy between a therapist and a
22 client, whether individuals, couples, families, or groups, conducted from a
23 larger systems perspective that relates to client treatment plans, is
24 goal-directed, and assists the client in affecting change cognition and
25 behavior and effect.

26 (2b) 'Larger systems' means any individual or group that is a part of the client's
27 environment and that potentially impacts the client's functioning or
28 well-being and potentially can assist in the development and implementation
29 of a treatment plan.

30 (3) "Licensed marriage and family therapist" means a person to whom a license
31 has been issued pursuant to this Article, if the license is in force and not
32 suspended or revoked.

33 (3a) 'Licensed marriage and family therapy associate' means an individual to
34 whom a license has been issued pursuant to this Article whose license is in
35 force and not suspended or revoked and whose license permits the individual
36 to engage in the practice of marriage and family therapy under the
37 supervision of an American Association for Marriage and Family Therapy



(AAMFT) approved supervisor in accordance with rules adopted by the Board.

~~(3a)~~(3b) "Marriage and family therapy" is the clinical practice, within the context of individual, couple, and marriage and family systems, of the diagnosis and treatment of psychosocial aspects of mental and emotional disorders. Marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to families, couples, and individuals for the purpose of treating these diagnosed mental and emotional disorders. Marriage and family therapy includes referrals to and collaboration with ~~other~~ health care and other professionals when appropriate.

(4) "Practice of marriage and family therapy" means the rendering of professional marriage and family therapy services to individuals, couples, or families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

(5) "Recognized educational institution" means any educational institution that is accredited by the United States Department of Education that grants a bachelor's, master's, or doctoral degree and is recognized by the Board and by a nationally or regionally recognized educational or professional accrediting body."

SECTION 2. G.S. 90-270.48 reads as rewritten:

"§ 90-270.48. Prohibited acts.

Except as specifically provided elsewhere in this Article, it is unlawful for a person not licensed as a marriage and family therapist or as a licensed marriage and family therapy associate under this Article to practice marriage or family therapy or hold himself or herself out to the public as a person practicing marriage and family therapy."

SECTION 3. G.S. 90-270.48A reads as rewritten:

"§ 90-270.48A. Exemptions.

(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 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,~~"Therapist' or "Licensed Marriage and Family Therapy Associate," use the letters "~~LMFT,~~"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.

(b) A person is exempt from the requirements of this Article if any of the following conditions are met:

(1) The person is (i) ~~preparing for the practice of marriage and family therapy in a manner prescribed by rules of the Board, enrolled in a master's level program or higher in a recognized educational institution,~~ (ii) under qualified supervision as approved by the Board in a training institution ~~or facility or supervisory arrangement recognized and approved by the Board,~~ and (iii) designated by a title such as "marriage and family therapy ~~intern,~~" or "~~marriage and family therapy supervisee,~~" or another similar title ~~approved by the Board.~~intern."

- 1 (2) The person is practicing marriage and family therapy as an employee of a
2 recognized educational institution, or a governmental institution or agency
3 and the practice is included in the duties for which the person was employed
4 by the institution or agency.
- 5 (3) ~~The person is practicing marriage and family therapy as an employee of a
6 nonprofit organization which the Board has determined meets community
7 needs and the practice is included in the duties for which the person was
8 employed by the nonprofit organization.~~
- 9 (4) The person is practicing marriage and family therapy as an employee of a
10 hospital licensed under Article 5 of Chapter 131E or Article 2 of Chapter
11 122C of the General Statutes. Provided, however, no such person shall hold
12 himself out as a licensed marriage and family ~~therapist.therapist or licensed~~
13 marriage and family therapy associate."

14 **SECTION 4.** G.S. 90-270.49(a) reads as rewritten:

15 "(a) Establishment. – There is established as an agency of the State of North Carolina the
16 North Carolina Marriage and Family Therapy Licensure Board, which shall be composed of
17 seven Board members to be appointed as provided in G.S. 90-270.50. Board members shall be
18 appointed for terms of four years each, except that any person chosen to fill a vacancy shall be
19 appointed only for the unexpired term of the Board member whom he shall succeed. Upon the
20 expiration of a Board member's term of office, the Board member shall continue to serve until a
21 successor has qualified. No person may be appointed more than once to fill an unexpired term
22 or for more than two consecutive full terms. ~~The Governor shall designate one Board member
23 to serve as chairperson of the Board. The Board shall elect a chair and vice-chair from its~~
24 membership to serve a term of four years. No person may serve as chairperson for more than
25 four years.

26 The Governor may remove any member from the Board or remove the chairperson from the
27 position of chairperson only for neglect of duty, malfeasance, or conviction of a felony or crime
28 of moral turpitude while in office.

29 No Board member shall participate in any matter before the Board in which the member has
30 a pecuniary interest, personal bias, or other similar conflict of interest."

31 **SECTION 5.** G.S. 90-270.51(e) reads as rewritten:

32 "(e) The Board may authorize expenditures to carry out the provisions of this Article
33 from the fees that it collects, but expenditures may not exceed the revenues or reserves of the
34 Board during any fiscal year."

35 **SECTION 6.** G.S. 90-270.54 reads as rewritten:

36 **"§ 90-270.54. Requirements for license.licensure as a marriage and family therapist.**

37 (a) Each applicant shall be issued a license by the Board to engage in the practice of
38 marriage and family therapy as a licensed marriage and family therapist if the applicant meets
39 the qualifications set forth in G.S. 90-270.52(a) and provides satisfactory evidence to the Board
40 that the applicant:

- 41 (1) Meets educational and experience qualifications as follows:

- 42 a. Educational requirements: Possesses a minimum of a master's degree
43 from a recognized educational institution in the field of marriage and
44 family therapy, or a related degree in an allied mental health
45 field.degree, which degree is evidenced by the applicant's official
46 transcripts which establish that the applicant has completed an
47 appropriate course of study in an allied mental health
48 field.transcripts. An applicant with a related degree in an allied
49 mental health field may meet the educational requirements if the
50 applicant presents satisfactory evidence of post-master's or
51 post-doctoral training taken in the field of marriage and family

1 therapy from a program recognized by the Board regardless whether
2 the training was taken at a nondegree granting institution or in a
3 nondegree program, as long as the training, by itself or in
4 combination with any other training, is the equivalent in content and
5 quality, as defined in the rules of the Board, of a master's or doctoral
6 degree in marriage and family therapy;

- 7 b. Experience requirements: Has at least 1,500 hours of supervised
8 clinical experience in the practice of marriage and family therapy,
9 not more than 500 hours of which were obtained while the candidate
10 was a student in a master's degree program and at least 1,000 of
11 which were obtained after the applicant was granted a degree in the
12 field of marriage and family therapy or ~~an allied mental health field~~
13 related degree (with ongoing supervision consistent with standards
14 approved by the Board); and

- 15 (2) Passes an examination ~~administered~~ approved by the Board.

16 (b) Any person who is a certified marriage and family therapist on January 1, 1995,
17 shall be deemed to be a licensed marriage and family therapist as of that date. Valid and
18 unexpired certificates operate as licenses for the purposes of this Article until the date set for
19 renewal of the certificate, at which time the Board shall issue the certificate holder a license in
20 accordance with G.S. 90-270.58."

21 **SECTION 7.** Article 18C of Chapter 90 of the General Statutes is amended by
22 adding the following new section to read:

23 **"§ 90-270.54A. Requirements for licensure as a marriage and family therapy associate.**

24 (a) Each applicant shall be issued a license by the Board to engage in practice as a
25 marriage and family therapy associate if the applicant meets the qualifications set forth in
26 G.S. 90-270.52(a) and provides satisfactory evidence to the Board that the applicant:

- 27 (1) Has completed a marriage and therapy degree or related degree in
28 accordance with G.S. 90-270.54(a)(1)a.
29 (2) Has shown evidence of intent to accrue the required supervised clinical
30 experience for licensure under G.S. 90-270.54(a)(1)b.
31 (3) Has filed with the Board an application for licensure as a marriage and
32 family therapy associate, which application includes evidence of the
33 appropriate coursework and an agreement by at least one supervisor
34 approved by the American Association of Marriage and Family Therapy to
35 provide supervision to the applicant.
36 (4) Has passed the examination approved by the Board pursuant to
37 G.S. 90-270.54(a)(2).

38 (b) Upon approval by the Board, a license designating the applicant as a licensed
39 marriage and family therapy associate shall be issued. Notwithstanding G.S. 90-270.58, a
40 license issued under this section shall be valid for three years from the date of issuance.

41 (c) A marriage and family therapy associate license shall not be renewed. However, if
42 upon written petition to the Board a person licensed pursuant to this section demonstrates
43 special circumstances and steady progress towards licensure as a marriage and family therapist,
44 the Board may grant a one-year extension of the marriage and family associate license.

45 (d) Nothing in this Article shall be construed to require direct third-party
46 reimbursement under private insurance policies to a person licensed as a marriage and family
47 therapy associate under this Article."

48 **SECTION 8.** G.S. 90-270.55 reads as rewritten:

49 **"§ 90-270.55. Examinations.**

50 ~~The Board shall conduct an examination at least once a year at a time and place designated~~
51 ~~by the Board. Examinations may be written, oral, or both~~ Each applicant for licensure as a

1 licensed marriage and family therapist shall pass an examination as determined by the Board.
 2 Examinations shall include questions in theoretical and applied fields to test an applicant's
 3 knowledge and competence to engage in the practice of marriage and family therapy. The
 4 Board shall set the passing score for examinations. Any person who fails an examination
 5 conducted by the Board shall not be admitted to a subsequent examination for a period of at
 6 least six months. Any request by an applicant for reasonable accommodations in taking the
 7 examination shall be submitted in writing to the Board and shall be supported by
 8 documentation as may be required by the Board in assessing the request."

9 **SECTION 9.** G.S. 90-270.55A is repealed.

10 **SECTION 10.** G.S. 90-270.56 reads as rewritten:

11 "**§ 90-270.56. Reciprocal licenses.**

12 The Board ~~shall~~ may issue a license as a marriage and family therapist or a marriage and
 13 family therapy associate by reciprocity to any person who applies for the license as prescribed
 14 by the Board and who is ~~licensed or certified as a marriage and family therapist in another state~~
 15 ~~whose requirements for the license or certificate are equivalent to or exceed the requirements of~~
 16 ~~this State at all times during the application process:~~

- 17 (1) Has been licensed for five continuous years and is currently licensed as a
 18 marriage and family therapist or marriage and family therapy associate in
 19 that state.
 20 (2) Has an unrestricted license in good standing in the other state.
 21 (3) Has no unresolved complaints in any jurisdiction.
 22 (4) Has passed the National Marriage and Family Therapy examination."

23 **SECTION 11.** G.S. 90-270.57 reads as rewritten:

24 "**§ 90-270.57. Fees.**

25 (a) In order to fund the Board's activities under this Article, the Board may charge and
 26 collect fees not exceeding the following:

- | | |
|---|---------------------------------|
| 27 (1) Each license examination | \$50.00 |
| 28 (2) Each license application <u>as a marriage and family therapist</u> | 150.00 <u>200.00</u> |
| 29 (2a) <u>Each license application as a marriage and family therapy</u>
30 <u>associate</u> | <u>200.00</u> |
| 31 (3) Each renewal of license | 100.00 <u>200.00</u> |
| 32 (4) Each reciprocal license application | 150.00 <u>200.00</u> |
| 33 (5) Each reinstatement of an expired license | 125.00 <u>200.00</u> |
| 34 (6) Each application to return to active status | 125.00 <u>200.00</u> |
| 35 (7) <u>Duplicate license</u> | <u>25.00</u> |
| 36 (8) <u>Yearly inactive status maintenance fee</u> | <u>50.00.</u> |

37 In addition to the examination fee provided in subdivision (1) of this section, the Board may
 38 charge and collect from each applicant for license examination the cost of processing test
 39 results and the cost of test materials.

40 The Board is authorized to return all or a portion of fees paid in cases where the applicant is
 41 ineligible or in cases of undue hardship.

42 (b) The Board may establish fees for the actual cost of (i) document duplication
 43 services, (ii) materials, and (iii) returned bank items as allowed by law. All fees listed in
 44 subsection (a) of this section shall be nonrefundable."

45 **SECTION 12.** G.S. 90-270.58 reads as rewritten:

46 "**§ 90-270.58. Renewal of license.**

47 All licenses for marriage and family therapists issued under this Article shall expire
 48 automatically on the first day of July of each year. The Board shall renew a license upon (i)
 49 completion of the continuing education requirements of G.S. 90-270.58B and (ii) payment of
 50 the renewal fee."

51 **SECTION 13.** G.S. 90-270.58B(a) reads as rewritten:

1 "(a) A person who holds a valid and unexpired license and who is not actively engaged
2 in the practice of marriage and family therapy may apply to the Board to be placed on inactive
3 status. A person on inactive status shall not be required to pay annual renewal ~~fees.~~fees, but
4 shall be required to pay an annual inactive status maintenance fee. A person who is on inactive
5 status shall not have to meet continuing education requirements."

6 **SECTION 14.** G.S. 90-270.58C reads as rewritten:

7 "**§ 90-270.58C. Continuing education requirements.**

8 The Board shall prescribe continuing education requirements for licensees. These
9 requirements shall be designed to maintain and improve the quality of professional services in
10 marriage and family therapy provided to the public, to keep the licensee knowledgeable of
11 current research, techniques, and practice, and to provide other resources that will improve skill
12 and competence in marriage and family therapy. The number of hours of continuing education
13 shall not exceed the number of hours available that year in Board-approved courses within the
14 State. The Board may waive these continuing education requirements for not more than 12
15 months, but only upon the licensee's satisfactory showing to the Board of undue hardship. The
16 Board may waive, upon request, continuing education requirements for licensees who are on
17 active military duty and serving overseas."

18 **SECTION 15.** G.S. 90-270.59 reads as rewritten:

19 "**§ 90-270.59. Disposition of funds.**

20 All ~~moneys~~monies received by the Board shall be used to implement this Article."

21 **SECTION 16.** G.S. 90-270.60 reads as rewritten:

22 "**§ 90-270.60. Denial, revocation, or suspension of ~~license.~~license; other disciplinary or**
23 **remedial actions.**

24 (a) ~~Grounds for Denial, Revocation, or Suspension.~~—The Board may deny, revoke, or
25 suspend a license granted pursuant to this Article on any of the following grounds:licensure,
26 discipline, place on probation, limit practice, or require examination, remediation, or
27 rehabilitation, or any combination of the disciplinary actions described in this subsection, of
28 any applicant or person licensed under this Article on one or more of the following grounds:

- 29 (1) ~~Conviction of a felony under the laws of the United States or of any state of~~
30 ~~the United States.~~ Has been convicted of a felony or entered a plea of guilty
31 or nolo contendere to any felony charge under the laws of the United States
32 or of any state of the United States.
- 33 (2) ~~Conviction of any crime, an essential element of which is dishonesty, deceit,~~
34 ~~or fraud.~~ Has been convicted of or entered a plea of guilty or nolo contendere
35 to any misdemeanor involving moral turpitude, misrepresentation, or fraud
36 in dealing with the public, or conduct otherwise relevant to fitness to
37 practice marriage and family therapy, or a misdemeanor charge reflecting
38 the inability to practice marriage and family therapy with due regard to the
39 health and safety of clients.
- 40 (3) ~~Fraud or deceit in obtaining a license as a marriage and family therapist.~~ Has
41 engaged in fraud or deceit in securing or attempting to secure or renew a
42 license under this Article or has willfully concealed from the Board material
43 information in connection with application for a license or renewal of a
44 license under this Article.
- 45 (4) ~~Dishonesty, fraud or gross negligence in the practice of marriage and family~~
46 ~~therapy.~~ Has practiced any fraud, deceit, or misrepresentation upon the
47 public, the Board, or any individual in connection with the practice of
48 marriage and family therapy, the offer of professional marriage and family
49 therapy services, the filing of Medicare, Medicaid, or other claims to any
50 third-party payor, or in any manner otherwise relevant to fitness for the
51 practice of marriage and family therapy.

- 1 (5) ~~Violation of any rule of professional ethics and professional conduct adopted~~
2 ~~by the Board. Has made fraudulent, misleading, or intentionally or~~
3 ~~materially false statements pertaining to education, licensure, license~~
4 ~~renewal, supervision, continuing education, any disciplinary actions or~~
5 ~~sanctions pending or occurring in any other jurisdiction, professional~~
6 ~~credentials, or qualifications or fitness for the practice of marriage and~~
7 ~~family therapy to the public, any individual, the Board, or any other~~
8 ~~organization.~~
- 9 (6) Has had a license or certification for the practice of marriage and family
10 therapy in any other jurisdiction suspended or revoked, or has been
11 disciplined by the licensing or certification board in any other jurisdiction
12 for conduct which would subject him or her to discipline under this Article.
- 13 (7) Has violated any provision of this Article or any rules adopted by the Board.
- 14 (8) Has aided or abetted the unlawful practice of marriage and family therapy by
15 any person not licensed by the Board.
- 16 (9) Has been guilty of immoral, dishonorable, unprofessional, or unethical
17 conduct as defined in this subsection or in the current code of ethics of the
18 American Association for Marriage and Family Therapy. However, if any
19 provision of the code of ethics is inconsistent and in conflict with the
20 provisions of this Article, the provisions of this Article shall control.
- 21 (10) Has practiced marriage and family therapy in such a manner as to endanger
22 the welfare of clients.
- 23 (11) Has demonstrated an inability to practice marriage and family therapy with
24 reasonable skill and safety by reason of illness, inebriation, misuse of drugs,
25 narcotics, alcohol, chemicals, or any other substance affecting mental or
26 physical functioning, or as a result of any mental or physical condition.
- 27 (12) Has practiced marriage and family therapy outside the boundaries of
28 demonstrated competence or the limitations of education, training, or
29 supervised experience.
- 30 (13) Has exercised undue influence in such a manner as to exploit the client,
31 student, supervisee, or trainee for the financial or other personal advantage
32 or gratification of the marriage and family therapist or a third party.
- 33 (14) Has harassed or abused, sexually or otherwise, a client, student, supervisee,
34 or trainee.
- 35 (15) Has failed to cooperate with or to respond promptly, completely, and
36 honestly to the Board, to credentials committees, or to ethics committees of
37 professional associations, hospitals, or other health care organizations or
38 educational institutions, when those organizations or entities have
39 jurisdiction.
- 40 (16) Has refused to appear before the Board after having been ordered to do so in
41 writing by the chair.
- 42 (b) ~~Any disciplinary action taken shall be in accordance with Chapter 150B of the~~
43 ~~General Statutes.~~ The Board may, in lieu of denial, suspension, or revocation, take any of the
44 following disciplinary actions:
- 45 (1) Issue a formal reprimand or formally censure the applicant or licensee.
- 46 (2) Place the applicant or licensee on probation with the appropriate conditions
47 on the continued practice of marriage and family therapy deemed advisable
48 by the Board.
- 49 (3) Require examination, remediation, or rehabilitation for the applicant or
50 licensee, including care, counseling, or treatment by a professional or

1 professionals designated or approved by the Board, the expense to be borne
2 by the applicant or licensee.

3 (4) Require supervision of the marriage and family therapy services provided by
4 the applicant or licensee by a licensee designated or approved by the Board,
5 the expense to be borne by the applicant or licensee.

6 (5) Limit or circumscribe the practice of marriage and family therapy provided
7 by the applicant or licensee with respect to the extent, nature, or location of
8 the marriage and family therapy services provided, as deemed advisable by
9 the Board.

10 (6) Discipline and impose any appropriate combination of the types of
11 disciplinary action listed in this subsection.

12 In addition, the Board may impose conditions of probation or restrictions on the continued
13 practice of marriage and family therapy at the conclusion of a period of suspension or as a
14 requirement for the restoration of a revoked or suspended license. In lieu of or in connection
15 with any disciplinary proceedings or investigation, the Board may enter into a consent order
16 relative to discipline, supervision, probation, remediation, rehabilitation, or practice limitation
17 of a licensee or applicant for a license.

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

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

33 (e) Except as provided otherwise in this Article, the procedure for revocation,
34 suspension, denial, limitations of the license, or other disciplinary, remedial, or rehabilitative
35 actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes.
36 The Board is required to provide the opportunity for a hearing under Chapter 150B to any
37 applicant whose license or health services provider certification is denied or to whom licensure
38 or health services provider certification is offered subject to any restrictions, probation,
39 disciplinary action, remediation, or other conditions or limitations, or to any licensee before
40 revoking, suspending, or restricting a license or health services provider certificate or imposing
41 any other disciplinary action or remediation. If the applicant or licensee waives the opportunity
42 for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes
43 final without a hearing having been conducted. Notwithstanding the provisions of this
44 subsection, no applicant or licensee is entitled to a hearing for failure to pass an examination. In
45 any proceeding before the Board, in any record of any hearing before the Board, in any
46 complaint or notice of charges against any licensee or applicant for licensure, and in any
47 decision rendered by the Board, the Board may withhold from public disclosure the identity of
48 any clients who have not consented to the public disclosure of services provided by the licensee
49 or applicant. The Board may close a hearing to the public and receive in closed session
50 evidence involving or concerning the treatment of or delivery of services to a client who has
51 not consented to the public disclosure of the treatment or services as may be necessary for the

1 protection and rights of the client of the accused applicant or licensee and the full presentation
2 of relevant evidence.

3 (f) All records, papers, and other documents containing information collected and
4 compiled by or on behalf of the Board, as a result of investigations, inquiries, or interviews
5 conducted in connection with licensing or disciplinary matters, shall not be considered public
6 records within the meaning of Chapter 132 of the General Statutes. However, any notice or
7 statement of charges against any licensee or applicant, or any notice to any licensee or applicant
8 of a hearing in any proceeding, or any decision rendered in connection with a hearing in any
9 proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes,
10 though the record may contain information collected and compiled as a result of the
11 investigation, inquiry, or hearing. Any identifying information concerning the treatment of or
12 delivery of services to a client who has not consented to the public disclosure of the treatment
13 or services may be redacted. If any record, paper, or other document containing information
14 collected and compiled by or on behalf of the Board, as provided in this section, is received and
15 admitted in evidence in any hearing before the Board, it shall be a public record within the
16 meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying
17 information concerning the treatment of or delivery of marriage and family therapy services to
18 a client who has not consented to the public disclosure of treatment or services.

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

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

26 (i) The Board may adopt rules deemed necessary to interpret and implement this
27 section."

28 **SECTION 17.** Article 18C of Chapter 90 of the General Statutes is amended by
29 adding the following new section to read:

30 **"§ 90-270.63. Criminal history record checks of applicants for licensure as a marriage**
31 **and family therapist and a marriage and family therapy associate.**

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

33 (1) Applicant. – A person applying for licensure as a licensed marriage and
34 family therapy associate pursuant to G.S. 90-270.54A or licensed marriage
35 and family therapist pursuant to G.S. 90-270.54.

36 (2) Criminal history. – A history of conviction of a State or federal crime,
37 whether a misdemeanor or felony, that bears on an applicant's fitness for
38 licensure to practice marriage and family therapy. The crimes include the
39 criminal offenses set forth in any of the following Articles of Chapter 14 of
40 the General Statutes: Article 5, Counterfeiting and Issuing Monetary
41 Substitutes; Article 5A, Endangering Executive and Legislative Officers;
42 Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8,
43 Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious
44 Injury or Damage by Use of Explosive or Incendiary Device or Material;
45 Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other
46 Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
47 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
48 Obtaining Property or Services by False or Fraudulent Use of Credit Device
49 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
50 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public
51 Morality and Decency; Article 26A, Adult Establishments; Article 27,

1 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct
2 in Public Office; Article 35, Offenses Against the Public Peace; Article 36A,
3 Riots and Civil Disorders; Article 39, Protection of Minors; Article 40,
4 Protection of the Family; Article 59, Public Intoxication; and Article 60,
5 Computer-Related Crime. The crimes also include possession or sale of
6 drugs in violation of the North Carolina Controlled Substances Act in Article
7 5 of Chapter 90 of the General Statutes and alcohol-related offenses
8 including sale to underage persons in violation of G.S. 18B-302 or driving
9 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In
10 addition to the North Carolina crimes listed in this subdivision, such crimes
11 also include similar crimes under federal law or under the laws of other
12 states.

13 (b) The Board may request that an applicant for licensure, an applicant seeking
14 reinstatement of a license, or a licensee under investigation by the Board for alleged criminal
15 offenses in violation of this Article consent to a criminal history record check. Refusal to
16 consent to a criminal history record check may constitute grounds for the Board to deny
17 licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license
18 of a licensee. The Board shall ensure that the State and national criminal history of an applicant
19 is checked. The Board shall be responsible for providing to the North Carolina Department of
20 Justice the fingerprints of the applicant or licensee to be checked, a form signed by the
21 applicant or licensee consenting to the criminal record check and the use of fingerprints and
22 other identifying information required by the State or National Repositories of Criminal
23 Histories, and any additional information required by the Department of Justice in accordance
24 with G.S. 114-19.26. The Board shall keep all information obtained pursuant to this section
25 confidential. The Board shall collect any fees required by the Department of Justice and shall
26 remit the fees to the Department of Justice for expenses associated with conducting the criminal
27 history record check.

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

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

41 If, after reviewing these factors, the Board determines that the applicant or licensee's criminal
42 history disqualifies the applicant or licensee for licensure, the Board may deny licensure or
43 reinstatement of the license of the applicant or revoke the license of the licensee. The Board
44 may disclose to the applicant or licensee information contained in the criminal history record
45 check that is relevant to the denial. The Board shall not provide a copy of the criminal history
46 record check to the applicant or licensee. The applicant or licensee shall have the right to
47 appear before the Board to appeal the Board's decision. However, an appearance before the full
48 Board shall constitute an exhaustion of administrative remedies in accordance with Chapter
49 150B of the General Statutes.

50 (d) Limited Immunity. – The Board, its officers, and employees, acting in good faith
51 and in compliance with this section, shall be immune from civil liability for denying licensure

1 or reinstatement of a license to an applicant or revoking a licensee's license based on
2 information provided in the applicant or licensee's criminal history record check."

3 **SECTION 18.** Article 4 of Chapter 114 of the General Statutes is amended by
4 adding a new section to read:

5 "**§ 114-26. Criminal history record checks of applicants for licensure as marriage and**
6 **family therapists and marriage and family therapy associates.**

7 The Department of Justice may provide to the North Carolina Marriage and Family
8 Therapy Licensure Board from the State and National Repositories of Criminal Histories the
9 criminal history of any applicant for licensure or reinstatement of a license or licensee under
10 Article 18C of Chapter 90 of the General Statutes. Along with the request, the Board shall
11 provide to the Department of Justice the fingerprints of the applicant or licensee, a form signed
12 by the applicant or licensee consenting to the criminal record check and use of fingerprints and
13 other identifying information required by the State and National Repositories, and any
14 additional information required by the Department of Justice. The applicant or licensee's
15 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's
16 criminal history record file, and the State Bureau of Investigation shall forward a set of
17 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
18 The Board shall keep all information obtained pursuant to this section confidential. The
19 Department of Justice may charge a fee to offset the cost incurred by the Department to
20 conduct a criminal record check under this section. The fee shall not exceed the actual cost of
21 locating, editing, researching, and retrieving the information."

22 **SECTION 19.** This act is effective when it becomes law.