

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 935 (Third Edition)

SHORT TITLE: Amend Marriage & Family Licensure Laws/Fees.

SPONSOR(S): Senator Goss

	FISCAL IMPACT (\$)				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES:					
NC Marriage and Family Therapy Licensure Board	\$ 23,775	\$ 25,600	\$ 26,650	\$ 28,550	\$ 30,100
Department of Justice	\$ 2,528	\$ 2,688	\$ 2,768	\$ 2,944	\$ 3,088
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Marriage and Family Therapy Licensure Board, Department of Justice					
EFFECTIVE DATE: October 1, 2009					

BILL SUMMARY:

Senate Bill 935 makes the following changes:

Section 1. Amends the definitions section of the act to include several new definitions such as 'licensed marriage and family therapy associate'. A licensed marriage and family therapy associate is an individual whose license permits them to engage in practice under the supervision of an approved supervisor. It also amends the definitions of the terms 'related degree' and 'recognized educational institution'.

Section 2. Amends the section that prohibits practice without a license to include a licensed marriage and family therapy associate.

Section 3. Amends the section on exemptions from the act. The amendments clarify that a marriage and family therapy intern must be enrolled in a master's level program or higher in a recognized educational institution and under the supervision of a Board approved training institution in order to be exempt from the act. It also eliminates the exemption for people practicing as an employee of a nonprofit organization. Finally, this section clarifies that no exempt person may hold himself out as being licensed.

Section 4. Amends the section that establishes the Board. Currently, the Governor appoints the chairperson of the Board. This is changed to allow the Board to elect a chair and vice-chair from its membership for a four year term.

Section 5. Provides that Board expenditures may not exceed the reserves, as well as the revenues of the Board in any fiscal year.

Section 5.1. Adds to the Board's powers and duties the authority to order records relating to a licensee's practice in the course of investigating a complaint. Any such records are not subject to the public records law. This section also requires a licensee or an employer of a licensee to retain records for at least 5 years from the termination of client services for an adult client. In the case of a minor client, the records must be retained until the later of the date the client is 22 or 5 years from the termination of services.

Section 6. Amends the section relating to requirements for licensure as a marriage and family therapist to clarify the educational and experience requirements. It also changes the examination requirement from an exam *administered* by the Board to one *approved* by the Board.

Section 7. Adds a new section which sets out the requirements for licensure as a marriage and family therapy associate. An applicant must submit the same application information, have the same educational and experience qualifications, and have passed the same examination as are required of marriage and family therapist applicants. In addition the associate applicant must show evidence of appropriate coursework and have an agreement by an approved supervisor to provide supervision to the applicant. An associate license is only valid for three years from the date of issuance and cannot be renewed. However, under certain circumstances, the Board can grant a one-year extension of the license.

Section 8. Amends the section relating to the examination to give the Board more flexibility. In addition, the section adds a requirement that an applicant must request reasonable accommodations to take the exam in writing.

Section 9. Repeals the section that authorizes the Board to grant temporary licenses.

Section 10. Amends the provision relating to reciprocal licenses to add more specific requirements for issuing a license to a therapist or associate who is licensed in another state and seeks to be licensed in this State.

Section 11. Amends the fees which the Board is authorized to charge by increasing all of the fees except the examination fee. This section also adds new fees for a duplicate license, annual maintenance of inactive status, and an application to extend an associate license. The Board is also given authority to establish fees for the actual cost of duplication services, materials, and returned bank items, and makes all fees charged by the Board nonrefundable.

Section 12. Makes a clarifying change to the section relating to renewal of therapists' licenses.

Section 13. Adds a requirement that a licensee who requests to be placed on inactive status must pay an annual inactive status maintenance fee. Section 11 establishes the amount of the fee at \$50.00. A person on inactive status is not required to complete continuing education requirements.

Section 14. Authorizes the Board to waive continuing education requirements for licensees on active military duty who are serving overseas.

Section 15. Corrects a spelling error.

Section 16. Clarifies and expands the Boards authority to take disciplinary or remedial actions. The section adds a number of new grounds for discipline including:

- Having been disciplined in another jurisdiction.
- Violating the act or a rule adopted by the Board.
- Aiding and abetting an unlicensed person.
- Being guilty of immoral, dishonorable, unprofessional, or unethical conduct.
- Endangering the welfare of a client.
- Practicing while under the influence of drugs, narcotics, alcohol, chemicals, or other controlled substances.
- Demonstrated incompetence.
- Exploiting a client, student, supervisee, or trainee for financial or personal gain.
- Harassing or abusing, sexually or otherwise, a client, student, supervisee, or trainee.
- Failing to cooperate with the Board or other appropriate entities.
- Refusing to appear before the Board upon an order by the chair.

The Board is also authorized to take additional disciplinary actions, including requiring examination, remediation, or rehabilitation of an applicant or licensee; requiring additional supervision at the licensee's expense; limiting or circumscribing the licensee's practice; or using a combination of disciplinary actions. The Board may assess costs against the applicant or licensee for the disciplinary action. The Board may petition the court to order the applicant or licensee to submit to psychological or physical evaluations. The Board must provide a hearing to any applicant or licensee who is subject to discipline. The records and other documents used by the Board in the course of an investigation are not subject to the Public Records law. However, if the record is admitted in evidence in a hearing, it becomes a public record. A person whose license has been denied or revoked may reapply after one calendar year.

Section 17. Adds a new section authorizing the Board to request that the applicant or licensee undergo a criminal history record check to reveal a conviction of a State or federal crime. The applicant or licensee must consent to the criminal history check and must provide fingerprints. Refusal to consent to the check may constitute grounds for denial or revocation of a license. If the criminal history check reveals a conviction, the Board is not required to bar licensure, but may consider a number of mitigating factors to determine whether the applicant should be disqualified.

Section 18. Adds a corresponding provision to the law allowing the Department of Justice to conduct criminal history record checks for applicants for licensure as a marriage and family therapist or associate.

Source: Adopted from the bill analysis done by the Committee Counsel to Senate Finance on June 5, 2009.

ASSUMPTIONS AND METHODOLOGY:

Senate Bill 935 authorizes the Marriage and Family Therapy Licensure Board to raise certain application and licensing fees as well as to institute new fees. The bill increases the caps for all

fees with the exception of the license examination fee. It also adds fees for duplicate license, annual maintenance of inactive status, and an application to extend an associate license. The Board is also given authority to establish fees for the actual cost of duplication services, materials, and returned bank items. The bill makes all fees charged by the Board nonrefundable. In practice, the Board does not currently refund fees, so this change will have no fiscal impact. The chart below summarizes the expected fee changes.

Senate Bill 935: Fee Change Summary

Fee	Current Amount	Proposed Amount	Projected Board Fee	Fee Change
License Examination	\$ 50	\$ 50	\$ 50	\$ -
Application as Marriage and Family Therapist (LMFT)	\$ 150	\$ 200	\$ 200	\$ 50
Application as Licensed Marriage and Family Therapist Associate (LMFTA)	\$ -	\$ 200	\$ 200	\$ 200
License Renewal	\$ 100	\$ 200	\$ 100	\$ -
Reciprocal License Application	\$ 150	\$ 200	\$ 200	\$ 50
Reinstatement of an Expired License	\$ 125	\$ 200	\$ 200	\$ 75
Application to Return to Active Status	\$ 200	\$ 200	\$ 100	\$ (100)
Duplicate License	\$ -	\$ 25	\$ 25	\$ 25
Maintenance of Inactive Status	\$ -	\$ 50	\$ 50	\$ 50
Application to Extend Associate License	\$ -	\$ 50	\$ 50	\$ 50

The fee changes will each have a fiscal impact equal to the change in the fee multiplied by the number of individuals who pay the fee. The Board of Marriage and Family Therapy Licensure has provided estimates of the number of individuals the fee changes will impact each year. The following chart summarizes these estimates.

Senate Bill 935: Number of Individuals Projected by Fee Type

Fee Category	Individuals Projected FY 2009-10	Individuals Projected FY 2010-11	Individuals Projected FY 2011-12	Individuals Projected FY 2012-13	Individuals Projected FY 2013-14
LMFT Application	30	35	38	42	45
LMFTA Application	66	70	70	75	78
Reciprocal Application	40	50	60	65	70
Renewal of License	625	635	659	675	700
Reinstatement of Expired License	62	63	65	67	70

Return to Active Status Application	5	5	5	5	5
Duplicate License Request	3	5	5	7	10
Maintenance of Inactive Status	52	55	60	65	70
Extend Associate License	5	5	5	5	5

Given the projected number of individuals impacted, the following chart summarizes the fiscal impact due to the Senate Bill 935 fee changes.

Senate Bill 935: Fee Change Fiscal Impact Summary

Fee Category	Change in Revenues FY 2009-10	Change in Revenues FY 2010-11	Change in Revenues FY 2011-12	Change in Revenues FY 2012-13	Change in Revenues FY 2013-14
LMFT Application	\$ 1,500	\$ 1,750	\$ 1,900	\$ 2,100	\$ 2,250
LMFTA Application	\$ 13,200	\$ 14,000	\$ 14,000	\$ 15,000	\$ 15,600
Reciprocal Application	\$ 2,000	\$ 2,500	\$ 3,000	\$ 3,250	\$ 3,500
Renewal of License	\$ -	\$ -	\$ -	\$ -	\$ -
Reinstatement of Expired License	\$ 4,650	\$ 4,725	\$ 4,875	\$ 5,025	\$ 5,250
Return to Active Status Application	\$ (500)	\$ (500)	\$ (500)	\$ (500)	\$ (500)
Duplicate License Request	\$ 75	\$ 125	\$ 125	\$ 175	\$ 250
Maintenance of Inactive Status	\$ 2,600	\$ 2,750	\$ 3,000	\$ 3,250	\$ 3,500
Extend Associate License	\$ 250	\$ 250	\$ 250	\$ 250	\$ 250
Net Impact	\$ 23,775	\$ 25,600	\$ 26,650	\$ 28,550	\$ 30,100

Department of Justice

The Department of Justice (DOJ) charges a fee of \$38 to perform each criminal background check. Of this fee, \$22 is forward to the Federal Bureau of Investigation (FBI) for a check of federal databases, and the remaining \$16 is retained by DOJ. Of this \$16, \$14 goes to a check of NC databases and \$2 is used for the processing cost associated with the request. All individuals applying for a new license or for reinstatement of a license would be subject to this background check. The following table shows the information provided by the NC Marriage and Family Therapy Licensure Board on the projected number of applications for which this background check requirement would apply and the amount retained by DOJ as receipts for each year covered by this fiscal note:

Types of Applicability:	Individuals Projected FY 2009-10	Individuals Projected FY 2010-11	Individuals Projected FY 2011-12	Individuals Projected FY 2012-13	Individuals Projected FY 2013-14
Application as Marriage and Family Therapist (LMFT)	30	35	38	42	45
Application as Licensed Marriage and Family Therapist Associate (LMFTA)	66	70	70	75	75
Reinstatement of an Expired License	62	63	65	67	70
Total number of projected applicable background checks:	158	168	173	184	193
Total amount retained by DOJ as receipts (\$16 each background check):	\$2,528	\$2,688	\$2,768	\$2,944	\$3,088

The proposed bill gives the NC Marriage and Family Therapy Licensure Board the authorization to request background checks on licensees under investigation by the Board. The number of requests cannot be determined with the information provided, however, these additional background checks will result in an increase in receipts for DOJ. It is unclear if applicants seeking reciprocal licenses will be required to submit to background checks; any background check requested for this purpose will also result in an increase in DOJ receipts.

SOURCES OF DATA: NC Marriage and Family Therapy Licensure Board, Department of Justice

TECHNICAL CONSIDERATIONS: None

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DATE: June 12, 2009



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