

Title 40 - Professions and Occupations

CHAPTER 75.

PROFESSIONAL COUNSELORS, MARRIAGE & FAMILY THERAPISTS, & LICENSED PSYCHO-EDUCATIONAL SPECIALISTS

ARTICLE 1.

PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

SECTION 40-75-5. Application of Title 40, Chapter 1, Article 1.

Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to licensed professional counselors, marriage and family therapists, and psycho-educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

SECTION 40-75-10. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists; membership.

(A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists composed of nine members appointed by the Governor. Of the nine members, six must be professional members, one from each congressional district in the State. Of the professional members, three must be licensed professional counselors, one of whom must be a certified addictions counselor, and three must be marriage and family therapists. One member must be a psycho-educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The six professional members and the licensed psycho-educational specialist must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor and a marriage and family therapist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.

SECTION 40-75-20. Definitions.

As used in this article:

- (1) "Alcohol and drug counseling services" means those services offered for a fee as part of the treatment and rehabilitation of persons abusing or dependent upon or affected by alcohol or other drugs and of persons at risk of abusing alcohol or other drugs. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to confront and resolve problems caused by the abuse or dependence upon alcohol or drugs.
- (2) "Approved supervisor" means a licensee who has met the requirements for approval as a professional counselor supervisor or marriage and family therapy supervisor, as provided in regulation.
- (3) "Assessment" in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor's training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.
- (4) "Board" means the South Carolina Board of Licensed Professional Counselors and Marriage and Family Therapists.

(5) "Client" means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives in an office setting any treatment or service that falls within the scope of practice of a Licensed Professional Counselor or a Marriage and Family Therapist.

(6) "Consulting" means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

(7) "Director" means the Director of the Department of Labor, Licensing and Regulation.

(8) "Federally assisted program" means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

(9) "Intern" means an individual who has met the requirements for licensure as a professional counselor intern or a marriage and family therapy intern under this article and has been issued a license by the board.

(10) "License" means an authorization to practice counseling or marriage and family therapy issued by the board pursuant to this article and includes an authorization to practice as a professional counselor intern or marriage and family therapy intern.

(11) "Licensee" means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor intern or a marriage and family therapist or marriage and family therapy intern.

(12) "Licensed professional counselor" means an individual who practices professional counseling.

(13) "Marriage and family therapy" means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho-therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

(14) "Person" means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(15) "Practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

(16) "Practice of professional counseling" means functioning as a psycho-therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, chemical abuse or dependency counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

(17) "Referral" means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

(18) "Supervision" means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor.

SECTION 40-75-30. Licensure requirement.

(A) It is unlawful for a person to practice as a professional counselor or a marriage and family therapist as defined within this article in this State without being licensed in accordance with this article. A professional counselor intern may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy intern may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words "licensed marital and family therapist", "licensed marriage and family therapist", "marital and family therapist", "marriage and family therapist", or "marriage and family counselor" to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words "licensed professional counselor", "professional counselor", or "licensed counselor" without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person may not represent or advertise himself or herself as an addictions counselor without being certified by the South Carolina Association of Alcoholism and Drug Abuse Counselors Certification Commission or the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or comparable certification issued through an international Certification Reciprocity Consortium/Alcohol and Other Drug Abuse approved certification board or comparable certification issued through a certification board that has been approved by the South Carolina Association of Alcoholism and Drug Abuse Counselors Certification Commission.

(E) A licensed professional counselor or a licensed marital and family therapist may not use the title of "psycho-therapist".

SECTION 40-75-40. Nomination and appointment of board members; vacancies; replacements.

Board members from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45. In case of a vacancy on the board, the chair, with the consent of a majority of the sitting board members, may appoint a temporary replacement for the vacated seat. The replacement shall serve until the Governor appoints a replacement for the vacated seat and the appointee qualifies. In all cases, the replacement appointed must fill the same professional or consumer capacity as the predecessor in office held.

SECTION 40-75-50. Election of officers; establishment and duties of standards committees.

(A) In addition to the powers and duties enumerated in Section 40-1-50, the board shall, at the first board meeting in each calendar year elect from the professional membership a president, a vice president, and any other officer it considers necessary. Regular meetings must be held upon the call of the president or any two members of the board. A majority of the members of the board constitutes a quorum.

(B)(1) The board shall establish the following standards committees:

(a) A licensed professional counselor standards committee composed of a minimum of two professional board members who are licensed professional counselors, one of whom must be a certified addictions counselor, and one member from the general public. The committee shall review and recommend the standards for professional counselors to the board.

(b) A marriage and family therapy standards committee composed of a minimum of two professional board members who are licensed marriage and family therapists and a member from the general public. The committee shall review and recommend the standards for marriage and family therapists to the board.

(2) Each standards committee shall:

- (a) determine whether applicants meet the qualifications for licensure required by law;
- (b) prepare or select, administer, and arrange for the grading of the examination;
- (c) recommend to the board the issuance of a license to any qualified applicant who passes the examination designed to demonstrate professional competence;
- (d) provide for other necessary matters relating to licensure.

(3) The board by majority vote shall approve all recommendations and decisions of a standards committee prior to implementation. No decision of the board which may affect the licensure of professional counselors or marriage and family therapists may become effective without a majority vote of the board.

SECTION 40-75-60. Adoption of rules and regulations.

The board may adopt rules governing its proceedings and internal operations, and may promulgate regulations necessary to carry out the provisions of this chapter.

SECTION 40-75-70. Additional powers and duties.

In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40-1-70.

SECTION 40-75-80. Investigations; subpoena of witnesses, taking of evidence, and requiring production of documents.

For the purpose of conducting an investigation or proceeding under this chapter, the board or a person designated by the board may subpoena witnesses, take evidence, and require the production of any documents or records which the board considers relevant to the inquiry.

SECTION 40-75-90. Complaints against licensees; investigation and proceedings.

(A) The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing specifying the exact charge or charges and to be signed by the complainant. Upon receipt of a complaint, the board administrator shall refer the complaint to a designated investigator of the South Carolina Department of Labor, Licensing and Regulation, who shall investigate the allegations in the complaint and make a report to the board concerning the investigation. If the board desires to proceed further, it may file a formal accusation charging the licensee with a violation of this chapter or a regulation promulgated pursuant to this chapter. The accusation must be signed by the president or vice president on behalf of the board. When the accusation is filed and the board has set a date and a place for a hearing on the accusation, the administrator shall notify the accused in writing not less than thirty days prior to the hearing and a copy of the accusation must be attached to the notice. The notice must be served personally or sent to the accused by registered mail, return receipt requested, directed to the last mailing address furnished to the board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused, is prima facie evidence of service of the notice.

(B) The accused has the right to be present and present evidence and argument on all issues involved, to present and to cross-examine witnesses, and to be represented by counsel, at the accused's expense. For the purpose of these hearings, the board may require by subpoena the attendance of witnesses and the production of documents and other evidence and may administer oaths and hear testimony, either oral or documentary, for and against the accused. All investigations, inquiries, and proceedings undertaken under this chapter must be confidential, except as hereinafter provided.

(C) Every communication, whether oral or written, made by or on behalf of any complainant to the board or its agents or any member of the board, pursuant to this chapter, whether by way of complaint or testimony, is privileged and no action or proceeding, civil or criminal, may lie against any person by whom or on whose behalf the communication is made, except upon proof that the communication was made with malice.

(D) No person connected with any complaint, investigation, or other proceeding before the board, including, but not limited to, any witness, counsel, counsel's secretary, board member, board employee, court reporter, or investigator may mention the existence of the complaint, investigation, or other proceeding or disclose any information pertaining

to the complaint, investigation, or proceeding, except to persons involved and having a direct interest in the complaint, investigation, or other proceeding and then only to the extent necessary for the proper disposition of the complaint, investigation, or other proceeding. However, if the board receives information in any complaint, investigation, or other proceeding before it indicating a violation of a state or federal law, the board may provide that information, to the extent the board considers necessary, to the appropriate state or federal law enforcement agency or regulatory body. Nothing contained in this section may be construed so as to prevent the board from making public a copy of its final order in any proceeding, as authorized or required by law.

SECTION 40-75-100. Issuance of cease and desist orders or temporary restraining orders; injunction restraining conduct.

(A) In addition to other remedies provided for in this chapter or Chapter 1 of Title 40, the board in accordance with Section 40-1-100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter or a regulation promulgated under this chapter.

(B) If the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated under this chapter, it may, in addition to all other remedies, order the person to desist immediately and refrain from the conduct. The board may apply to an administrative law judge for an injunction restraining the person from the conduct. The judge may issue a temporary injunction ex parte not to exceed ten days and, upon notice and full hearing, may issue any other order in the matter it considers proper. No bond may be required of the board by the judge as a condition to the issuance of an injunction or order contemplated by the provisions of this section.

SECTION 40-75-110. Revocation, suspension, reprimand or restriction of licensee; grounds for discipline.

(A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

- (1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;
- (2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;
- (3) violated a regulation, directive, or order of the board;
- (4) knowingly performed an act which substantially assists a person to practice counseling or marriage and family therapy illegally;
- (5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;
- (6) failed to provide and maintain reasonable sanitary facilities;
- (7) sustained physical or mental impairment or disability which renders practice dangerous to the public;
- (8) violated the code of ethics adopted by the board in regulations;
- (9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;
- (10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling or marriage and family therapy;
- (11) been found by the board to lack the professional competence to practice;
- (12) practiced during the time his license has lapsed or been suspended or revoked;
- (13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation.

(B) In addition to other remedies and actions incorporated in this chapter, the license of a licensee adjudged mentally incompetent by a court of competent jurisdiction must be suspended automatically by the board until the licensee is adjudged competent by a court of competent jurisdiction.

SECTION 40-75-120. Sanctions.

Upon a determination by the board that one or more of the grounds for discipline of a licensee exists, as provided for in Section 40-75-110 or 40-1-110, the board may impose sanctions as provided in Section 40-1-120, including imposing a fine of not more than one thousand dollars for each violation.

SECTION 40-75-130. Denial of licensure.

As provided for in Section 40-1-130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

SECTION 40-75-140. Denial of license based on person's prior criminal record not permitted.

A license may not be denied based solely on a person's prior criminal record as provided for in Section 40-1-140.

SECTION 40-75-150. Voluntary surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40-1-150.

SECTION 40-75-160. Review of board's decision.

A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

SECTION 40-75-170. Payment of investigation and prosecution costs.

A person found in violation of this chapter or a regulation promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

SECTION 40-75-180. Collection and enforcement of imposed costs and fines.

All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

SECTION 40-75-190. Confidentiality of client communications; exceptions.

(A) No person licensed under this chapter, and no person's employees or associates, shall disclose any information which he or she may have acquired during the course of treatment, except in these instances:

(1) as mandated by Section 63-7-310, requiring certain professionals to report suspected child abuse and neglect and Section 43-35-85, requiring certain professionals to report suspected abuse, neglect, or exploitation of a vulnerable adult;

(2) to prevent a clear and immediate danger to a person or persons;

(3) if the licensee is a defendant in a civil, criminal, or disciplinary action arising from the course of treatment, in which case confidences may be disclosed only in the course of that action;

(4) if the client is a party in a criminal or civil proceeding, including a commitment proceeding;

(5) if a client introduces his mental condition as an element of a claim or defense;

(6) if there is a waiver of confidentiality previously obtained in writing, this information may be revealed only in accordance with the terms of the waiver. In circumstances where more than one person in a family receives treatment

conjointly, each family member who is legally competent to execute a waiver must agree to the waiver referred to in this item. Without a waiver from each family member legally competent to execute a waiver, no confidences may be disclosed.

(B) All communications between clients and their licensed professional counselor or marriage and family therapist are considered privileged as provided in Section 19-11-95, protecting confidences between patients of mental illness or emotional condition and licensees under this chapter, and as provided in Section 19-11-100, providing limited protection for persons engaged in the gathering of information for journalistic or literary purposes. Additionally, a licensed professional counselor or a licensed marital and family therapist must maintain privileged communications and patient confidentiality as required of psycho-therapists. All records of treatments maintained by a licensed professional counselor or marriage and family therapist are confidential and must not be disclosed except under the circumstances provided for in this subsection.

(C) A person licensed under this chapter must comply with all applicable state and federal confidentiality laws. A person licensed under this chapter who is employed by, or serves as part of a federally assisted program as defined in the Public Health Service Act, Title 42, Code of Federal Regulation, Part 2 may not release the identity of any person in alcohol or drug abuse treatment except as provided in the Public Health Service Act, Title 42, Code of Federal Regulation.

SECTION 40-75-200. Violations of chapter; punishment.

(A) A person who practices or offers to practice as a counselor or therapist in this State in violation of this chapter or a regulation promulgated under this chapter or who knowingly submits false information to the board for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(B) A person violating any other provision of this chapter or a regulation promulgated under this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

SECTION 40-75-210. Civil penalties; injunctive relief.

In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief in accordance with Section 40-1-210.

SECTION 40-75-220. Licensure as professional counselor or marriage and family therapist; requirements.

To be licensed by the board as a professional counselor or marriage and family therapist, an individual must:

- (1) pay the appropriate fees and pass an examination approved by the board;
- (2) complete forms prescribed by the board;
- (3) successfully complete a minimum of forty-eight graduate semester hours during a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation. All course work, including any additional core coursework, must be taken at a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or a regionally accredited institution of higher learning subsequent to receiving the graduate degree.

SECTION 40-75-230. Licensure as counselor supervisor or marriage and family therapist supervisor; requirements.

To be licensed as a counselor supervisor or marriage and family therapist supervisor, an individual must:

- (1) be licensed in South Carolina in the discipline for which the supervisor license is sought;
- (2) have been in the practice of counseling or marriage and family therapy for at least five years;
- (3) have met the additional requirements prescribed by the board in regulation.

SECTION 40-75-240. Intern licenses.

A professional counselor intern or marriage and family therapy intern license must be issued to an applicant who has satisfied the educational requirements, as specified by the board in regulation, for licensure but who has not yet completed the supervision or experience requirements and has passed the examination required for licensure. An intern who has not completed the requirements for licensure within two years may apply to the board for an extension.

SECTION 40-75-250. Issuance of license; display; renewal.

(A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor or a marriage and family therapist, or of an intern, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.

(B) A person licensed under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(D) A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

SECTION 40-75-260. State reciprocity agreements; licensure of applicants licensed in other jurisdictions or educated in foreign countries.

(A) The board may enter into a reciprocal agreement with any state that credentials professional counselors and marriage and family therapists if the board finds that the state has substantially the same or higher licensure requirements.

(B)(1) The board may license an individual who is currently credentialed or meets the requirements of a licensed professional counselor or a licensed marriage and family therapist in another jurisdiction of the United States if the individual has met the same or higher requirements.

(2) The board shall delineate in regulation procedures for verifying an applicant's credentials from another jurisdiction.

(3) The board may not license an applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter until the investigation is complete. When deciding a case, the board shall determine what, if any, rules or discipline apply.

(C) The board may grant a license to practice professional counseling or marriage and family therapy to an applicant who has completed an educational program in a college or university in a foreign country if the applicant:

(1) meets all requirements of this article; and

(2) demonstrates to the satisfaction of the board that the applicant's experience, command of the English language, and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States. If the requirements of this item are met, the applicant must be considered to have received the education from an accredited educational institution as required by this article.

SECTION 40-75-270. Statement of professional disclosure.

A licensee shall make available to each client a copy of a statement of professional disclosure. The statement of professional disclosure shall include the licensee's address and telephone number, fee schedule, educational training, and area of specialization. The professional disclosure statement shall also explicitly denote that sexual intimacy between a practitioner and a client is prohibited.

SECTION 40-75-280. Code of ethics; treatment for impaired practitioners; regulations.

The board may promulgate regulations setting forth a code of ethics for licensees and shall establish regulations pertaining to treatment for impaired practitioners.

SECTION 40-75-285. Application of article.

This article is for the regulation of the practice of licensed professional counselors and marriage and family therapists only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

SECTION 40-75-290. Persons not affected by article.

This article does not apply to:

- (1) salaried employees performing duties for which they were trained and hired solely within a federal, state, county, or local:
 - (a) governmental agency;
 - (b) licensed mental health or alcohol or drug abuse facility;
 - (c) accredited academic institutions;
 - (d) licensed, formally accredited nonprofit agencies; or
 - (e) research institutions.
- (2) persons pursuing a course of study in a regionally accredited educational or training facility as a formal part of a process to obtain a license associated with this article, if the services constitute a part of a supervised course of study;
- (3) nonresidents, appropriately licensed or credentialed in their home state, who offer services within this State, if these services are performed for no more than five days a month, and no more than thirty days in any calendar year;
- (4) volunteers accountable to a sponsoring agency;
- (5) qualified members of other professionals licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession if they do not represent themselves as being licensed pursuant to this article;
- (6) a minister, priest, rabbi, or clergy person of any religious denomination or sect, when the activities are within the scope of performance of his or her regular or specialized ministerial duties, and no fee is received by him or her; or when these activities are performed, with or without compensation, by a person under the auspices or sponsorship of an established church, denomination, or sect and when the person rendering services remains accountable to the established authority and does not hold himself or herself out to the public as possessing a license issued pursuant to this article;
- (7) members of peer groups or self-help groups when engaging in or offering self-help assistance as part of peer support groups or self-help organizations including, but not limited to, Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), AA or NA sponsorship, or other uncompensated alcohol or other drug abuse or dependent services;
- (8) a person who holds a certification as an addictions counselor from the South Carolina Association of Alcoholism and Drug Abuse Counselor Certification Commission, the National Association of Alcoholism and Drug Abuse Counselor Certification Commission, or an International Certification Reciprocity Consortium approved certification board may perform alcohol and drug abuse counseling services if that person works under the direct supervision of a behavioral health professional who is employed in a position that is directly or indirectly funded through the South Carolina Department of Alcohol and Other Drug Abuse Services or its local contract provider programs; and
- (9) a person who holds a certification as an addictions counselor from the South Carolina Association of Alcoholism and Drug Abuse Counselor Certification Commission, the National Association of Alcoholism and Drug Abuse Counselor

Certification, an International Certification Reciprocity Commission approved certification board, the American Academy of Health Care Providers in the Addictive Disorders, the National Board for Certified Counselors, Inc., or any other equivalent, nationally recognized, and South Carolina Department of Alcohol and Other Drug Abuse Services approved association or accrediting body that includes similar competency-based testing, supervision, education, and substantial experience may perform alcohol and drug abuse counseling services in a methadone treatment facility. Persons employed in a methadone treatment facility who lack credentialing may work under the supervision of a credentialed counselor if the person is also enrolled in, and progressing toward, a certification, as referenced in this item, and may not represent or advertise himself as a licensed professional counselor or a licensed marriage and family therapist.

SECTION 40-75-295. Third party payors not obligated to provide or pay for services under this chapter.

Nothing in this article may be construed to require a health maintenance organization, a self-funded plan, an accident and health insurer, or any other third party payor to provide services or to pay for services provided for in this chapter.

SECTION 40-75-300. Licensure for alcohol and drug counselors.

The board shall establish licensure for alcohol and drug counselors consistent with regulations promulgated by the department and the South Carolina Department of Alcohol and Other Drug Abuse Services.

SECTION 40-75-310. Severability.

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application and, to this end, the provisions of this chapter are severable.

ARTICLE 3. PSYCHO-EDUCATIONAL SPECIALISTS

SECTION 40-75-510. Board to administer provisions of article and issue licenses.

The Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists shall administer the provisions of this article and is the sole authority for issuing licenses pursuant to this article.

SECTION 40-75-520. Licensed psycho-educational specialist practice; description.

(A) The practice of a licensed psycho-educational specialist is the utilization of a unique blend of training, incorporating skills and knowledge of psychology and education, to provide services addressing the educational, personal, and social needs of children and adolescents through assessment, intervention, consultation, counseling, information and referral, planning, training, and supervision in return for compensation. The practice of a licensed psycho-educational specialist includes:

- (1) conducting psycho-educational assessments of individual needs using formal and informal psycho-educational measurement techniques including standardized measures of intelligence, aptitude, achievement, skills, development, personality traits, personal and social adjustment, interests, functional assessment, direct observation, interviews with parents, teachers, and other professionals, family histories, ecological data, criterion referenced measures, and curriculum-based assessment;
- (2) interpreting assessment data and design and, when appropriate, providing interventions as indicated by the information;
- (3) participating in instructional support and intervention teams;
- (4) providing group and individual educational counseling for problems of learning, school adjustment, and academic performance;
- (5) evaluating information and determining the need for referral to appropriate specialists and supportive services;

(6) providing consultation to clients, parents, teachers, school administrators, school systems, and professional colleagues;

(7) assisting in designing, planning, and developing instructional programs and curriculum;

(8) supervising the work of other licensed psycho-educational specialists.

(B) Whenever important aspects of a case fall outside the licensed psycho-educational specialist's competence, the specialist must obtain appropriate consultations and referrals. A licensed psycho-educational specialist must not attempt to diagnose, prescribe for, treat, or advise a client with reference to a complaint which is outside the scope of practice as provided for in this article.

(C) A licensed psycho-educational specialist employed by a school district may provide private sector services to students living within that district if the:

(1) parent, guardian, surrogate, or adult client is informed in writing, before services are provided, of the individual's eligibility for free services of the same kind from the school district;

(2) client is not a student assigned to any school to which the licensed psycho-educational specialist is assigned;

(3) parent, guardian, surrogate, or adult client is informed that the licensed psycho-educational specialist may not function as an independent evaluator;

(4) licensed psycho-educational specialist does not provide private sector services during hours of contracted employment with a school district;

(5) licensed psycho-educational specialist does not use his or her position within a school district to offer or promote private sector services;

(6) licensed psycho-educational specialist does not utilize tests, materials, or services belonging to the school district in providing private sector services.

(D) School districts employing licensed psycho-educational specialists on a contractual basis during the school year may require, upon contract renewal, notification of intent to perform psycho-educational services in the private sector.

(E) Persons whose practice is covered in this section shall use the title "Licensed Psycho-educational Specialist" in any advertisement, solicitation, or other written contract with members of the public. The term "South Carolina Department of Education Certified in School Psychology", along with the certificate number, must be used only in conjunction with the title "Licensed Psycho-educational Specialist", and only on letterhead, on business cards, and as a signature line in reports written for South Carolina Department of Education schools or private schools.

SECTION 40-75-530. Application procedures; qualifications.

An applicant for licensure shall complete procedures for application as prescribed by the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists. An applicant must furnish the board with satisfactory evidence that the applicant:

(1) holds from a regionally accredited institution of higher education whose program is approved by the National Association of School Psychologists or the American Psychological Association or from a degree program which the board finds to be substantially equivalent based on criteria established by the board in regulation:

(a) a master's degree plus thirty hours;

(b) a sixty hour master's degree;

(c) a specialist's degree, which must require sixty semester hours or ninety quarter hours; or

(d) a doctorate in school psychology;

(2) is certified by the South Carolina Department of Education as a school psychologist level II or III;

(3) has served successfully for at least two years as a certified school psychologist in a school psychology or comparable setting, at least one year of which must have been under the supervision of a licensed psycho-educational specialist;

(4) has made a satisfactory score, as prescribed by the board, on the Educational Training Service's School Psychology Examination.

SECTION 40-75-540. Regulations for continuing education; license renewal.

The board shall promulgate regulations in accordance with Chapter 23, Title 1 (Administrative Procedures Act) establishing requirements for continuing education which must be met by a person licensed as a licensed psycho-educational specialist. An applicant for license renewal shall present evidence satisfactory to the board that continuing education requirements have been met.

SECTION 40-75-550. Issuance of license to person furnishing satisfactory evidence to licensure board in another state.

Upon application, accompanied by the required fee, the board may issue a license to a person who has furnished evidence satisfactory to the board of licensure in another state, a territorial possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico, if the requirements for licensure are equivalent to the requirements of this article, pursuant to the determination of the board.

SECTION 40-75-560. Use of Licensed Psycho-educational Specialist title.

(A) A person licensed pursuant to this article may use the title "Licensed Psycho-educational Specialist" and the letters "LPES" following his or her name.

(B) It is unlawful for a person who is not licensed in accordance with this article to use the title "Licensed Psycho-educational Specialist".

(C) A licensee shall display his or her license in a prominent place at each place of practice.

SECTION 40-75-570. Credential lines to be used for work done for school district or private school.

Notwithstanding the provisions of Chapter 55, Title 40, additional credential lines must be used to indicate legitimate qualifications of the licensee whenever the work being done is for use by a school district or private school. Credential lines shall follow the typed or printed name of the licensee. For South Carolina Department of Education school psychologists, level II, the credential line shall read "Licensed Psycho-educational Specialist, Certified by South Carolina Department of Education in School Psychology, Certification No. _____"; For Department of Education school psychologists, level III, the credential line shall read "Licensed School Psychologist, Certified by South Carolina Department of Education in School Psychology, Certification No. _____"; however, to use this credential line a level III school psychologist must be licensed by the South Carolina Board of Examiners in Psychology.

SECTION 40-75-580. Application of Article 1.

The provisions of Article 1 pertaining to the administrative responsibilities of licensure and regulatory requirements applicable to professional counselors and marriage and family therapists that are not inconsistent with this article also pertain to the licensure and regulation of licensed psycho-educational specialists.

SECTION 40-75-590. Code of ethics regulations.

The board shall promulgate regulations necessary to carry out the provisions of this article including a code of ethics for licensed psycho-educational specialists using as resources the code of ethics of the National Association of School Psychologists and other relevant organizations.

SECTION 40-75-600. Payment of benefits from state insurance plans and claims against third party payers prohibited.

Nothing in this article may be construed to create a right in a psycho-educational specialist to:

- (1) have paid to a licensed psycho-educational specialist a benefit under:
 - (a) a self-funded plan providing benefits to residents of this State;
 - (b) accident and health insurance provided to residents of this State;
 - (c) a plan of operation established by a health maintenance organization licensed in this State; or
- (2) have a claim against a third party payer, however situated.