



HOUSE BILL 728: Amend Various Licensing Board Laws/Fees.

2016-2017 General Assembly

Committee: House Finance
Introduced by:
Analysis of: Third Edition

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SUMMARY: *The Proposed Committee Substitute (PCS) to House Bill 728 would make various changes to several occupational licensing boards' statutes and fees.*

CURRENT LAW AND BILL ANALYSIS:

Section 1.(a) would increase the amount of time from 120 days to 180 days after employment for a chiropractic clinical assistant to obtain a certificate of competency from the State Board of Chiropractic Examiners (Board). A chiropractic clinical assistant is a nonlicensed employee of a chiropractic physician whose duties include (i) collecting general health data, such as the taking of an oral history or vital sign measurements, (ii) applying therapeutic procedures, such as thermal, sound, light and electrical modalities, and hydrotherapy, and (iii) monitoring prescribed rehabilitative activities. Chiropractic clinical assistants may not provide chiropractic adjustments, manual therapy, nutritional instruction, counseling, or any other therapeutic service that requires individual licensure.

Section 1.(b) would make a technical change.

Section 1.(c) would increase the maximum allowable fee from \$150 to \$300 that the Board may set as the annual renewal fee for a license to practice chiropractic in North Carolina.

Section 2.(a) would limit the terms of the terms of a Medical Board member to two complete three-year terms in a lifetime.

Section 2.(b) would amend the qualifications for a physician, physician assistant, or nurse practitioner to add the requirement that the individual must not have served more than 72 months as a member of the Board.

Section 2.(c) is a technical change to capitalize "Review Panel."

Section 2.(d) would add new language to the law pertaining to recommending Board members to: (i) allow the Board to provide confidential and nonpublic licensing and investigative information to the Review Panel; (ii) to specify that all applications, records, papers, files, reports, investigative and licensing information received by the Review Panel as a result of soliciting, receiving and reviewing applications and making recommendations will not be considered public records; and (iii) to provide that the Review Panel is a public body within the meaning of Article 33C, Chapter 143, which establishes the policy of the state to conduct open hearings, deliberations, and actions, but specifies that the Review Panel will meet in closed session to review applications; interview applicants; review and discuss information; and to discuss, debate, and vote on recommendations from the Governor. The Review Panel would be required to publish on its Internet Web site the names and practice addresses of all applicants within 10 days after the application deadline and to publish the names and practice address of

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nominees recommended to the Governor within 10 days and not less than 30 days prior to the expiration of the open position on the Board.

Section 2.(e) would amend the law on the Board's requirement to collect and publish data by removing the requirement to report fax numbers, but does continue to require a current, active email address, which is considered a public record, and may be used or made available by the Board for the purpose of disseminating or soliciting information affecting public health or the practice of medicine.

Section 2.(f) would remove a reference to making fax numbers available.

Section 2.(g) would amend the law to specify that the Board must not deny an application for licensure based solely on the applicant's failure to become board certified.

Section 2.(h) would increase from \$350 to \$400, the application fee payable to the NC Medical Board for each applicant for a license to practice medicine and surgery in the State.

Section 2.(i) would increase from \$175 to \$250, the annual registration fee for every person licensed to practice medicine by the Board, except those who have a limited license to practice in a medical education and training program shall pay \$125, and those who have a retired limited volunteer license pay no annual registration fee. This section also removes duplicate language contained in two subsections. A subsection is added to provide that the Board must not deny a licensee's annual registration based solely on the licensee's failure to become board certified.

Section 2.(j) would amend the law on disciplinary authority of the Board to provide that if the licensee has retained counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, appear, submit to assessment or examination or orders following a hearing or provide notice that the Board will not be taking further action against a licensee.

Section 2.(k) would amend the law on disciplinary action pertaining to the written notice indicating charges made against the licensee to add a requirement that once charges have been issued, the parties may engage in discovery as provided in G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, the Board must provide the respondent or respondent's counsel with information obtained during an investigation, except for the following:

- 1) Information that is subject to attorney client privilege or is attorney work product.
- 2) Information that would identify an anonymous complainant.
- 3) Information generated during an investigation that will not be offered into evidence by the Board and is related to: (i) advice, opinions, or recommendation of the Board staff, consultants, or agents; or (ii) deliberations by the Board and its committees during an investigation.

Section 2.(l) would amend the reporting requirements of disciplinary action by health care institutions to eliminate the requirement that hospitals report suspensions for delinquent medical records.

Section 2.(m) would rename Article 1D, "Health Program for Medical Professionals."

Section 2.(n) would amend the peer review agreement to provide that the Medical Board (Board) may enter into agreements with the NC Medical Society (Society), the NC Academy of Physician Assistants (Academy) and the NC Physicians Health Program (Program) to identify, review, and evaluate licensees of the Board, who have been referred to the Program, with regard to their ability to function in their professional capacity and to coordinate regimens for treatment and rehabilitation. The agreement must include guidelines for all items outlined below:

- 1) The assessment, referral, monitoring, support, and education of licensees of the Board by reason of a physical or mental illness, a substance use disorder, or professional sexual misconduct.
- 2) Procedures for the Board to refer licensees to the Program.
- 3) Criteria for the Program to report licensees to the Board.

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- 4) A procedure by which licensees may obtain review of recommendations by the Program regarding assessment or treatment.
- 5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy.
- 6) Maintaining the confidentiality of nonpublic information.

The Program is described as an independent organization for medical professionals that provides screening, referral, monitoring, education, and support services. The Board, Society, and the Academy may provide funds for administration of the Program.

The Program is required to report immediately to the Board detailed information about any licensee of the Board who meets any of the following criteria:

- 1) The licensee constitutes an imminent danger to patient care.
- 2) The licensee refuses to submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with terms of the contract, or continues to be unsafe to practice medicine after treatment.

Any information acquired, created, or used in good faith by the Program under this health program is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release. No person participating in good faith in the Program can be required to disclose participation in a civil case. Activities conducted in good faith regarding to the agreements are not grounds for civil action.

Upon written request of a licensee, the Program must provide the licensee and the licensee's legal counsel with a copy of a written assessment of the licensee. The licensee is also entitled to a copy of any written assessment created by a treatment provider or facility at the recommendation of the Program, to the extent permitted by State and federal laws and regulations. Such information is limited in its use and availability.

The Board would be granted authority to adopt, amend, or repeal rules to enforce the provisions above.

Section 2.(o) would repeal the requirement that the Board provide the licensee or applicant access to all information in its possession that the Board intends to offer into evidence in presenting its case at the contested hearing.

Section 3 would create a new apprenticeship requirement option for opticians and a six-month intern requirement for licensure, and would lower apprenticeship requirements for licensure from 3.5 to 2.5 years. This section would also increase all of the Board's fees and create four new fees: registration of an optician in charge, late fee for restoration of an expired license within the first year after expiration, late fee for restoration of an expired license within the second year after expiration, and restoration fee for an inactive license within the second year. This section would also grant the State Board of Opticians with the authority to adopt rules concerning designation of accredited colleges, universities, and coursework that satisfy the qualifications for examination.

Section 4 would increase the Real Estate Commission's application fee for new licensees from \$30 to \$100, and would allow the Commission to increase the application fee from \$100.00 to \$120.00 by rule, but may not increase the application fee by more than \$5.00 during a 12-month period. This section would also increase the board's license renewal fee from \$30.00 to \$45.00, and allow the Commission to increase the renewal fee from \$45.00 to \$60.00 by rule, but may not increase the application fee by more than \$5.00 during a 12-month period.

This section would become effective July 1, 2017.

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EFFECTIVE DATE: Except as otherwise provided, this act becomes effective October 1, 2016.

Amy Jo Johnson, Trina Griffin, and Theresa Matula, Legislative Staff, substantially contributed to this summary.