

ASSEMBLY, No. 865

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen MALONE and DORIA

1 AN ACT to license learning consultants, amending P.L.1974, c.46 and
2 P.L.1978, c.73 and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) This act shall be known and may be cited as the
8 "Learning Consultants Licensing Act."

9
10 2. (New section) The practice of learning consulting in the State
11 of New Jersey is determined to affect the public safety and welfare,
12 and to be subject to regulation and control in the public interest in
13 order to protect the public by setting standards of qualification,
14 education, training, and experience for those persons seeking to
15 practice and be licensed as learning consultants, and by promoting high
16 standards of professional performance for those presently practicing
17 as learning consultants, and for those who will be licensed to practice
18 learning consulting in this State.

19
20 3. (New section) As used in this act:

21 "Board" means the State Board of Learning Consultants,
22 established under section 6 of this act.

23 "Director" means the Director of the Division of Consumer Affairs
24 in the Department of Law and Public Safety.

25 "Licensed learning consultant" means an individual who represents
26 himself to the public as providing services for a fee or other personal
27 gain, by use of any title or description of services incorporating the
28 words "licensed learning consultant" or any similar term, and implying
29 that he is licensed and trained, experienced or expert in educational
30 remediation, educational consultation or educational assessment, and
31 who holds a license to practice these services under this act, which
32 license is in force and not suspended or revoked as of the particular

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 time in question.

2 "Merits the public trust" means having general acceptance by
3 professional peers, and community acceptance as a professional, and
4 having demonstrated the degree of objectivity, sensitivity and
5 professional deportment necessary for professional responsibility and
6 practice, as determined by the board pursuant to standards contained
7 in its rules and regulations.

8 "Practice of learning consulting" means the rendering of
9 professional learning consultant services to individuals, groups,
10 organizations, corporations, institutions, government agencies or the
11 general public for a fee or other personal gain involving the application
12 of consulting procedures, which include, but are not limited to:
13 assessing and analyzing an individual's learning characteristics with
14 assessment instruments designed for that purpose, designing and
15 implementing instructional strategies, planning educational programs,
16 participating on multi-disciplinary teams, acting as an educational
17 consultant to teachers, parents and other relevant professionals,
18 providing and disseminating information to parents and professionals,
19 and conducting social skills learning groups for children who have
20 learning disabilities or social skills deficits.

21

22 4. (New section) a. No person shall engage in the practice of
23 learning consulting as a licensed learning consultant or present, call or
24 represent himself as a licensed learning consultant unless licensed
25 under this act.

26 b. No person shall assume, represent himself as, or use the title or
27 designation "learning consultant," "learning specialist," "educational
28 consultant," or any other title or designation which includes the words
29 "learning consultant," "learning specialist," or "educational consultant"
30 unless licensed under this act.

31

32 5. (New section) The provisions of this act shall not apply to the
33 following persons:

34 a. A person authorized by the laws of this State to practice
35 psychology, speech pathology and audiology or any other profession
36 licensed by the State, when acting within the scope of the person's
37 profession or occupation and doing work of an educational nature
38 consistent with the person's training, if the person does not hold
39 himself out to the public as possessing a license issued pursuant to this
40 act;

41 b. A student enrolled in an educational program which is
42 recognized by the State Department of Education or by any
43 accrediting body deemed acceptable to the board, if the student is
44 preparing for the practice of learning consulting under a supervised
45 course of study and is clearly designated by the title "learning
46 consultant intern";

1 c. A primary, middle or secondary school employee certified as a
2 learning disabilities teacher consultant by the State Department of
3 Education, but only in the course of this employment and only when
4 that primary, middle or secondary school requires its school learning
5 consultants to be so certified;

6 d. An employee of an accredited academic institution of higher
7 education, or a federal, State, county or municipal governmental
8 institution or agency, or a research facility, but only in the course of
9 his employment for any such entity;

10 e. An employee of a public or private nonprofit organization, but
11 only in the course of his employment and only under the direct
12 supervision, in accordance with standards determined by the board, of
13 a licensed learning consultant; and

14 f. A person engaged in the practice of learning consulting for a
15 period not exceeding one year, if he has a temporary permit which the
16 board may issue upon the filing of an application for licensing. A
17 permit may be granted to an applicant who furnishes satisfactory
18 evidence to the board that he meets the qualifications set forth in
19 subsections a., b., c., d. and e. of section 12 of this act. The board
20 may waive these requirements under what it determines are unusual
21 circumstances. The board may renew the permit for one additional
22 year, except that it may permit additional renewals under what it
23 deems are exceptional circumstances.

24

25 6. (New section) a. There is created in the Division of Consumer
26 Affairs in the Department of Law and Public Safety the State Board of
27 Learning Consultants. The board shall consist of seven members who
28 shall be appointed by the Governor as follows: four members shall be
29 practicing licensed learning consultants, two from the public sector
30 and two from the private sector; two members shall be representatives
31 from the Higher Education Council for Learning Disabilities; and one
32 member shall be a representative from the Board of the New Jersey
33 Association of Learning Consultants.

34 b. In order to be eligible to serve as a member of the board, an
35 individual shall meet the following qualifications:

36 (1) Be a resident of or employed in this State;

37 (2) Be a member of or have professional standing equivalent to that
38 required for classification as a member of the Association of Learning
39 Consultants; and

40 (3) For at least the five years immediately prior to appointment to
41 the board, be actively engaged as a learning consultant in one or more
42 phases or branches of learning consulting, including full-time
43 involvement in this activity in this State during the two-year period
44 preceding the appointment to the board.

45 c. The board shall annually elect from its members a chairperson
46 and a vice-chairperson.

1 7. (New section) The members of the board shall be appointed for
2 terms of three years, except that the terms of the first seven members
3 of the board shall be as follows: three members for a term of three
4 years, three members for a term of two years, and one member for a
5 term of one year. Vacancies shall be filled for the unexpired term in
6 the manner provided by the original appointment. The Governor may
7 remove any member of the board for cause, upon notice and
8 opportunity to be heard.

9 The first appointees shall be deemed to be and shall become
10 licensed learning consultants immediately upon their appointment and
11 qualification as members of the board.

12

13 8. (New section) The members of the board, before entering the
14 discharge of their activities, and within 30 days of their appointment,
15 shall take and subscribe to an oath before an officer authorized to
16 administer oaths in this State for the faithful performance of their
17 duties and shall file the oath with the Secretary of State.

18 Regular meetings of the board shall be held at least once during
19 each quarter of the year and special meetings may be held upon the call
20 of the chairperson or at the written request of any two members of the
21 board and four members of the board shall constitute a quorum.

22

23 9. (New section) The board shall have the following duties:

24 a. Adopt a seal to authenticate its records and proceedings;

25 b. Take disciplinary action, in accordance with P.L.1978, c.73
26 (C.45:1-14 et seq.), against any licensed learning consultant who
27 violates the provisions of this act or any regulation promulgated
28 thereunder;

29 c. Adopt rules and regulations pursuant to the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem
31 necessary to administer the provisions of this act;

32 d. Prescribe rules pertaining to types and methods of examinations
33 of applicants for licensure;

34 e. Examine and pass on the qualifications of applicants for
35 licensure under this act, and issue a license to each qualified and
36 successful applicant, attesting to his professional qualification to
37 practice as a licensed learning consultant;

38 f. Conduct a review and examination of, ascertain the qualifications
39 and fitness of, and pass upon the proficiency of applicants petitioning
40 for licensure under section 12 of this act;

41 g. Keep records of its proceedings and a register of all persons to
42 whom licenses have been granted, and a record of all license renewals,
43 suspensions and revocations;

44 h. Maintain records of expenses incurred by members of the board
45 in the performance of their duties;

46 i. To set standards for and approve continuing education programs;

1 and

2 j. Prescribe or change the charges for examinations, licensures,
3 renewals and other services performed pursuant to P.L.1974, c.46
4 (C.45:1-3.1 et seq.).

5

6 10. (New section) The members of the board shall serve without
7 compensation. Members shall be reimbursed by the State Treasurer
8 for their actual expenses arising out of their service on the board. All
9 reimbursements shall be paid from the revenues of the board.

10

11 11. (New section) The director shall be empowered within the
12 limits of available funds to hire any assistants as are necessary to
13 administer this act.

14

15 12. (New section) The board shall issue a license as a "licensed
16 learning consultant" to an applicant who furnishes satisfactory
17 evidence to the board that the applicant:

18 a. Has had three years of successful teaching experience;

19 b. Possesses a master's degree from an accredited college;

20 c. Has completed a graduate program for the preparation of
21 learning disabilities teacher-consultants approved by the State
22 Department of Education;

23 d. Merits the public trust;

24 e. Has had the equivalent of two years supervised learning
25 consulting experience in a professional learning consulting setting
26 acceptable to the board; and

27 f. Has demonstrated professional competence in learning consulting
28 by passing an examination, including written, oral, or situational
29 aspects, or any combination thereof, and including questions involving
30 theoretical and applied fields, as shall be approved and required by the
31 board, and which shall be administered at least once each year.

32

33 13. (New section) For 18 months following the effective date of
34 this act, any person who meets the qualifications set forth in
35 subsections a., b., c., d. and e. of section 12 of this act may acquire a
36 license as a licensed learning consultant without sitting for a board
37 approved examination.

38

39 14. (New section) All applicants for licensure or renewals for
40 licensure under this act shall pay a fee for the issuance or renewal.
41 Fees shall be determined by the board. The revenue generated from
42 these fees shall not exceed the operating costs incurred by the board
43 under this act.

44

45 15. (New section) In addition to any other requirements for
46 licensure at the time of renewal, an applicant shall:

1 a. Execute and submit a sworn statement made on a form provided
2 by the board that the license for which renewal is sought has not been
3 revoked, suspended or not renewed by the board; and

4 b. Comply with all continuing education requirements required by
5 regulations adopted by the board.

6
7 16. (New section) The board may grant a license to any person
8 who at the time of application is licensed or certified by an agency
9 located in another state, territory or jurisdiction, if in the opinion of
10 the board the requirements of that certification or licensure are
11 substantially similar to the educational and experiential requirements
12 of this act.

13
14 17. (New section) A learning consultant licensed pursuant to the
15 provisions of this act shall not be required to disclose any confidential
16 information that the learning consultant may have acquired from a
17 client while performing services for that client unless:

18 a. Disclosure is required by other law of this State ;

19 b. Failure to disclose the information presents a clear and present
20 danger to the health or safety of an individual;

21 c. The learning consultant is a party defendant to a civil, criminal
22 or disciplinary action arising from the services provided, in which case
23 a waiver of the privilege accorded by this section shall be limited to
24 that action;

25 d. The client is a defendant in a criminal proceeding and the use of
26 the privilege would violate the defendant's right to a compulsory
27 process or the right to present testimony and witnesses on that
28 person's behalf; or

29 e. A client agrees to waive the privilege accorded by this section,
30 and, in circumstances where more than one person in a family is
31 receiving services, each such member agrees to the waiver. Absent a
32 waiver from each family member, a learning consultant shall not
33 disclose any information received from any family member.

34
35 18. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as
36 follows:

37 1. The provisions of this act shall apply to the following boards and
38 commissions: the New Jersey State Board of Accountancy, the New
39 Jersey State Board of Architects, the New Jersey State Board of
40 Cosmetology and Hairstyling, the Board of Examiners of Electrical
41 Contractors, the New Jersey State Board of Dentistry, the State Board
42 of Mortuary Science of New Jersey, the State Board of Professional
43 Engineers and Land Surveyors, the State Board of Marriage Counselor
44 Examiners, the State Board of Medical Examiners, the New Jersey
45 Board of Nursing, the New Jersey State Board of Optometrists, the
46 State Board of Examiners of Ophthalmic Dispensers and Ophthalmic

1 Technicians, the Board of Pharmacy, the State Board of Professional
2 Planners, the State Board of Psychological Examiners, the State
3 Board of Examiners of Master Plumbers, the State Board of Shorthand
4 Reporting, the State Board of Veterinary Medical Examiners, the
5 Radiologic Technology Board of Examiners, the Acupuncture
6 Examining Board, the State Board of Chiropractic Examiners, the
7 State Board of Respiratory Care, the State Real Estate Appraiser
8 Board, [and] the State Board of Social Work Examiners and the State
9 Board of Learning Consultants.

10 (cf: P.L.1991, c.134, s.17)

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12 19. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as
13 follows:

14 2. The provisions of this act shall apply to the following boards and
15 all professions or occupations regulated by or through such boards:
16 the New Jersey State Board of Accountancy, the New Jersey State
17 Board of Architects, the New Jersey State Board of Cosmetology and
18 Hairstyling, the Board of Examiners of Electrical Contractors, the
19 New Jersey State Board of Dentistry, the State Board of Mortuary
20 Science of New Jersey, the State Board of Professional Engineers and
21 Land Surveyors, the State Board of Marriage Counselor Examiners,
22 the State Board of Medical Examiners, the New Jersey Board of
23 Nursing, the New Jersey State Board of Optometrists, the State Board
24 of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
25 the Board of Pharmacy, the State Board of Professional Planners, the
26 State Board of Psychological Examiners, the State Board of Examiners
27 of Master Plumbers, the State Board of Shorthand Reporting, the
28 State Board of Veterinary Medical Examiners, the Acupuncture
29 Examining Board, the State Board of Chiropractic Examiners, the
30 State Board of Respiratory Care, the State Real Estate Appraiser
31 Board, [and] the State Board of Social Work Examiners and the State
32 Board of Learning Consultants.

33 (cf: P.L.1991, c.134, s.14)

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35 20. This act shall take effect immediately but shall not be operative
36 until the 180th day after enactment.

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STATEMENT

40

41 This bill creates the State Board of Learning Consultants in the
42 Division of Consumer Affairs in the Department of Law and Public
43 Safety. The board shall consist of seven members who shall be
44 appointed by the Governor. Four board members shall be practicing
45 licensed learning consultants, two from the public sector and two from
46 the private sector; two board members shall be representatives from

1 the Higher Education Council for Learning Disabilities; and one board
2 member shall be a representative from the Board of the New Jersey
3 Association of Learning Consultants.

4 The bill provides for the regulation and licensing of learning
5 consultants, establishing requirements and standards for licensing and
6 administrative procedures. The bill establishes the definition of
7 "practice of learning consulting," which means the rendering of
8 professional learning consultant services to individuals, groups,
9 organizations, corporations, institutions, government agencies or the
10 general public for a fee or other personal gain involving the application
11 of consulting procedures, which include, but are not limited to:
12 assessing and analyzing an individual's learning characteristics with
13 assessment instruments designed for that purpose, designing and
14 implementing instructional strategies, planning educational programs,
15 participating on multi-disciplinary teams, acting as an educational
16 consultant to teachers, parents and other relevant professionals,
17 providing and disseminating information to parents and professionals,
18 and conducting social skills learning groups for children who have
19 learning disabilities or social skills deficits.

20 This bill also establishes fees for those licensed under this bill and
21 incorporates the terms of the law on fees of professional boards,
22 P.L.1974, c.46 (C.45:1-3.1 et seq.), and the uniform enforcement and
23 procedure act, P.L.1978, c.73 (C.45:1-14 et seq.), for enforcement of
24 standards and punishment of violations. Furthermore, certain
25 counseling professions and other consulting activities are exempted
26 from the board's regulation.

27 In addition, the bill provides that the board shall have the following
28 duties:

- 29 a. Adopt a seal to authenticate its records and proceedings;
- 30 b. Take disciplinary action, in accordance with P.L.1978, c.73
31 (C.45:1-14 et seq.), against any licensed learning consultant who
32 violates the provisions of this act or any regulation promulgated
33 thereunder;
- 34 c. Adopt rules and regulations pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem
36 necessary to administer the provisions of this act;
- 37 d. Prescribe rules pertaining to types and methods of examinations
38 of applicants for licensure;
- 39 e. Examine and pass on the qualifications of applicants for
40 licensure under this act, and issue a license to each qualified and
41 successful applicant, attesting to his professional qualification to
42 practice as a licensed learning consultant;
- 43 f. Conduct a review and examination of, ascertain the qualifications
44 and fitness of, and pass upon the proficiency of applicants petitioning
45 for licensure;
- 46 g. Keep records of its proceedings and a register of all persons to

1 whom licenses have been granted, and a record of all license renewals,
2 suspensions and revocations;

3 h. Maintain records of expenses incurred by members of the board
4 in the performance of their duties;

5 i. To set standards for and approve continuing education programs;
6 and

7 j. Prescribe or change the charges for examinations, licensures,
8 renewals and other services performed pursuant to P.L.1974, c.46
9 (C.45:1-3.1 et seq.).

10 To be eligible for licensure as a licensed learning consultant, an
11 applicant must furnish satisfactory evidence to the board that the
12 applicant meets the following qualifications:

13 a. Has had three years of successful teaching experience;

14 b. Possesses a master's degree from an accredited college;

15 c. Has completed a graduate program for the preparation of
16 learning disabilities teacher-consultants approved by the State
17 Department of Education;

18 d. Merits the public trust;

19 e. Has had the equivalent of two years supervised learning
20 consulting experience in a professional learning consulting setting
21 acceptable to the board; and

22 f. Has demonstrated professional competence in learning consulting
23 by passing an examination, including written, oral, or situational
24 aspects, or any combination thereof, and including questions involving
25 theoretical and applied fields, as shall be approved and required by the
26 board, and which shall be administered at least once each year.

27 For 18 months following the effective date of this act, the bill
28 provides that any person who meets the aforementioned qualifications
29 may acquire a license as a licensed learning consultant without sitting
30 for a board approved examination. Similarly, the bill permits the board
31 to grant a license to any person who at the time of application is
32 licensed or certified by an agency located in another state, territory or
33 jurisdiction, if in the opinion of the board the requirements of that
34 certification or licensure are substantially similar to the educational
35 and experiential requirements contained in this bill.

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40 "Learning Consultants Licensing Act"