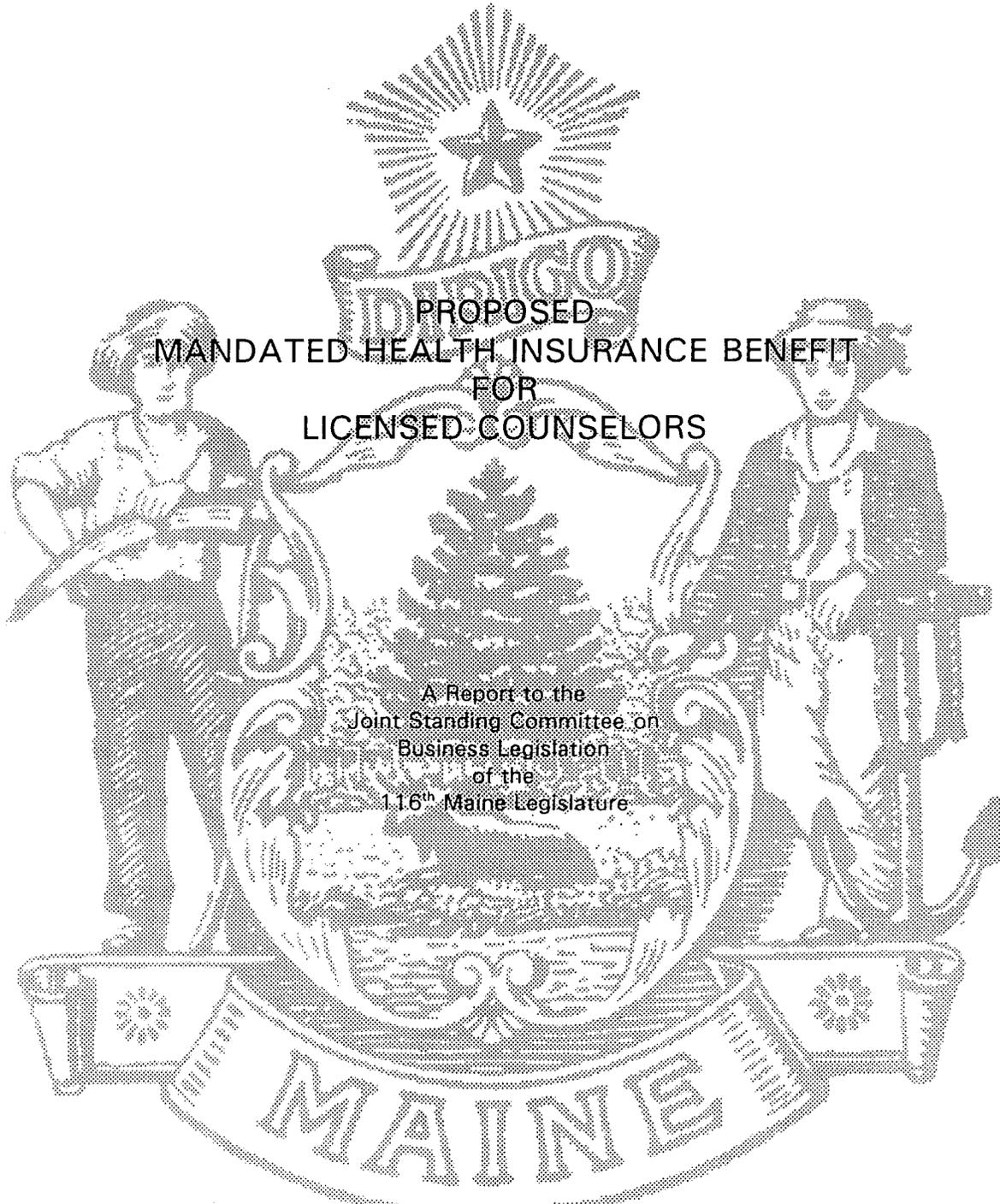


MAINE STATE LEGISLATURE

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The seal of the State of Maine is the background for the text. It features a central shield with a pine tree, flanked by two female figures representing Liberty and Justice. Above the shield is a crest with a star and a banner that reads "MAINE". Below the shield is a ribbon with the word "MAINE".

PROPOSED
MANDATED HEALTH INSURANCE BENEFIT
FOR
LICENSED COUNSELORS

A Report to the
Joint Standing Committee on
Business Legislation
of the
116th Maine Legislature

Prepared by the
Bureau of Insurance
January, 1994

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EXECUTIVE SUMMARY

The Joint Standing Committee on Business Legislation of the 116th Maine Legislature in May, 1993, directed the Bureau of Insurance to review LD 1070. The review was to be conducted using the criteria outlined in 24-A M.R.S.A. § 2752 regarding the social and financial impact of the proposed mandate, and the medical efficacy of the procedure covered under the proposal.

Because the proposed mandate would be limited to including coverage for certain licensed professionals under the current mandate, the questions of coverage for other professionals and expansion of the mandate to include individual policies were not addressed in this study.

There is general agreement that counseling is an effective form of treatment, but there is no definitive study to document the efficacy of the various types of counseling providers. If the proposed mandate is enacted, utilization of services would probably increase; Blue Cross Blue Shield of Maine estimates the monthly cost per individual contract under a group plan would increase by \$.60 to \$.80.

The proposed mandate does not provide any expansion of coverage, either by covering services not previously covered or by providing access to services in areas where those services are not currently provided. For those persons who already have coverage, the proposed mandate would give them a wider range of provider choices.



BACKGROUND

The Joint Standing Committee on Business Legislation of the 116th Maine Legislature in May, 1993, directed the Bureau of Insurance to review LD 1070. The review was to be conducted using the criteria outlined in 24-A M.R.S.A. § 2752 regarding the social and financial impact of the proposed mandate, and the medical efficacy of the procedure covered under the proposal.

LD 1070

LD 1070 would broaden required coverage of counseling professionals to include all state-licensed, masters level counselors with at least two years experience as a counselor. As written, the bill will mandate coverage only in those policies which currently provide reimbursement for other counseling professionals -- namely, group policies covering 20 or more employees. For other health insurance policies which provide coverage for mental health services voluntarily, the proposed mandate would have no effect.

Because the proposed mandate would be limited to including coverage for certain licensed professionals under the current mandate, the questions of coverage for other professionals (such as substance abuse counselors) and expansion of the mandate to include individual policies were not addressed in this study.

Counseling in Maine

Current Maine law requires health insurance coverage for counseling by physicians, psychologists, psychiatrists, clinical social workers, and psychiatric nurses. This mandate applies only to policies covering 20 or more employees (or members in the case of an association or trustee group).

One of the problems inherent in this mandate is the scope of practice issue. For example, are pastoral counselors qualified to give a clinical diagnosis which would show a degree of medical necessity sufficient to warrant coverage under a group health insurance policy? The requirements for licensure include a minimum of 20 credit hours of college coursework in counseling and human relations, whereas the professional and clinical professional counselors are required to have a degree in counseling or a related mental health field.

EVALUATION OF LD 78 BASED ON REQUIRED CRITERIA

SOCIAL IMPACT

A. The social impact of mandating the benefit which shall include:

1. The extent to which the treatment or service is utilized by a significant portion of the population;

Mental health and counseling services are used by a large portion of the population.

2. The extent to which the treatment or service is available to the population;

The chart on the next page shows the number of counseling professionals currently licensed in Maine. The chart included in Appendix B shows the distribution of the counselors affected by the proposed mandate by county. This distribution shows that those counties with a lower portion of the state population do have access to these services. Also included in Appendix B are charts showing the distribution of professionals currently eligible for reimbursement under Maine insurance law.

3. The extent to which insurance coverage for this treatment or service is already available;

Coverage is already available under group policies insuring more than 20 persons for counseling for a diagnosed medical condition when that counseling is provided by a physician, psychiatrist, psychologist, licensed social worker, or psychiatric nurse -- as outlined in the chart on the next page. The Bureau has recently promulgated Rule Chapter 750 which created standard and basic plans for small group health insurance. Both of these plans have

provisions for mental health coverage. HMOs in Maine also routinely cover mental illnesses.

Profession	Usually Reimbursable	# Licensed in Maine
Psychiatrist	Yes	152
Psychologist	Yes	386
Psychiatric Nurse	Yes	61
Licensed Clinical Social Worker	Yes	759
Licensed Professional Counselor	No	97
Licensed Clinical Professional Counselor	No	380
Licensed Marriage and Family Counselor	No	85
Licensed Pastoral Counselor	No	42
Licensed Substance Abuse Counselor	No	293
Associate Substance Abuse Counselor	No	22

4. If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatment;

Coverage is available for persons included in group policies covering 20 persons or more, small groups choosing the standard or basic plans, and for some individual policies, but does not usually include the classes of providers included in the proposed mandate. The proposed mandate would not expand the amount of coverage, but would provide those persons who have existing coverage with a broader choice of providers.

5. If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment;

The proposed mandate does not expand coverage, so would not affect the ability of persons to receive treatment.

6. The level of public demand and the level of demand from providers for the treatment or service;

No input received.

7. The level of public demand and the level of demand from the providers for individual and group insurance coverage of the treatment or service;

No information available.

8. The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts;

Blue Cross of Maine reports that no groups or collective bargaining units have requested the type of coverage provided by the proposed mandate.

9. The likelihood of achieving the objectives of meeting the consumer need as evidenced by the experience of other states;

No other states have information on this issue. Several states do have some type of provider mandate in this area; a summary of mandated coverage in other states is included in Appendix C.

10. The relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit;

No information available.

11. The alternatives to meeting the identified need;

The current mandate does provide coverage for the services included in the proposed mandate. The proposed mandate does not expand the scope of that coverage, but provides a broader choice of providers to the insurance consumer.

12. Whether the benefit is a medical or a broader social need and whether it is consistent with the role of health insurance;

No information available.

13 The impact of any social stigma attached to the benefit upon the market;

It has been noted anecdotally that less stigma may be attached to seeing a "counselor" as opposed to a psychiatrist, psychologist or psychiatric nurse. If this is true, then the proposed mandate could help remove this stigma so more persons might seek treatment. Currently, the only covered practitioner which is not labelled as "psychiatric" is the licensed clinical social worker (LCSW). There are over 700 LCSWs in Maine.

14 The impact of this benefit upon the availability of other benefits currently being offered; and

No input received.

15. The impact of the benefit as it relates to employers shifting to self-insurance plans.

Traditionally, state mandates are listed as one of the causes for companies choosing to self-insure. With close to 800 professionals included in the categories covered by the proposed mandate, it would seem that utilization of services might increase, which may create an incentive for businesses to shift to self-insurance.

FINANCIAL IMPACT

B. The financial impact of mandating the benefit which shall include:

1. The extent to which the proposed insurance coverage would increase or decrease the cost of the treatment or service over the next five years;

Generally, it appears that when a lower cost provider becomes reimbursable, their cost tends to rise toward the cost of other providers. It is unknown if this will occur under the proposed mandate.

2. The extent to which the proposed coverage might increase the appropriate or inappropriate use of the treatment or service over the next five years;

With close to 800 professionals included in the categories covered by the proposed mandate, it seems that utilization of services would increase if the mandate were enacted. It is not known to what extent inappropriate use would increase, but all counselors covered by the proposed mandate are subject to monitoring by the State Board of Counseling Professionals Licensure.

3. The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service;

It would seem that the current system may encourage utilization of more costly treatment, since coverage may be provided for a psychologist at \$90 per visit, while a \$50 visit to a family therapist would not be covered.

4. The methods which will be instituted to manage the utilization and costs of the proposed mandate;

Most group policies now contain utilization review features, which require approval before a treatment is considered eligible for reimbursement.

5. The extent to which the insurance coverage may affect the number and types of providers over the next five years;

No information received. In general, the number of providers of a service increases with the availability of reimbursement for that service.

6. The extent to which insurance coverage of the health care service or provider may be reasonably expected to increase or decrease the insurance premium and administrative expenses of policyholders;

Blue Cross of Maine estimates that including the providers mandated under the proposed mandate would increase the monthly cost per individual contract under a group plan by \$.60 to \$.80 per month.

7. The impact of indirect costs, which are costs other than premiums and administrative costs, on the question of the costs and benefits of coverage;

No information available.

8. The impact of this coverage on the total cost of health care; and

No input received.

9. The effects on the cost of health care to employers and employees, including the financial impact on small employers, medium-sized employers, and large employers.

The proposed mandate could increase utilization and result in higher costs for all employers with more than 20 employees, and for those employers with fewer than 20 employees who choose either the standard or basic small group health insurance plans.

MEDICAL EFFICACY

C. The medical efficacy of mandating the benefit which shall include:

1. The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service; and

Numerous studies have shown benefits of counseling services for the health status of the population, but we were unable to find any

information which showed the efficacy of the types of counselors specifically covered in the proposed mandate.

2. If the legislation seeks to mandate coverage of an additional class of practitioners:

a. The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered; and

No information received.

b. The methods of the appropriate professional organization that assure clinical proficiency.

All categories covered under the proposed mandate are required to pass state licensing standards before becoming licensed. The law which establishes the licensing procedure (Title 32, Chapter 119) gives the board which oversees licensing the authority to establish continuing education and supervision requirements. Additionally, the board has the authority to suspend, revoke, or refuse to renew a license for several reasons such as incompetence or unprofessional conduct.

BALANCING THE EFFECTS

D. The effects of balancing the social, economic, and medical efficacy considerations which shall include:

1. The extent to which the need for coverage outweighs the cost of mandating the benefit for all policyholders; and

The proposed benefit will not expand coverage for services, but only provide for a wider choice of providers.

2. The extent to which the problem of coverage may be solved by mandating the availability of the coverage as an option for policyholders.

Traditionally, group policyholders do not view mandated offerings as desirable unless they are pressured by their certificate holders. Therefore, only those groups which contain members who have a high probability of utilizing the service are likely to request coverage. This would lead to higher premiums for the coverage because the risk would not be spread over as many covered individuals, and those with coverage are more likely to utilize the service. However, information received from Blue Cross indicates that in Arkansas, demand has been high for a rider which provides coverage for Licensed Professional Counselors.

For individual coverage, it would seem that severe antiselection would make the premiums excessively high: that is, only those who are likely to need the service would purchase coverage. This would not apply to the currently proposed mandate, because the language limits coverage to groups which are currently required to provide coverage for other mental health professionals -- that is, policies for groups of 20 or more, and the standard and basic small group plans.

APPENDIX A
LD 1070
Charge to the Bureau





116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1070

S.P. 356

In Senate, March 29, 1993

**An Act to Increase Access to and Affordability of Mental Health and
Substance Abuse Treatment Services.**

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.
Cosponsored by Senators: CIANCHETTE of Somerset, HARRIMAN of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2 **Sec. 1. 24 MRSA §2303, sub-§2**, as amended by PL 1987, c. 80,
4 §1, is further amended to read:

6 **2. Mental health services provided by psychologists,**
8 **certified social workers or other licensed mental health**
10 **professionals.** Notwithstanding any provision of a contract
12 between a subscriber and a nonprofit hospital or medical service
14 organization entered into pursuant to a hospital service plan,
16 medical service plan or health care plan authorized under this
18 chapter, and notwithstanding any other provision of this chapter,
20 whenever the contract provides for payment or reimbursement for
22 mental health services, payment or reimbursement for the
24 provision of these services shall ~~may~~ not be denied because the
26 services are provided by a contracting licensed psychologist who
28 is trained and received a doctorate in psychology specializing in
30 the evaluation and treatment of human behavior; ~~a contracting~~
32 certified social worker licensed for the independent practice of
34 social work in this State who has at least a masters degree in
36 social work from an accredited educational institution, has been
38 employed in social work for at least 2 years, and who, after
40 January 1, 1985, must be licensed as a clinical social worker in
42 this State; ~~or~~ a contracting licensed nurse who is trained and
44 has received a certificate as a clinical specialist in
46 psychiatric and mental health nursing from the American Nurses'
48 Association, acting within the scope of his ~~that~~ license or
50 certification; ~~or other counseling professional who is licensed~~
by the State, has at least a masters degree in counseling or a
related field from an accredited educational institution and has
been employed as a counselor for at least 2 years. Subject to
approval by the Superintendent of Insurance pursuant to sections
2305 and 2316, a nonprofit hospital or medical service
organization incorporated under this chapter shall offer
contracts to psychologists licensed pursuant to Title 32, section
3831, subsection 2; ~~certified social workers licensed for the~~
independent practice of social work who have at least a masters
degree in social work from an accredited educational institution,
who have been employed in social work for at least 2 years, and
who, after January 1, 1985, must be licensed as a clinical social
worker in this State; ~~and~~ licensed nurses who are certified by
the American Nurses' Association as clinical specialists in adult
psychiatric and mental health nursing or as clinical specialists
in child and adolescent psychiatric and mental health nursing; ~~or~~
other counseling professionals who are licensed by the State,
have at least a masters degree in counseling or a related field
from an accredited educational institution and have been employed
as a counselor for at least 2 years, authorizing the provision of
mental health services by these psychologists, clinical social
workers, certified social workers ~~and~~, certified nurses ~~and other~~

2 counseling professionals within the scope of their licensure or
certification, if the nonprofit hospital or medical service
4 organization provides mental health services in contracts with
subscribers. Payment or reimbursement for services rendered by
6 clinical social workers licensed in this State ~~shall~~ or other
counseling professionals may not be conditioned upon prior
8 diagnosis or referral by a physician or other health care
professional, except in cases where when diagnosis of the
condition for which the services are rendered is beyond the scope
10 of their licensure. With respect to services provided by
psychologists, this subsection applies to all contracts between
12 the subscriber and a nonprofit hospital or medical service
organization entered into or renewed after January 1, 1976.

14 **Sec. 2. 24-A MRSA §2835, sub-§1**, as amended by PL 1987, c. 80,
16 §3, is further amended to read:

18 1. Notwithstanding any provision of a health insurance
policy subject to this chapter, whenever the policy provides for
20 payment or reimbursement for services which that are within the
lawful scope of practice of a psychologist licensed to practice
22 in this State, ~~;~~ a certified social worker licensed for the
independent practice of social work in this State who has at
24 least a masters degree in social work from an accredited
educational institution, has been employed in social work for at
26 least 2 years, and who, after January 1, 1985, must be licensed
as a clinical social worker in this State, ~~;~~ ~~or~~ a licensed nurse
28 who is certified by the American Nurses' Association as a
clinical specialist in adult psychiatric and mental health
30 nursing or as a clinical specialist in child and adolescent
psychiatric and mental health nursing; or other counseling
32 professional who is licensed by the State, has at least a masters
degree in counseling or a related field from an accredited
34 educational institution and has been employed as a counselor for
at least 2 years, any person covered by the policy ~~shall be~~ is
36 entitled to reimbursement for these services if the services are
performed by a physician, ~~;~~ a psychologist licensed to practice in
38 this State, ~~;~~ a certified social worker licensed for independent
practice in this State who has at least a masters degree in
40 social work from an accredited educational institution, who has
been employed in social work for at least 2 years, and who, after
42 January 1, 1985, must be licensed as a clinical social worker in
this State, ~~;~~ ~~or~~ a licensed nurse certified by the American
44 Nurses' Association as a clinical specialist in adult or child
and adolescent psychiatric and mental health nursing; or other
46 counseling professional who is licensed by the State, has at
least a masters degree in counseling or a related field from an
48 accredited educational institution and has been employed as a
counselor for at least 2 years. With respect to services
50 provided by physicians or psychologists, this section applies to

2 all health insurance policies, contracts or certificates issued,
renewed, modified, altered, amended or reissued on or after April
4 16, 1976. Payment or reimbursement for services rendered by
clinical social workers or other counseling professionals
6 licensed in this State shall may not be conditioned upon prior
diagnosis or referral by a physician or other health care
8 professional, except in cases where when diagnosis of the
condition for which the services are rendered is beyond the scope
of their licensure.

10
12
14 **STATEMENT OF FACT**

16 Currently, 3rd-party reimbursement is limited to
psychologists, psychiatrists, social workers and psychiatric
18 nurses. This limits the availability of mental health and
substance abuse treatment services, particularly in rural parts
of the State where the supply of insurance-reimbursable
20 professionals is limited. In addition, current law makes a
distinction between master-level clinicians with similar
22 training, allowing some to be insurance reimbursable and leaving
others without this ability. This bill recognizes all counseling
24 professionals who have at least a masters degree in training, are
licensed by the State and have been practicing for at least 2
26 years.

28 The purpose of this bill is to improve access to treatment
services and to reduce the cost of those treatment services by
30 increasing the supply of treatment providers who are recognized
by insurers and who are available to provide services.

SENATE

ALTON E. CIANCHETTE, DISTRICT 9, CHAIR
BEVERLY MINER BUSTIN, DISTRICT 19
HAROLD D. MARDEN, DISTRICT 13

JOHN KNOX, LEGISLATIVE ANALYST
JAMES DEARMAN, COMMITTEE CLERK



STATE OF MAINE

ONE HUNDRED AND SIXTEENTH LEGISLATURE

COMMITTEE ON BUSINESS LEGISLATION

May 13, 1993

HOUSE

ANNETTE M. HOGLUND, PORTLAND, CHAIR
MARC J. VIGUE, WINSLOW
VIVIAN ST. ONGE, GREENE
ARTHUR H. CLEMENT, CLINTON
JULIE WINN, GLENBURN
JACK L. LIBBY, KENNEBUNK
WILLIAM F. REED, DEXTER
ROBERT A. CAMERON, RUMFORD
GERALD A. HILLOCK, GORHAM
CALVIN A. THOMPSON, LINCOLN

Brian K. Atchinson
Superintendent
Bureau of Insurance
SHS #34

Dear Mr. Atchinson:

Pursuant to 24-A MRSA section 2752, this is to request that you conduct a review and evaluation of the mandated benefit proposal contained in LD 1070. In your review, please indicate whether you are considering the bill as including substance abuse counselors and individual insurance policies.

We would hope that we may have this review in time for the beginning of the second regular session of the 116th Legislature.

Your assistance in this matter is appreciated.

Sincerely,

Handwritten signature of Alton E. Cianchette in cursive.

Alton E. Cianchette
Senate Chair

Handwritten signature of Annette M. Hognlund in cursive.

Annette M. Hognlund
House Chair

#4967LHS

RECEIVED



APPENDIX B
Counselors in Maine by Type
Counselors in Maine by County
Maine Licensing Requirements
Psychiatrists in Maine by County
Psychologists in Maine by County
Licensed Clinical Social Workers in Maine by County

Licensed Counselors in Maine by Type

Professional Counselor	95
Clinical Counselor	367
Marriage and Family Therapist	85
Pastoral Counselor	42
Conditional ¹ Professional Counselor	10
Conditional ¹ Clinical Counselor	4
Conditional ¹ Marriage and Family Therapist	1

¹ A Conditional Counselor is an applicant who has completed all requirements for licensure except for supervised experience.

Licensed Counselors in Maine by County

County	Number of Counselors	Percent of Counselors	Percent of Total State Population
Androscoggin	31	5.02%	8.26%
Aroostook	15	2.43%	6.57%
Cumberland	207	33.55%	20.03%
Franklin	17	2.76%	2.38%
Hancock	24	3.89%	4.87%
Kennebec	71	11.51%	9.45%
Knox	18	2.92%	3.04%
Lincoln	16	2.59%	2.56%
Oxford	8	1.30%	4.24%
Penobscot	93	15.07%	11.41%
Piscataquis	6	0.97%	1.53%
Sagadahoc	18	2.92	2.74%
Somerset	10	1.62	3.93%
Waldo	18	2.92	2.64%
Washington	6	0.97	2.78%
York	59	9.56	14.60%
Total (excludes out of state)	617.00	100.00	

LICENSING REQUIREMENTS

All licenses require that applicants be at least 18 years of age, pass an examination as prescribed by the governing Board, and "demonstrate trustworthiness and competence to engage in the practice of counseling in such a manner as to safeguard the interests of the public."

License	Education	Experience (after obtaining degree)
Professional	Master's degree in Counseling or related mental health field, including a minimum core curriculum.	2 Years with a minimum of 2,000 hours of supervised experience.
Clinical Professional	Master's degree in Counseling or related mental health field, including a minimum core curriculum of at least 45 hours.	2 Years with a minimum of 3,000 hours of supervised experience with a minimum of 100 hours of personal supervision.
Marriage & Family	Master's degree in marriage & family counseling or its equivalent, including a minimum core curriculum and a 1 year clinical practicum.	2 years with at least 1,000 hours of direct clinical contact and 200 hours of supervision, of which at least 100 must be under individual supervision.
Pastoral	Master of Divinity degree or equivalent, with a core which includes 20 credit hours of counseling and human relations, and 400 hours of clinical pastoral education	2 years with at least 1,000 hours of direct clinical contact; 200 hours of supervision, 1/3 with a certified pastoral counseling supervisor, at least 30 hours interdisciplinary, 30 hours of individual supervision of specific cases, and 70 hours of individual supervision of multiple cases.

Licensed Psychiatrists in Maine by County

County	Number of Psychiatrists	Percent of Psychiatrists	Percent of Total State Population
Androscoggin	13	9.3%	8.26%
Aroostook	2	1.4%	6.57%
Cumberland	51	36.4%	20.03%
Franklin	3	2.1%	2.38%
Hancock	6	4.3%	4.87%
Kennebec	25	17.9%	9.45%
Knox	8	5.7%	3.04%
Lincoln	1	0.7%	2.56%
Oxford	1	0.7%	4.24%
Penobscot	14	1.0%	11.41%
Piscataquis	0	0.0%	1.53%
Sagadahoc	1	0.7%	2.74%
Somerset	6	4.3%	3.93%
Waldo	1	0.7%	2.64%
Washington	1	0.7%	2.78%
York	7	5.0%	14.60%
Total (excludes out of state)	134		

Licensed Psychologists in Maine by County

County	Number of Psychologists	Percent of Psychologists	Percent of Total State Population
Androscoggin	31	10.7%	8.26%
Aroostook	4	1.4%	6.57%
Cumberland	102	35.3%	20.03%
Franklin	8	2.8%	2.38%
Hancock	6	2.1%	4.87%
Kennebec	47	16.3%	9.45%
Knox	13	4.5%	3.04%
Lincoln	1	0.3%	2.56%
Oxford	4	1.4%	4.24%
Penobscot	39	13.5%	11.41%
Piscataquis	3	1.0%	1.53%
Sagadahoc	1	0.3%	2.74%
Somerset	3	1.0%	3.93%
Waldo	0	0.0%	2.64%
Washington	4	1.4%	2.78%
York	23	8.0%	14.60%
Total (excludes out of state)	289		

Licensed Clinical Social Workers in Maine by County

County	Number of Licensed Clinical Social Workers	Percent of Licensed Clinical Social Workers	Percent of Total State Population
Androscoggin	40	7.7%	8.26%
Aroostook	20	3.8%	6.57%
Cumberland	222	42.6%	20.03%
Franklin	10	1.9%	2.38%
Hancock	15	2.9%	4.87%
Kennebec	57	10.9%	9.45%
Knox	21	4.0%	3.04%
Lincoln	7	1.3%	2.56%
Oxford	8	1.5%	4.24%
Penobscot	41	7.9%	11.41%
Piscataquis	0	0.0%	1.53%
Sagadahoc	6	1.2%	2.74%
Somerset	5	1.0%	3.93%
Waldo	4	0.8%	2.64%
Washington	13	2.5%	2.78%
York	52	10.0%	14.60%
Total (excludes out of state)	521		

APPENDIX C
States With Mandates

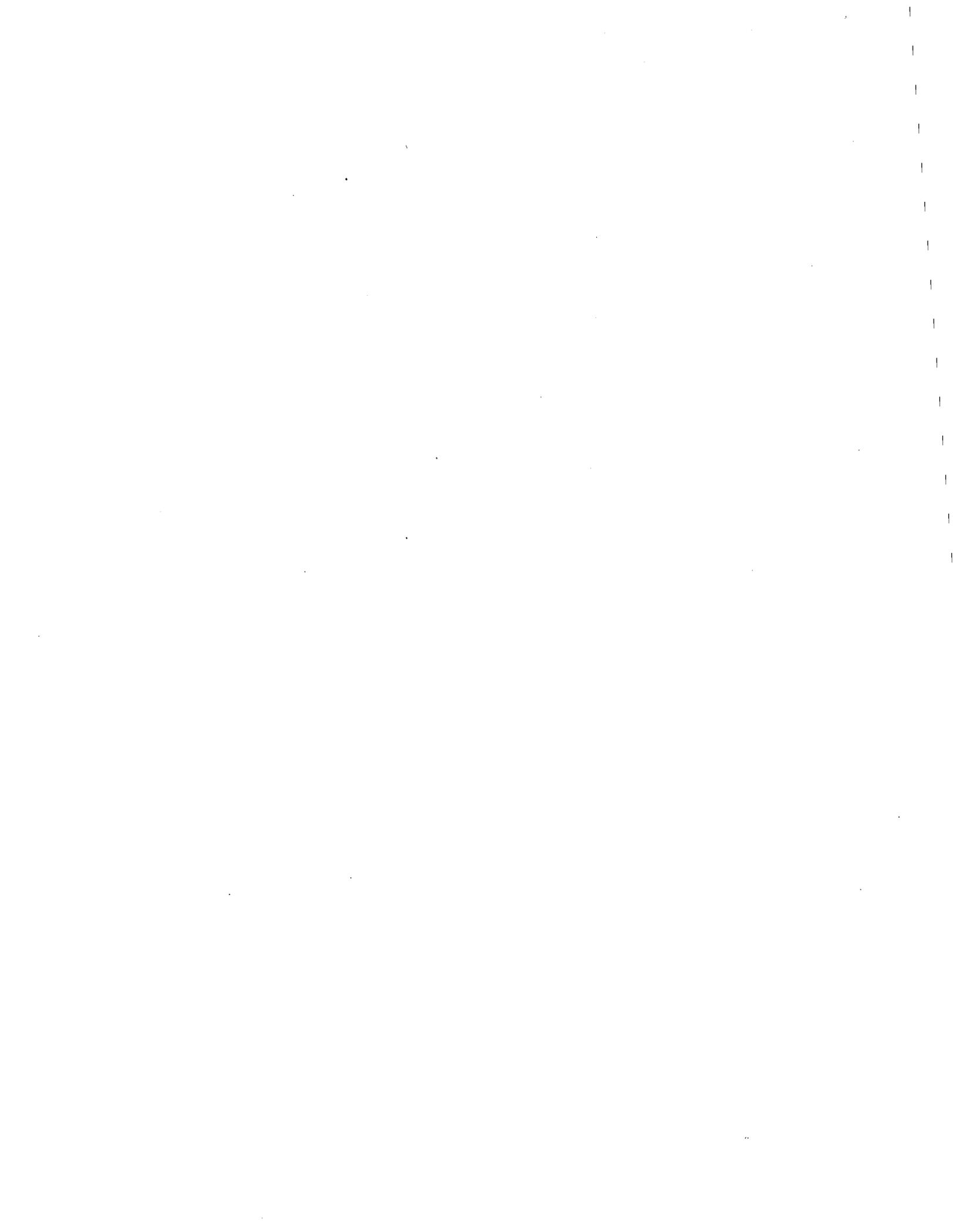


State Mandates (Some are Mandated Offers)

State	Year Enacted	Covered Professionals
AR	1991	Licensed Professional Counselors
CA	1981	Marriage, Family and Child Counselors
FL	1983	Mental Health Counselors, Marriage/Family Therapists (92)
MD	1985	Licensed Professional Counselors
MT	1987	Certified Chemical Dependency counselors, Licensed Professional Counselors
NH	1983	Pastoral Counselors, Certified Clinical Social Worker, All Counselors employed by community Mental Health Centers
TX	1989	Licensed Professional Counselors (with certificate in advanced Clinical Psychology), Certified Social Workers, Marriage and Family Counselors (93)
VA	1987	Licensed Professional Counselors



APPENDIX D
Counseling Licensure Law



TITLE 32

CHAPTER 119

COUNSELING PROFESSIONALS

§13851. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Board.** "Board" means the Board of Counseling Professionals Licensure.
2. **Clinical professional counselor.** "Clinical professional counselor" means a professional counselor who renders or offers to render for a fee, monetary or otherwise, to individuals, families, groups, organizations or the general public, a counseling service involving the application of the principles and procedures of counseling to assess and treat intrapersonal and interpersonal problems and other dysfunctional behaviors and to assist in the overall development and adjustment of those served.
3. **Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.
4. **Conditional license.** "Conditional license" means a license granted to an applicant for licensure who has met all the requirements defined in section 13858, except for supervised experience.
- 4-A. **Counselor.** "Counselor" means an individual who for a fee, monetary or otherwise, engages in any of the procedures of counseling defined in subsection 8.
5. **Department.** "Department" means the Department of Professional and Financial Regulation.
6. **Marital and family therapy services.** "Marital and family therapy services" means the assessment and treatment of intrapersonal and interpersonal problems through the application of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, modifying perceptions and behavior, enhancing communication and understanding among all family members, and preventing family and individual crises.

7. **Marriage and family therapist.** "Marriage and family therapist" means a person who renders or offers to render for a fee, monetary or otherwise, marital and family therapy services.

7-A. **Pastoral counselor.** "Pastoral counselor" means an individual who is trained and certified to provide for a fee, monetary or otherwise, pastoral counseling, which is ministry to individuals, families, couples, groups, organizations and the general public involving the application of principles and procedures of counseling to assess and treat intrapersonal and interpersonal problems and other dysfunctional behavior of a social and spiritual nature, and to assist in the overall development and healing process of those served.

8. **Procedures of counseling.** "Procedures of counseling" means methods and techniques that include, but are not limited to, the following:

A. "Assessment" means selecting, administering and interpreting instruments designed to assess personal, interpersonal and group characteristics.

B. "Consulting" means the application of scientific principles and procedures in counseling to provide assistance in understanding and solving a current or potential problem that the client may have in relation to a 3rd party, be it an individual, a family, a group or an organization.

C. "Counseling" means assisting individuals, families or groups through the counseling relationship to develop understanding of intrapersonal and interpersonal problems, to define goals, to make decisions, to plan a course of action reflecting their needs, and to use information and community resources, as these procedures are related to personal, social, educational and vocational development.

D. "Referral" means the evaluation of information to identify needs or problems of the counselee and to determine the advisability of referral to other specialists, informing the counselee of that judgment, and communicating as requested or deemed appropriate with referral sources.

9. **Professional counselor.** "Professional counselor" means a person who, for a fee, monetary or otherwise, renders or offers to render to individuals, families, groups, organizations or the general public a service involving the application of principles and procedures of counseling to assist those served in achieving more effective personal, emotional, social, education and vocational development and adjustment.

§13852. Board of Counseling Professionals Licensure; establishment; compensation

1. **Establishment.** The Board of Counseling Professionals Licensure within the Department of Professional and Financial Regulation as established by Title 5, section 12004-A, subsection 9-A, shall carry out the purposes of this chapter.

2. **Members.** The board consists of 13 members, 12 of them appointed by the Governor. Each member must be a citizen of the United States and a resident of this State. Eight members must be licensed counseling professionals under this chapter, 2 of whom must be professional counselors, 2 must be clinical professional counselors, 2 must be marriage and family therapists and 2 must be pastoral counselors. Two members must be registered counseling professionals who are not qualified for licensure. Each member counselor must have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. Two members must be representatives of the general public and may not be currently practicing counseling or receiving compensation for counseling services. One of the 2 public members must be a consumer of counseling services. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of counselors.

3. **Timetable.** The Governor shall make initial appointments by January 1, 1990. The initial appointees, with the exception of the representative of the general public, shall be licensed in accordance with this chapter following their appointment and qualifications as members of the board. The board shall elect a chair and secretary at its first meeting of each year, provided that no person may serve as chair for more than 3 years. The commissioner shall call the first meeting of the board which shall take place within 30 days of the completion of the appointments of the initial members.

4. **Terms of office.** Of the first board members, the Governor shall appoint 3 for a term of one year; 3 for 2 years, and 2 for 3 years. Their successors shall be appointed for terms of 3 years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member to be succeeded. Upon the expiration of the term of office, a board member shall continue to serve until a successor has been appointed and qualified. No person may be appointed for more than 2 consecutive terms.

5. **Removal.** The Governor may remove any member of the board for cause and the reason for the termination of each appointment must be communicated to each member so terminated. The appointment of any member of the board must be terminated if a member is absent for 6 consecutive board meetings without good and just cause that is communicated to the chair.

6. **Compensation.** Members of the board shall be compensated according to the provisions of Title 5, chapter 379, provided that expenses do not exceed the fees collected by the board. If the fees to be collected under this chapter are insufficient to pay the expenses provided by this section, the board members shall be entitled to a pro rata payment in any years in which those fees are insufficient.

7. **Meetings; quorum.** The board shall hold at least 2 regular meetings each year. Additional meetings may be held upon the call of the chair or the secretary or upon the written request of any 2 board members. Seven members of the board constitute a quorum.

§13853. Powers and duties of the board

The board shall have the following powers and duties in addition to all other powers and duties otherwise set forth in this chapter.

1. **Standards.** The board shall administer and enforce this chapter, set forth education and examination standards and evaluate the qualifications for licensure.

2. **Rules.** The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules necessary to carry out the purposes of this chapter.

3. **Complaints.** The board shall investigate or cause to be investigated all complaints made on its own motion or on written complaint filed with the board and all cases of noncompliance with or violation of this chapter or any rules adopted by the board.

4. **Records.** The board shall keep records and minutes as are necessary to the ordinary dispatch of its functions.

5. **Reports.** The board shall submit to the commissioner its annual report of its operations for the preceding fiscal year no later than August 1st of each year.

6. **Contracts.** The board may enter into contracts to carry out its responsibilities under this chapter.

7. **Budget.** The board shall submit to the commissioner its budgetary requirements in the same manner provided in Title 5, section 1665.

8. **Register.** The department shall make available, at cost, a register that shall contain the names of all individuals licensed by the board.

9. **Employees.** The commissioner may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be in the department and under the administrative and supervisory direction of the commissioner.

10. **Officers.** The board shall elect from among its members officers as it determines necessary. The secretary shall keep records and minutes of all activities and meetings.

11. **Code of ethics.** The board shall adopt a code of ethics generally in keeping with standards established by the national professional associations concerned with the areas of board responsibility.

12. **Hearings.** The board shall conduct hearings to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

13. **Disclosure statements.** Under this chapter all licensees and registrants are required to provide disclosure statements prior to treatments. The board may adopt, by rule, a standard disclosure statement. This disclosure statement must include, but not be limited to, the name and address of the licensee or registrant, the original date and the expiration date of the license, the proposed course of treatment and financial arrangements for clients.

The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for a hearing is received by the board within 30 days of the applicant's receipt of a written notice of the denial of the application, the reasons for and the right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.

14. **Issue licenses.** The board shall issue licenses as necessary to implement this chapter.

15. **Client bill of rights.** The board shall specify the information that counselors are to include in a client bill of rights that is to be provided to all clients by all counselors.

§13854. Licensing

1. **Licensing required.** Effective October 1, 1992, no person may, unless specifically exempted by this chapter, profess to be a clinical professional counselor, professional counselor, marriage and family therapist, licensed postoral counselor or conditional license holder unless licensed in accordance with this chapter.
2. **Individual licensing.** Only an individual may be licensed under this chapter.
3. **Violation; injunction.** Any person who violates this chapter is guilty of a Class E crime. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

§13855. Psychological testing; assessment services

Nothing in this chapter may be construed as permitting clinical professional counselors, professional counselors, marriage and family therapists, pastoral counselors or conditional license holders to hold themselves out to the public as psychologists or psychological examiners as defined in section 3811, subsection 1, or to offer primarily or solely the services of psychological testing. The board shall adopt ethical standards relating to the utilization of assessment techniques.

§13856. Exemptions to licensure

1. **Other professionals.** Nothing in this chapter may be construed to apply to the activities and services of members of other professions licensed, certified or registered by the State such as, but not limited to, psychiatrists, physicians, psychologists, registered nurses, social workers and substance abuse counselors performing counseling consistent with the laws of the State governing their practices.
2. **Governmental employees.** Nothing in this chapter may be construed to apply to the activities and services of an employee or other agent of a recognized academic institution; employee assistance program; a federal, state, county or local government institution, program, agency or facility; or a school committee, school district, school approved for attendance purposes pursuant to Title 20-A, section 2901, school board or board of trustees, provided that the individual is performing those activities solely within the agency or under the jurisdiction of that agency and provided further that a license granted under this chapter is not a requirement for employment.

3. **Clergy.** Nothing in this chapter may be construed to apply to the activities and services of any priest, rabbi, clergyman, including a Christian Science healer, or minister of the gospel of any religious denomination when performing counseling services as part of religious duties and in connection with a specific synagogue or church of any religious denomination.
4. **Interns.** Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee in counseling or marriage and family therapy pursuing a course of study in counseling or marriage and family therapy in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study.
5. **Lecturers; consultants.** Nothing in this chapter may be construed to apply to the activities and services of visiting lecturers or the occasional services of qualified consultants from outside the State, or the use of occasional services of organizations from outside the State employing qualified counselors.
6. **Peer groups; self-help groups.** Nothing in this chapter shall be construed to prevent members of peer groups or self-help groups from performing peer counseling solely in the context of the peer groups or self-help groups.
7. **Management consultants.** Nothing in this chapter applies to the activities and services of any management consultant when performing services, counseling or otherwise, with clients other than private individuals. Such clients include, but are not limited to, for-profit and nonprofit corporations, partnerships, sole proprietorships, academic institutions and governmental entities.
8. **Educational and career consultants.** Nothing in this chapter applies to the counseling activities of educational, vocational or career consultants when performed as an adjunct to their prime function of educational, vocational or career consultation.
9. **Human resource and organizational developers.** Nothing in this chapter applies to the counseling activities of human resource developers and organizational developers when this counseling is an adjunct to their prime function.
10. **Other exemptions.** Nothing in this chapter applies to the activities and services of individuals who practice as expressive art therapists, energy field workers, astrologers, tarot card readers, psychic diviners, aromatherapists, crystal workers, palm readers, or practitioners of similar disciplines as determined by the board.

§13857. Comity

The Board may waive examination for an applicant licensed or certified as a professional in counseling, clinical counseling or marriage and family therapy, pastoral counseling or a comparable field by another state whose requirements are determined by the board to be at least equivalent to those requirements in this chapter.

§13858. Requirements for licensure

To be eligible for a license to practice counseling at any level, an applicant shall be at least 18 years of age and shall satisfactorily pass any examination as the board may prescribe by its rules. Each applicant shall demonstrate trustworthiness and competence to engage in the practice of counseling in such a manner as to safeguard the interests of the public.

The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for licensure under this chapter.

- 1. Licensed professional counselor.** To be qualified as a licensed professional counselor, an applicant shall have demonstrated to the satisfaction of the board adherence to the ethics of the counseling profession, shall have successfully completed the examination prescribed by the board and shall have received:
 - A. A master's degree in counseling or an allied mental health field from an accredited institution or program approved by the board. Such schooling shall have included a minimum core curriculum as adopted by the board; and
 - B. Two years of experience after obtainment of a master's degree with a minimum of 2,000 hours of supervised experience.

- 2. Licensed clinical professional counselor.** To be qualified as a licensed clinical professional counselor, an applicant shall have demonstrated to the satisfaction of the board adherence to the ethics of the counseling profession, shall have successfully completed the examination prescribed by the board and shall have received:
 - A. A master's degree in counseling or an allied mental health field from an accredited institution or program approved by the board. Such schooling shall include a minimum core curriculum, as adopted by the board, of at least 45 semester hours; and
 - B. Two years of experience after obtainment of a master's degree, to include at

least 3,000 hours of supervised clinical experience with a minimum of 100 hours of personal supervision.

3. Licensed marriage and family therapist. To be qualified as a licensed marriage and family therapist, an applicant shall have demonstrated to the satisfaction of the board adherence to the ethics of the counseling profession, shall have successfully completed the examination prescribed by the board and shall have received:

- A. A master's degree in marriage and family therapy or its equivalent from an accredited institution or program approved by the board. Such schooling shall have included a minimum core curriculum to include a one-year clinical practicum adopted by the board; and
- B. Two years of experience after obtainment of a master's degree comprised of at least 1,000 hours of direct clinical contact with the couples and families and 200 hours of supervision, at least 100 of which shall be individual supervision.

3-A. Licensed pastoral counselor. To be qualified as a licensed pastoral counselor, an applicant must have:

- A. Demonstrated to the satisfaction of the board adherence to the standard ethics of the pastoral counseling profession;
- B. Received a Master of Divinity degree, or an equivalent degree approved by the board, from an accredited institution or program approved by the board. Academic preparation includes a minimum graduate core curriculum to include 20 credit hours of counseling and human relations and 400 hours of clinical pastoral education;
- C. Two years of experience after attainment of the degree, comprises of at least 1,000 hours of direct clinical contact with individuals, couples and families;
- D. Two hundred hours of supervision, including at least 1/3 of those hours with a certified pastoral counseling supervisor, at least 30 hours of which must be interdisciplinary, 30 hours of which must be individual supervision by one supervisor of no more than 3 cases from intake to termination, and 70 hours of which must be individual supervision of multiple case material;
- E. A call, appointment or charge by a church, synagogue, religious order or other clearly defined legal religious organization to perform these services as a function of ministry; and

2. Information requires. Each individual who registers shall provide the following information on the form designed by the board. The board shall compile this information and make it available to the public upon request and for a fee that covers the cost of making information available. The information that must be provided includes:

- A. Name, address and telephone number of individuals registering;
- B. Major fields of training and expertise, including degrees and professional certifications held and from where they were conferred;
- C. Method of billing and previous experience and policy with regard to 3rd-party payments;
- D. The fee schedule and provisions for pro bono work or sliding scale modifications of the fee schedule; and
- E. A description of the individual's practice.

3. Client bill of rights; code of ethics. Each individual who registers under this section shall sign, post and make a copy available to each client of:

- A. The client bill of rights approved by the board;
- B. The code of professional ethics approved by the board; and
- C. The name and telephone number of the board's complaint officer and a description of the complaint process.

4. Registration fee. Each individual registering under this section shall pay a registration fee, not to exceed \$50 biennially, established by the board for the purposes of the administration of this section.

5. Registration not allowed. An individual, whose license, certification or registration has been revoked or suspended in this or any other state and in this or any related field, may not register to practice in this State unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that rehabilitation has taken place.

6. Disciplinary action. Any individual who is registered under this section is subject to section 13861.

7. **Registration not certification.** Registration does not imply or certify in any way that the registrant has met any standards or criteria of education or training.

Amended 7/13/90 by P.L. Chapter 895
Amended 7/10/91 by P.L. Chapter 548
Amended 10/9/91 by P.L. Chapter 263

