

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 530

H. P. 418

House of Representatives, February 16, 1977

On Motion of Mr. Goodwin of South Berwick, referred to Committee on Business Legislation. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Clark of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Create a Board of Registration of Substance Abuse Counselors.

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

Sec. 1. 10 MRSA § 8001, 3rd sentence, as last repealed and replaced by PL 1975, c. 771, § 122, is amended to read:

The department shall be composed of the following bureaus, commissions and boards, as heretofore created and established: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Consumer Protection; the Bureau of Insurance, formerly the Department of Insurance, except the Fire Prevention Division thereof; the Bureau of Real Estate; the Board of Real Estate Brokers and Salesmen; the Boxing Commission; the Running Horse Racing Commission; the State Claims Board; the Electricians' Examining Board ~~and~~, the Oil Burner Men's Licensing Board and the Board of Registration of Substance Abuse Counselors.

Sec. 2. 32 MRSA c. 79 is enacted to read:

CHAPTER 79
SUBSTANCE ABUSE COUNSELORS

SUBCHAPTER I
GENERAL PROVISIONS

§ 6201. Board of Registration of Substance Abuse Counselors

There is created and established the Board of Registration of Substance Abuse Counselors within the Department of Business Regulation to carry out the purposes of this chapter.

§ 6202. Objective

The objective of this legislation is to establish a Board of Registration of Substance Abuse Counselors, which will establish and ensure high professional standards among substance abuse counselors and which will encourage and promote quality treatment and rehabilitation services for substance abusers.

§ 6203. Definitions

As used in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings.

1. Board. "Board" means the Board of Registration of Substance Abuse Counselors.

2. Consumer. A "consumer" is a nonprovider who has received substance abuse counseling services within the State of Maine.

3. Nonprovider. A "nonprovider" means an individual who neither is presently nor has been any of the following:

A. A substance abuse counselor;

B. An administrator or board member of a facility or program which provides substance abuse services; or

C. The spouse of any of those persons listed in paragraphs A and B.

4. Provisionally registered substance abuse counselor. "Provisionally substance abuse counselor" means a substance abuse counselor as provisionally registered under this chapter.

5. Registered substance abuse counselor. "Registered substance abuse counselor" means a substance abuse counselor as registered under this chapter.

6. Substance abuse counseling services. "Substance abuse counseling services" are those counseling services offered as part of the treatment and rehabilitation of persons abusing chemical substances. The purpose of substance abuse counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of chemical substances.

7. Substance abuse counselor. A "substance abuse counselor" is a person who presents himself to the public or gives or offers substance abuse counseling services to any public or private individual, corporation or agency.

§ 6204. Reporting

No later than August 1st of each year, the board shall submit to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

§ 6205. Unlawful use of title "provisionally registered" or "registered" substance abuse counselor

No person shall represent himself to the public, or assume or use the title or designation "provisionally registered" or "registered" substance abuse counselor or the abbreviation "P.R.S.A.C." or "R.S.A.C." or any other title, designation, words, letters or device tending to indicate that such a person is a "provisionally registered" or "registered" substance abuse counselor unless such person is provisionally registered or registered with and holds a current and valid certificate of provisional registration or certificate of registration from the board. Any person who offers or gives substance abuse counseling services in violation of this section shall, upon conviction, be punished by a fine of not less than \$50 and not more than \$500 for each such offense.

§ 6206. Exemptions

Nothing in this chapter shall prevent any person from engaging in or offering substance abuse counseling services provided that such person does not represent himself as, or use the title of, "provisionally registered" substance abuse counselor or "registered" substance abuse counselor.

§ 6207. Registration required

In order to safeguard the health and safety of Maine's citizens, any person who performs or offers to perform substance abuse counseling services as a "provisionally registered" or "registered" substance abuse counselor shall be required to submit evidence that he is qualified to so practice and shall be provisionally registered or registered in accordance with this chapter.

SUBCHAPTER 2

MAINE BOARD OF REGISTRATION OF SUBSTANCE ABUSE COUNSELORS

§ 6208. Appointment; terms; vacancies

1. Membership. There is created a Board of Registration of Substance Abuse Counselors, to consist of 9 members who shall be appointed by the Governor. The Maine Council on Alcohol and Drug Abuse Prevention and Treatment shall submit to the Governor a list of at least 3 recommendations for each initial board member to be appointed. The list may include recommendations from the Office of Alcoholism and Drug Abuse Prevention (OADAP), the Maine Association of Alcoholism Program Directors, the Regional Alcoholism Councils and the Maine Addiction Professionals Association. The Governor shall act promptly by making the initial appointments from this list. Five of the initial board members shall be eligible for registration under this chapter. Four of the initial board members shall be nonproviders. Two of the nonproviders shall be consumers. Subsequent appointees to the board shall be registered substance abuse counselors, with the exception that 2 members of the board shall be nonproviders, one of whom shall be a consumer.

2. Terms of office. The terms of office shall be for 3 years, provided that in the appointment of the initial board 3 members shall be appointed for one

year, 3 members for 2 years and 3 members for 3 years. Two of the initial board members appointed for a 3-year term shall be nonproviders.

3. Vacancy. Any vacancy occurring during a term shall be filled by appointment within 30 days by the Governor.

4. Successor member. Upon expiration of a term of office, the Governor shall fill the vacancy by making an appointment within 30 days. Upon such expiration, a member shall continue to serve until his successor is appointed.

5. Limitation. No board member shall serve for more than 6 consecutive years.

§ 6209. Removal of board members

Any board member may be removed from office by the Governor for any of the following reasons:

1. Attendance. Failure to attend 2 consecutive meetings of the board;
2. Criminal conviction. After appointment to the board, any criminal conviction which if committed within this State would constitute a Class A, B or C crime under the laws of this State;
3. Fraud or deceit. The practice of fraud or deceit in granting a certificate of provisional registration or certificate of registration under this chapter or in connection with services rendered as a member of the board;
4. Active abuse. Active abuse of alcohol, or any other drug which is detrimental to the performance or competency of a board member or in any way jeopardizes the integrity of the board;
5. Mental incompetency. A legal finding of mental incompetency;
6. Unprofessional conduct or negligence. Any gross negligence, incompetency or misconduct in the performance of duties as a board member; or
7. Valid cause. Any other valid cause.

§ 6210. Meetings; election; quorum

Within 30 days after their appointment, the board shall meet and organize by electing a chairperson, secretary and treasurer. The board shall hold regular meetings, at least semiannually, and such additional meetings at such times and places as it may deem necessary. The board shall keep a written record of all its proceedings. Five members of the board shall constitute a quorum for the transaction of business under this chapter.

§ 6211. Compensation

Members of the board shall receive no compensation for their services as members of the board, but they shall be reimbursed for reasonable travel and incidental expenses incurred in carrying out this chapter, provided that such 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 such fees are insufficient.

§ 6212. Powers and duties of the board

The board shall have the following powers and duties in addition to all other powers and duties imposed by this chapter.

1. Set standards. In addition to those standards set forth in section 6213, the board in consultation with the Office of Alcoholism and Drug Abuse Prevention may set additional standards of eligibility for persons desiring to become registered substance abuse counselors.

2. Adopt criteria. The board may design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in substance abuse counseling.

3. Registration and standards. The board may register and set standards of practice for provisionally registered or registered substance abuse counselors working in Maine.

4. Rules and regulations. The board shall have the power to adopt such rules and regulations and establish such advisory committees as the board may deem necessary and proper to carry out this chapter.

5. Contracts. The board may enter into contracts to carry out its duties or responsibilities under this chapter.

6. Complaints. The board shall have the power to investigate complaints on its own motion and those lodged with the board or its representatives regarding the violation of any section of this chapter and the violation of any rules and regulations adopted by the board pursuant to its authority.

SUBCHAPTER 3

REGISTRATION

§ 6213. Eligibility requirements

To be eligible to apply for registration as a substance abuse counselor, an applicant shall:

1. Age limit. Be at least 18 years of age;

2. Qualifications. Have been employed in the profession of substance abuse counseling for a minimum of 2 years in the 4-year period immediately preceding the date on which application is made; have the equivalent of 2 years of paid employment as a substance abuse counselor. In determining such equivalent, an applicant shall have been employed at least one year in the profession of substance abuse counseling and the board may substitute work-based educational experience for the remaining period of required paid employment at a rate of no less than 2 months of work-based educational experience for each one-month period of required paid employment. Both the paid employment and the work-based educational experience shall have taken place within the 4-year period immediately preceding the date on which

application is made; or have the equivalent of 2 years of paid employment as a substance abuse counselor. In determining such equivalent, an applicant shall have been employed at least 1½ years in the profession of substance abuse counseling and the board may substitute volunteer work for the remaining period of required paid employment at a rate of no less than 2 months of volunteer work for each one-month period of required paid employment. Both the paid employment and the volunteer work have taken place within the 4-year period immediately preceding the date on which application is made; and

3. **Abstinence from drugs and alcohol.** Have abstained from the active abuse of alcohol or any other drug which in the judgment of the board has been or could have been detrimental to the applicant's performance or competency as a substance abuse counselor. It is strongly recommended that applicants have abstained for at least the 2-year period immediately preceding the date on which application is made. In considering an applicant for registration, the board shall not consider a history of previous alcoholism or drug addiction as an essential qualification nor disqualification for registration.

§ 6214. Certificate of registration

1. **Registration.** The board shall issue a certificate of registration upon the affirmative vote of at least 5 members of the board to any applicant who has satisfactorily met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade, as established by the board, on any examinations the board may prescribe by its rules and regulations;
- C. Completed 30 semester hours of college level course work in appropriate social science fields or its equivalent in appropriate substance abuse training; and
- D. Met any other criteria the board may prescribe by its rules and regulations.

2. **Provisional registration.** The board may issue a certificate of provisional registration upon the affirmative vote of 5 members of the board to any applicant who has met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a provisionally passing grade, as established by the board, on any examinations the board may prescribe by its rules and regulations; and
- C. Met any other criteria the board may prescribe by its rules and regulations.

The certificate of provisional registration shall be issued for a single non-renewable period not to exceed 3 years. A certificate of provisional registration may be issued only once to any individual. During the period the provisional certificate is valid, the provisional registrant will be expected to take

appropriate action necessary to qualify for registration. During the period of provisional registration, a provisional registrant may apply for full registration at any time, provided that he may not apply on more than 2 separate occasions.

3. Reapplication for certificate. Any applicant who is not issued a certificate of provisional registration or a certificate of registration may again apply for registration after a period of not less than 6 months from the date of the last denial.

§ 6215. Application; membership fees

Application for registration as a registered substance abuse counselor shall be on a form prescribed and furnished by the board. A nonrefundable application fee shall be established by the board in an amount not to exceed \$100 which fee shall accompany the application. A fee shall be established by the board in an amount not to exceed \$25 for provisionally registered substance abuse counselors who reapply for registration. A biennial fee for registered substance abuse counselors shall be established by the board in an amount not to exceed \$50 biennially. A triennial fee for provisionally registered substance abuse counselors shall be established by the board in an amount not to exceed \$50 triennially.

§ 6216. Examinations

Written or oral examinations or written and oral examinations shall be held at least twice a year at such times and places as the board shall determine. The examinations shall be based on substance abuse counseling competencies.

SUBCHAPTER 4
SUSPENSION AND REVOCATION

§ 6217. Suspension and revocation

The board shall have the power to suspend or revoke the certificate of provisional registration or certificate of registration of a substance abuse counselor for any of the following reasons:

1. Criminal conviction. After issuance of a certificate of provisional registration or a certificate of registration, any criminal conviction which if committed within this State would constitute a Class A, B or C crime under the laws of Maine;

2. Fraud or deceit. The practice of fraud or deceit in obtaining a certificate of provisional registration or a certificate of registration under this chapter or in connection with services rendered as a substance abuse counselor;

3. Active abuse. Active abuse of alcohol, or any other drug, which in the judgment of the board is detrimental to the performance or competency of a substance abuse counselor;

4. Mental incompetency. A legal finding of mental incompetency;

5. Aiding and abetting misrepresentation. Aiding or abetting a person, not duly certified as a provisionally registered or registered substance abuse counselor, in representing oneself as a provisionally registered or registered substance abuse counselor in this State;

6. Unprofessional conduct or negligence. Any gross negligence, incompetency or misconduct in the performance of substance abuse services; or

7. Valid cause. Any other valid cause.

§ 6218. Hearing on refusal; revocation; suspension

The board may suspend, revoke or refuse to issue or to renew any certificate of provisional registration or certificate of registration as specified in section 6217 after written notice has been sent by registered mail to the person's last known address stating the reasons for suspension, revocation or denial, at least 10 working days prior to any action taken by the board. The written notice shall inform the person of his right to appeal the decision of the board at a special meeting of the board.

At such meeting, the applicant or registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

If, after such a meeting, at least 5 members of the board vote in favor of suspension, revocation or denial, such suspension, revocation or denial shall remain in effect pursuant to this section.

The board, for reasons it may deem sufficient, may issue or reissue a certificate of provisional registration or certificate of registration to any person whose certificate of provisional registration or certificate of registration has been denied, suspended or revoked, provided at least 5 members of the board vote in favor of such issuance.

§ 6219. Expiration and renewal

The certificate of provisional registration is nonrenewable and shall expire 3 years from the date of initial issuance. The certificate of registration shall expire biennially on August 31st or at such other time as the Commissioner of Business Regulation may designate. Registration may be renewed for the succeeding 2-year period upon written application of the registrant, the approval of the board and the payment of the fee provided. A fee for renewal of registration shall be set by the board in an amount not to exceed \$25 and shall be due and payable on or before the expiration date. Before a certificate of registration may be renewed, the applicant shall present evidence of continued professional learning and training of a type which is acceptable to the board.

Any person who fails to renew his registration prior to its date of expiration, shall be stricken from the rolls and his registration may be renewed only after again meeting the requirements of this chapter. The board shall be responsible for mailing notification of the date of expiration of a certificate of provisional registration or a certificate of registration to any provisionally

registered or registered substance abuse counselor not later than 30 days prior to the date of expiration.

§ 6220. Reciprocity

The board may waive any examinations for applicants who are recognized by other credentialing bodies as having met qualifications and standards determined by the board as comparable to those set forth in this chapter.

STATEMENT OF FACT

The purpose of this bill is to provide for the registration of professional substance abuse counselors. Health insurers have consistently stated that before benefit coverage can be extended to alcohol or drug treatment facilities, the treatment personnel, counselors, should be examined and registered by a state sanctioned procedure. This bill seeks to accomplish that objective. In addition, the registration of substance abuse counselors would protect the public from persons who are poorly qualified to treat substance abusers, would upgrade the quality of treatment personnel and would identify individuals of professional standing.

The eligibility requirements under this bill are defined in terms of experience rather than education, and all costs will be paid for from fees collected.