

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1022

H. P. 803

House of Representatives, March 15, 1977

On Motion of Ms. Clark of Freeport referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Biron of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish the Certification of Marriage and Family Counselors.

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

Sec. 1. 5 MRSA § 151, 1st sentence, as amended by PL 1975, c. 705, § 1, is further amended to read:

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the State Board of Funeral Service, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Certification for Geologists and Soil Scientists, the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals, the State Board of Architects, the Electricians' Examining Board, the Oil Burner Men's Licensing Board, the Penobscot Bay and River Pilotage Commission, the State Board of Barbers, State Board of Cosmetology, State Board of Registration for Land Surveyors, State Board of Social Worker Registration, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration, the Board of Examiners on Speech Pathology and Audiology, the Board of Marriage and Family Counselors and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively and so much thereof as may be required is appropriated for said purposes.

Sec. 2. 5 MRSA § 2301, sub-§ 1, as last amended by PL 1975, c. 760, §§ 1 and 2, is further amended by adding after the 11th paragraph the following:

Board of Marriage and Family Counselors;

Sec. 3. 32 MRSA c. 28-A is enacted to read:

CHAPTER 28-A

MARRIAGE AND FAMILY COUNSELORS

SUBCHAPTER I

GENERAL PROVISIONS

§ 1871. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings.

1. **Advertise.** "Advertise" means, but is not limited to, the issuing of or causing to be distributed any card, sign or device to any person, or the causing, permitting or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or on the radio or television or by advertising by any other means.

2. **Board.** "Board" means the Board of Marriage and Family Counselors created by this chapter.

3. **Marriage and family counseling.** "Marriage and family counseling" means the rendering of counseling services or therapy to individuals, either singly or in groups, for the purpose of resolving emotional conflicts within marriage and family relationships, modifying behavior, altering old attitudes and establishing new patterns in the area of marriage and family life including premarital counseling and post-divorce counseling.

§ 1872. Certification required

After January 1, 1978, no person shall engage in marriage and family counseling or advertise the performance of that service without having a certification as provided in this chapter.

§ 1873. Titles; use without certification prohibited; exceptions

Except as otherwise specifically provided in this chapter, only persons certified under this chapter shall advertise the following titles: Marriage counselor, advisor or consultant; a family counselor, advisor or consultant; a family guidance counselor, advisor or consultant; a marriage guidance counselor, advisor or consultant; a family relations counselor; a marriage relations counselor, advisor or consultant; or any other name, style or description denoting that the person so advertising engages in marriage counseling. Except as otherwise specifically provided in this chapter, only a person certified under this chapter shall advertise himself, hold himself out or describe himself as offering marriage or family counseling services or advice; marriage or family guidance service or advice; marriage or family

relations services or advice; marriage or family problems service or advice; marriage or family relations advice or assistance; services in the alleviation of any marital or family problem or services of like import or effect.

§ 1874. Persons exempt

This chapter shall not apply to:

1. Employees. A person who practices marriage and family counseling solely as part of his duties as an employee of:

A. An accredited academic institution, or a federal, state, county or local governmental institution or agency, or a bona fide research facility while performing those duties for which he was employed by such an institution, agency or facility;

B. An organization which is nonprofit and which is, in the opinion of the board, a bona fide community agency, while performing those duties for which he was employed by such an agency;

C. A proprietary organization while performing those duties for which he was employed by such an organization, provided his marriage and family counseling duties are under the direct supervision of a certified marriage and family counselor under arrangements approved by the board.

2. Students and interns. A student of counseling, a marriage and family counseling intern or person preparing for the practice of marriage and family counseling under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the board, provided he is designated by such titles as "marriage counseling intern," "family counseling intern," or others clearly indicating such training status.

3. Other professions. A qualified practicing member of another profession, such as law, medicine, religious ministry, psychology, social work or school counseling and guidance, when his practice is clearly within his profession and consistent with the accepted standards of his profession, provided he does not purport to the public by any title or description stating or implying that he is a marriage and family counselor or is certified to practice marriage and family counseling.

SUBCHAPTER II

BOARD

§ 1875. Board of Marriage and Family Counselors; membership, appointment, qualification, vacancies, meetings

The Board of Marriage and Family Counselors shall consist of 9 members; 5 of whom shall be in the field of marriage and family counseling and eligible for certification under this chapter; one from each of the professions of divinity, law and medicine and one member representing the general public. All members shall be appointed by the Governor to serve for a term of 2 years. The members of the board shall be residents of the State and the 8 professional members shall have at least 7 years' experience in their pro-

cession. Vacancies shall be filled for the unexpired portion of the term in the same manner as the original appointment.

§ 1876. Meetings; organization; powers and duties; expenses

The board shall hold at least one meeting each year for the purpose of reviewing applications of candidates who desire to be certified by the board and such other meetings as the board shall deem necessary. They shall elect one of their members as chairman for a term of one year and one of their members as secretary and treasurer, to hold such office at the pleasure of the board. The treasurer shall receive all fees charged and assessments payable to the board and account for and pay over the same according to the law. The board shall cause a seal of suitable inscription to be procured and to be affixed to such papers as may require such seal, shall keep a correct record of all its proceedings and shall have power to make such rules and regulations, not inconsistent with law, as it may deem necessary for the enforcement of its authority and the performance of its duties. The chairman and secretary shall be empowered to administer oaths in matters connected with the duties of the board. The records of the board shall include, among other things, a record of all moneys advanced and disbursed by the board, also a list of all applicants for certificates and the fact shall be recorded whether or not the applicant was granted a certificate. The records, or duplicates thereof, shall always be open to inspection in the office of the Secretary of State during regular office hours and shall be prima facie evidence of all matters recorded therein.

Board members shall receive their necessary traveling expenses while on the business of the board.

§ 1877. Disposal of fees

All fees charged and collected by the board shall be deposited with the Treasurer of State and used as provided in Title 5, section 151.

§ 1878. Annual reports

The board shall annually, on or before the first day of July in each year, make a report to the Governor containing a full and complete account of all its official records during the preceding year and a statement of its receipts and disbursements and such comments or suggestions as it may deem essential.

SUBCHAPTER III REGISTRATION

§ 1879. Qualifications for certification; proof required

Any person wishing to apply for certification as a marriage and family counselor shall meet the following qualifications and submit proof satisfactory to the board that:

1. Character. He is of good moral character;
2. Resident. He is a resident of the State; and

3. Education. He meets the following educational qualifications:

A doctorate from an accredited college or university in psychology, sociology, psychiatry, marriage and family or pastoral counseling or another equivalent doctorate, together with 5 years' professional experience, including one year specialization in marriage and family counseling under the direct supervision of a certified marriage and family counselor; or a master's degree in social work or marriage and family or pastoral counseling from an accredited college or university approved by the board, together with 5 years' professional experience.

§ 1880. Issuing certificates; renewals; fees

The board shall issue original certifications to qualified marriage and family counselors, which shall be valid for one year. Every certificate holder may renew his certification by payment of the renewal fee and shall receive a renewal fee certificate valid for one year. Any certificate holder who allows his certificate to lapse for a period in excess of 2 years must reapply for original certification. The following fees shall apply:

Original certification	\$25
Renewal fee	\$25.

§ 1881. Certification within one year of effective date

The board may certify any person who applies for certification within one year of the effective date of this chapter, if it determines that the applicant meets standards of qualification substantially equivalent to those in section 1879, except that in lieu of an advanced degree the applicant may, at the discretion of the board, substitute 10 years of experience, satisfactorily substantiated, as a marriage and family counselor.

§ 1882. Waiver or suspension of certificates

The Administrative Court Judge, as designated in Title 5, chapters 301 to 307, shall revoke or suspend any certificate for the following reasons:

1. Record of conviction. Conviction of a felony or a misdemeanor involving moral turpitude, the record of such conviction being conclusive evidence thereof;
2. Violation of this chapter. Violation of any provision of this chapter;
3. Certificate by fraud or deceit. Obtaining a certification by fraud or deceit;
4. Drugs or intoxicants. Habitual use of drugs or intoxicants to the extent of rendering him unfit to practice marriage and family counseling;
5. Malpractice or misconduct. Malpractice or misconduct in the performance of marriage and family counseling;
6. Fee by fraud or misrepresentation. Obtaining any fee by fraud or misrepresentation;
7. Violation. Violation of the rules and regulations established pursuant to section 1876.

Upon application after one year from date of revocation, the board may grant reinstatement, where the revocation is for misconduct in his profession. No certificate shall be revoked or suspended except for cause, after notice and hearing.

§ 1883. **Privileged communications ; court referral ; report**

Any communication between the marriage and family counselor and the person or persons, counseled is confidential. Its secrecy shall always be preserved. This privilege is not subject to waiver, except where the counselor is a party defendant to a civil, criminal or disciplinary action arising from such counseling, in which case the waiver is limited to that action. Notwithstanding any other law to the contrary, if cases are counseled upon court referral, the marriage and family counselor may submit to the appropriate court a written evaluation of the prospects or prognosis of a particular marriage without divulging facts or revealing confidential disclosures. Attorneys representing spouses who are the subject of such an evaluation shall have the right to receive a copy of the report.

§ 1884. **Violations ; injunction**

In addition to other proceedings provided in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of this chapter, the Superior Court in the county where the acts or practices have taken place, or are about to take place, may issue an injunction or other appropriate order restraining such conduct on application of the Attorney General or the district attorney, upon complaint of the board.

§ 1885. **Penalty**

Any person who engages in marriage and family counseling or advertises as such in violation of any provision of this chapter is guilty of a Class E crime.

FISCAL NOTE

The Board of Marriage and Family Counselors and all its functions are to be fully funded by the fees required and thus, no cost to the State will be created by this Act.

STATEMENT OF FACT

The purpose of this bill is to establish a Board of Marriage and Family Counselors and require the registration and certification of all persons who practice or advertise as practicing marriage and family counseling, except for certain professions.