

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1260

H. P. 971

House of Representatives, March 14, 1979

On Motion of Mr. Howe of South Portland, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Fenlason of Danforth.

Cosponsor: Mr. Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Require Counselor Licensing and to Regulate the Practice of
Counseling.**

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

32 MRSA c. 91 is enacted to read:

CHAPTER 91

COUNSELORS

SUBCHAPTER I

GENERAL PROVISIONS

§ 8101. Purpose

It is the purpose of this chapter to protect the public, by setting standards of qualifications, preparation and experience for those who seek to hold themselves out to the public as counselors and to promote high standards of performance for those engaged in the profession of counseling.

§ 8102. Definitions

As used in this chapter, counseling is the professional activity for compensation which is defined as:

1. **Counseling methods and techniques.** The use of counseling methods and techniques, both individual and group, including the use of methods of procedures of administering and evaluating the results of tests, which require the application of principles, methods or procedures of understanding, predicting and influencing human behavior.

2. **Informational and community resources.** The development, maintenance and use of informational and community resources for career, personal or social development; designing, conducting and interpreting research in the area of human behavior; counseling, consulting and coordination in the promotion of mental health and the promotion of effective developmental growth.

§ 8103. Exemptions

1. **Limitation.** Nothing in this chapter shall be construed to limit the professional pursuits of licensed physicians, psychologists, social workers, attorneys or members of the clergy.

2. **Schools; limitation.** Nothing in this chapter shall be construed to limit the professional pursuits of certified counselors in state approved public and private elementary and secondary schools.

3. **Titles.** Students or counseling interns and other persons preparing for the profession of counseling under qualified supervision in recognized training institutions or facilities, may be designated by such titles as "counseling interns", "counseling apprentices", "counseling trainees" or other titles clearly indicating training status.

§ 8104. Separability clause

If any section of this chapter, or any part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not effect, impair or invalidate the remainder of this chapter or any other section or part thereof which can be given effect without the invalid section or part thereof.

SUBCHAPTER II

PRACTICE OF COUNSELING AND REPRESENTATION

TO THE PUBLIC AS A COUNSELOR

§ 8111. Counseling and representation

After 2 years from the date of enactment of this chapter no person may engage in the practice of counseling, or representing himself to the public as a counselor, by using the title counselor or licensed counselor or any other title that includes other such words unless licensed under this chapter.

§ 8112. Violation

Violation of section 8111 shall be a civil violation for which a forfeiture of not less than \$100 or more than \$1,000 shall be adjudged.

SUBCHAPTER III
THE BOARD OF EXAMINERS IN COUNSELING

§ 8121. Membership

There is created a State Board of Examiners in Counseling to consist of 7 members who shall be appointed by the Governor. Each appointment of a counselor member of the board shall be made from a list of 3 candidates selected by the Maine Personnel and Guidance Association Board of Directors. At least 2 members of the 7 member board shall be noncounselors. All counselor members shall be licensed or qualified to be licensed. One member shall be a representative of the public.

§ 8122. Terms of office

Except to fill vacancies in unexpired terms, the term of office shall be for 5 years after the appointment or until their successors have been duly appointed and qualified, provided that in the appointment of the initial board member shall be appointed for 2 years, 3 members for 3 years and 3 members for 5 years.

§ 8123. Vacancy

Any vacancy occurring during a term shall be filled within 30 days. Any counselor vacancy on the board shall be filled for the unexpired term by appointment to be made by the Governor from like nominations submitted by the Maine Personnel and Guidance Association Board of Directors. Any public member vacancy shall be filled for the unexpired term by appointment of another public member by the Governor.

§ 8124. Limitation of term

No board member shall serve for more than 2 consecutive terms.

§ 8125. Removal from board

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

- A. Failure to attend 3 consecutive meetings of the board without good reason;
- B. After appointment to the board, any conviction of a felony or a crime involving moral turpitude;
- C. The practice of fraud or deceit in granting a license under this chapter or in connection with services rendered as a member of the board;
- D. A legal finding of mental incompetency; or
- E. Any gross neglect, incompetency or misconduct in the performance of duty as a board member.

§ 8126. Meetings; election; quorum

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

§ 8127. Compensation

Members of the board shall receive no compensation for their services as a member of the board, but they shall be reimbursed for reasonable travel and incidental expenses incurred in carrying out the function described in this chapter provided that these 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 in this section, the board shall be entitled to a prorata payment in any year in which these fees are insufficient.

§ 8128. 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. **Criteria levels and methods.** The board shall be responsible for determining the criteria levels and the methods to be used in assessing competency in each of the areas listed in section 8136.

2. **Degree of completion of criteria.** The board shall be responsible for determining the degree to which an individual has successfully completed the criteria listed in section 8136.

3. **Rules and regulations.** The board shall have the power to adopt rules and regulations and establish such advisory committees as the board may deem necessary and proper to carry out its function.

4. **Contracts.** The board may enter into contracts necessary to carry out its duties or responsibilities.

5. **Investigate complaints.** The board shall have the power to investigate complaints regarding the provisions of this chapter.

6. **Work with associations and institutions.** The board may work with professional counselor associations and educational institutions to provide regular and comprehensive in-service educational experiences designed to strengthen and broaden the skills of counselors and to provide a means for counselors to earn recertification or licensing credits.

7. **Education.** The board may make regular and comprehensive efforts to educate the public about professional disclosure, the competencies and training they should expect from a counselor, specialization within the field of counseling, methods of choosing a counselor who can meet their needs and how to register a complaint against a counselor who exhibits unethical or unprofessional behavior.

SUBCHAPTER IV**LICENSING****§ 8131. Grounds for disciplinary proceedings**

The Administrative Court, upon complaint made by the board, may revoke a counselor's license for any of the following reasons:

1. **Conviction.** Conviction of a felony or a crime involving moral turpitude;
2. **Fraud or deceit.** Any fraud or deceit in securing a license or in the practice of counseling;
3. **Mental incompetence.** A legal finding of mental incompetence; or
4. **Counselor; performance of duty.** Any gross neglect, unprofessional conduct, incompetency or misconduct in the performance of duty as a counselor.

§ 8132. Fees and disposal of fees

The fee for application for licensure and examination shall not exceed \$50, as determined by the regulations of the board. All fees charged and collected by the board shall be deposited by it in the State Treasury to the credit of the board. All moneys are to be used solely by the board in carrying out its duties. The expenditures of the board may be paid only from these moneys.

§ 8133. Issuance of license

The board shall be the sole agency empowered to examine, concerning competence in the field of counseling, and to grant licenses for the practice of counseling at the appropriate level. The license shall be signed by the chairman of the State Board of Examiners in Counseling, attested to by the secretary under the board's adopted seal, whereupon a license shall be issued.

§ 8134. Hearing on refusal; revocation; suspension

The board may not refuse to issue or to renew any license for any cause listed as a ground for disciplinary proceeding unless the person complained against has been given at least 20 days notice in writing by registered mail, with return receipt requested, of the charges against him and of the time and place of a public hearing by the board. The written notice shall be mailed to the person's last known address, but the failure of the person to appear shall not prevent such a hearing. Upon such a hearing, the board may administer oaths and procure by subpoena the attendance of witnesses and the production of relevant books and papers.

§ 8135. Review of board's ruling

Any action of or ruling or order made or entered by the board declining to issue a certificate or declining to recommend licensure shall be subject to review by the courts of this State in the same manner and subject to the same powers and conditions as now provided by law in regard to rulings, orders and findings of other quasi-judicial bodies in Maine where not otherwise specifically provided.

§ 8136. Licensure of counselors

The State Board of Examiners in Counseling shall issue a license according to the criteria specified below.

1. Associate counselor. The board shall issue a license as an associate counselor to an applicant who:

A. Has a Bachelors degree in a human service field or an associate degree in a human service field and 2 years of supervised human service experience; and

B. Is employed in a state, federal or private agency which is approved by the board and the counselor works within specified agency functions.

2. Professional counselor. The board shall issue a license as a professional counselor to an applicant who:

A. Has either completed a graduate degree from a board-approved program in counseling, or has a bachelors degree plus 33 graduate credits encompassing study in all of the following areas:

(1) Individual counseling theory and techniques;

(2) Group counseling theory and techniques;

(3) Individual counseling practicum;

(4) Group counseling practicum;

(5) Research design and statistics;

(6) Tests and measurements; and

(7) Career development theory;

B. Has demonstrated generic counseling knowledge and skills through the criteria measures and at the level of performance specified by the board;

C. Has completed 300 hours of counseling experience under the supervision of a counselor or counselors who are approved by the board; and

D. Is supervised by a senior professional counselor approved by the board, except when working within an agency and within specified agency functions which have been approved by the board.

3. Senior professional counselor. The Board shall issue a license as a senior professional counselor to an applicant who:

A. Has either completed a graduate degree from a board approved program in counseling, plus 30 graduate credit hours beyond the masters level in related academic preparation, or has a bachelors degree and 63 graduate credits encompassing study in all of the following areas:

(1) Individual counseling theory and techniques;

- (2) Group counseling theory and techniques;
- (3) Individual counseling practicum;
- (4) Group counseling practicum;
- (5) Research design, measurement and statistics;
- (6) Tests and measurements; and
- (7) Career development theory;

B. Has demonstrated generic counseling knowledge and skills through the criteria measures and at the level of performance specified by the board; and

C. Has completed 1000 hours of counseling experience under the supervision of a counselor or counselors who are approved by the board.

§ 8137. Reciprocity

The board in its discretion may grant a license to an individual who at the time of application is licensed or certified by a board of examiners of another state, territory or political subdivision of the United States, provided that the requirements of the board of the other state, territory or political subdivision, in the opinion of the Maine board, are not lower than those required by this chapter.

§ 8138. License duration and renewal

Licenses issued by the board will be valid for a period of 5 years. Licenses will be renewable provided that, during the previous licensure period, the counselor has had an individual in-service educational plan approved by the board and has completed the terms of that plan.

§ 8139. Professional disclosure

Prior to rendering professional services to clients outside of the confines and limited roles of an approved agency, counselors shall give the prospective client a written statement which would include the counselor's name, business address and telephone number, formal education and training, competency areas, continuing educational endeavors, fee schedule and the name, address and telephone number of the chairman of the State Board of Examiners in Counseling.

§ 8140. Penalties

1. **Penalty.** The following shall be civil violations for which a forfeiture of not less than \$100 or more than \$1,000 shall be adjudged:

- A. Obtaining or attempting to obtain a license or renewal thereof by bribery or fraudulent representation;
- B. Knowingly making a false statement in connection with any application under this chapter; or

C. Knowingly making a false statement on any form promulgated by the board in accordance with this chapter or the rules and regulations promulgated thereunder.

§ 8141. Code of ethics

The board of examiners shall adopt a code of ethics in keeping with those standards established by the American Personnel and Guidance Association and its affiliates.

STATEMENT OF FACT

The purpose of this bill is to establish a State Board of Examiners in Counseling and to require licensure for those wishing to engage in the profession of counseling.