

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 1468**

S. P. 518

In Senate, March 24, 1981

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Minkowsky of Androscoggin.

Cosponsors: Senator Pierce of Kennebec, Senator Clark of Cumberland and Representative Kilcoyne of Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT Requiring the Registration of Professional Counselors in Independent Practice and the Certification of Certain Such Professional Counselors.**

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

32 MRSA c. 89 is enacted to read:

**CHAPTER 89**

**PROFESSIONAL COUNSELOR**

**REGISTRATION AND CERTIFICATION ACT**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

**§ 9001. Short title**

**This Act shall be known and may be cited as the "Professional Counselor Registration and Certification Act."**

**§ 9002. Policy and purpose**

**1. Declaration. Counseling in this State is declared to be a professional practice which affects the health, safety and welfare of its residents and which**

requires appropriate regulatory registration and certification in the public interest.

2. Purpose. It is the purpose of this Act to establish a registration and certification agency and procedures which will:

A. Require registration for counselors practicing in the public domain; and

B. Provide a mechanism for the certification of marriage and family counselors and therapists.

### § 9003. General definitions

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

1. Board. "Board" means the Maine Counselor Registration and Certification Board.

2. Central Licensing Division. "Central Licensing Division" means the Central Licensing Division of the Department of Business Regulation as created under Title 10, section 8003.

3. Professional counselor. Subject to section 9004, "professional counselor" means any person who holds himself out to the public by any title or description to render any service to the general public, for a fee or other personal gain, involving the application of principles, methods or procedures and which are employed to assist persons or groups, through a helping interpersonal relationship, to develop an understanding of personal and interpersonal problems, to plan goals, to plan action reflecting their best interests, abilities and needs as they are related to personal-social concerns, personal, interpersonal and social considerations of an intimate nature, educational progress, occupations, avocations and careers.

### § 9004. Limitations and exemptions

No provisions of this Act apply to:

1. Academic, governmental or research employees. A person who practices as a professional counselor solely as part of his or her duties as an employee of an 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 that person was employed by such an institution, agency, or facility;

2. Students. A student of counseling or person preparing for the practice of professional counseling under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the board, provided that person is designated by such a title as "counseling intern" or other, clearly indicating such training status;

3. Other registered, certified or licensed practitioner. A qualified practitioner of another profession such as law, medicine, psychology or social work provided that such individual is registered, certified or licensed in accordance with the

applicable and current provisions of law; provided that such professional does not purport to the public by any title or description stating or implying that he or she is a professional counselor registered to practice professional counseling; and further provided that such professional does not purport to the public by any title or description stating or implying that he or she is a certified marriage and family counselor or therapist; or

4. Clergy, priests, rabbis or members of the gospel. Any member of the clergy, priest, rabbi or minister of the gospel of any religious denomination, when performing counseling services as a part of that person's ministerial duties; provided that such services are connected with a church, synagogue, temple or other specific order of any religious denomination; and further provided that such member of the clergy, priest, rabbi or minister of the gospel does not purport to the public by any title or description stating or implying that he is a certified marriage and family counselor or therapist who is so certified under subchapter IV.

## SUBCHAPTER II MAINE COUNSELOR REGISTRATION AND CERTIFICATION BOARD

### § 9031. Establishment

There is established, as an agency of the State, the Maine Counselor Registration and Certification Board. The board shall be composed of 11 members to be appointed by the Governor in the manner provided for in section 9032.

Of the first board members appointed, 3 shall continue in office for 2 years, 2 for 3 years and 6, including the chairperson, for 4 years, respectively. Their successors shall be appointed for terms of 4 years each. Upon the expiration of one's term of office, a board member shall continue to serve until a successor shall have been appointed and shall be duly qualified. During any 12-year period no person shall be appointed for more than 2 consecutive terms or more than twice to fill an unexpired term.

During any 12-year period no person may serve as chairperson of the board for more than 4 years.

The Governor may remove any member of the board or the chairperson from the position as chairperson for neglect of duty or malfeasance or conviction of a Class A, B, C, D or E crime or any crime involving moral turpitude while in office, but for no other reason.

No board member may participate in any matter before the board in which that board member has a pecuniary interest, undue personal bias or other similar conflict of interest.

**§ 9032. Nominations for appointment**

The Governor shall appoint 11 members to the board in accordance with the following numbers, categories and qualifications.

1. Marital and family counselors or therapists. Four members shall be practicing marital and family counselors or therapists who meet the educational and experience requirements stated in this Act for persons applying for certification under the provisions of subchapter IV and each shall have been at least 2 years immediately preceding appointment actively engaged as a marital and family therapist in rendering professional services in marital and family therapy or in the education and training of master's doctoral or postdoctoral students of marital and family counseling or therapy in this State.

For purposes of initial appointment only, the initial appointees, upon application to the Governor and appointed pursuant to this section, shall be deemed to be certified marital and family therapists immediately upon their appointment and qualification as members of the board. Nothing in this subsection shall relieve the appointed and qualified marital and family therapist of his or her responsibility to comply with the procedures set forth in subchapter IV once the board has determined the manner in which procedures are to be accomplished.

2. Professional counselors. Four members of the board shall be practicing professional counselors as set forth in subchapter III and each shall have been at least 2 years immediately preceding appointment actively engaged as a professional counselor in rendering professional counseling services.

3. Public representatives. Three members of the board shall be representatives of the general public.

**§ 9033. Vacancies**

If, before the expiration of a term, any member dies, resigns, becomes disqualified or otherwise ceases to be a board member, the vacancy shall be filled by the Governor by appointment for the unexpired term.

**§ 9034. First and annual meetings**

The board shall, at its first meeting, to be called by the Governor within 30 days following the appointment of its members, and at all annual meetings thereafter, to be held in the identical month of its first meeting each year, meet and confer with representatives of the Central Licensing Division to adopt procedures for implementing the provisions of this Act.

**§ 9035. Quorum**

Seven of the members of the board shall constitute a quorum of the board.

**§ 9036. Regular board meetings**

In addition to the annual meeting, the board shall hold at least one regular meeting each month of any given year, but further additional meetings may be

held upon call of the chairperson or at the written request of any 2 members of the board.

**§ 9037. Board elections**

The board shall elect, at its first meeting and at all appropriate annual meetings, a chairperson, vice-chairperson and secretary from among its members. Such officers shall serve until successors are elected, qualified and subsequently appointed.

**§ 9038. Modification of rules and regulations**

Subject to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the board may adopt, amend or repeal reasonable rules and regulations for the purposes of carrying out the provisions of this Act.

**§ 9039. Board employees**

With the approval of the Commissioner of Business Regulation and subject to the Personnel Law, the board may employ such consultants and other employees as it may from time to time find necessary for the proper performance of its duties and for whom the necessary funds are appropriated.

**§ 9040. Documentation of proceedings and other permanent records**

The board shall keep a written record of its proceedings. All applications and communications shall be kept permanently on file with the board or Central Licensing Division.

**§ 9041. Board members shall serve without compensation**

Board members shall serve without compensation but shall be reimbursed for expenses reasonably incurred in the performance of duties as a member of the board.

**§ 9042. Disposal of money received**

All fees and other money received pursuant to this Act shall be paid to the Treasurer of State to be used for carrying out the purposes of this Act. Any balance of moneys so received shall not lapse, but shall be carried forward as a continuing account to be used for carrying out the purposes of this Act.

**§ 9043. Enforcement**

The board shall administer and enforce the provisions of this Act.

**§ 9044. Seal**

The board shall adopt a seal which shall be affixed to all documents of registration or certification issued by the Central Licensing Division.

**SUBCHAPTER II  
REGISTRATION REQUIRED**

**§ 9051. Registration required**

Beginning March 1, 1982, except as otherwise permitted in sections 9004 and 9063, no person who is not registered under this subchapter shall advertise the performance of professional counseling services or represent himself to be a registered practicing professional counselor, use a title or description "counselor," "advisor" or "consultant;" or any other name, style or description denoting that the person so advertising engages in professional counseling services. Only a person registered under this subchapter shall advertise himself, purport or describe himself as offering professional counseling or advice or service of like import or effect, offer to practice or practice as a professional counselor as defined in section 9003, except as otherwise permitted in sections 9004 and 9063.

**§ 9052. Application for registration**

Each person desiring to register under the provisions of this subchapter shall make application to the board upon forms and in a manner which the board and the Central Licensing Division shall prescribe and the applicant shall tender with the application a fee not to exceed the sum of \$10.

**§ 9053. Renewal of registration and biennial fee**

The board shall require the renewal of registration biennially. Application forms for renewal shall be prepared by the board and issued to each currently registered professional counselor 30 days prior to the expiration of current registration. The board shall collect a fee of \$10 with each such application.

**§ 9054. Document of registration**

The Central Licensing Division shall issue a document of registration to all applicants whose application forms and fees have been duly received and found to be in order and in compliance with the provisions of this subchapter.

**SUBCHAPTER IV****CERTIFICATION OF MARITAL AND  
FAMILY COUNSELORS OR THERAPISTS****§ 9061. Application for certification**

Each person desiring to obtain certification under the provisions of this subchapter shall make application to the board upon forms and in a manner which the board and the Central Licensing Division shall prescribe, and the applicant shall tender with the application a fee not to exceed the sum of one \$100.

**§ 9062. Definitions**

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

1. Allied mental health degree program. "Allied mental health degree program" means:

- A. Master's or doctoral degree in clinical social work;
  - B. Master's or doctoral degree in psychiatric nursing;
  - C. Master's or doctoral degree in clinical or counseling psychology;
  - D. Master's or doctoral degree in counselor education;
  - E. Doctor of medicine or doctor of osteopathy degree with an appropriate residency training in psychiatry;
  - F. Doctoral degree in clinical sociology with appropriate supervised training in marital and family counseling or therapy; or
  - G. Master's or doctoral degree in any mental health program which is approved by the board to be equivalent in preparation to a master's degree in marriage and family counseling or therapy.
2. Certified marital and family counselor or therapist. "Certified marital and family counselor or therapist" means a person to whom a certificate has been issued pursuant to this Act, which certificate is in force and not suspended or revoked as of the particular time in question.
3. Marital and family counseling or therapy or marriage and family counseling or therapy. "Marital and family counseling or therapy or marriage and family counseling or therapy" means a specialized field of counseling or therapy which centers upon the family system and the relationship between husband and wife. It consists of the application of principles, methods and educational and therapeutic techniques for the purpose of resolving emotional conflicts, altering ineffectual attitudes and establishing new ones in the area of marital and family life. It is the counseling and use of therapy measures with persons, couples or groups with adjustment problems in the area of marital, family or personal relationships.
4. Practice of marital and family counseling or therapy. "Practice of marital and family counseling or therapy" means the rendering of professional marital and family counseling or therapy services to individuals, family groups and marital pairs, singularly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.
5. Recognized educational institution. "Recognized educational institution" means any educational institution which grants a bachelor's, master's or doctoral degree and which is recognized by a regionally recognized educational or professional accrediting body or it means an institution of higher education which is approved by the board.

§ 9063. Certification deemed to be registration

Any person certified under the provisions of this subchapter shall be deemed to be a registered professional counselor. The Central Licensing Division shall issue a document of registration upon request to all persons duly certified in accordance with the provisions of this subchapter.



**§ 9064. Prescriptive use of title or description**

Except as specifically provided elsewhere in this subchapter, commencing March 1, 1982, only persons certified under this subchapter shall use a title or description such as "certified marital or marriage counselor, therapist, advisor or consultant," "certified marital or marriage and family counselor, therapist, advisor or consultant," or any other name, style or description denoting that the person is certified to practice marriage, marital or family counseling, therapy, advising or consulting.

**§ 9065. General certification requirements**

Each person desiring to obtain certification under this subchapter shall make application to the board in accordance with section 9061 and each such person shall furnish evidence satisfactory to the board that the applicant:

1. **Character.** Is of good moral character;
2. **Practices of conduct.** Has not engaged in or is not engaged in any practice of conduct which would be a ground for denial, revocation or suspension of certificate under the applicable provisions of this subchapter; and
3. **Qualified for certification.** Is qualified for certification pursuant to the requirements of this subchapter.

**§ 9066. Applications received by December 31, 1983**

Any person whose application is received by the board by December 31, 1983, shall be certified by the board if the applicant meets the qualifications set forth in section 9065, subsections 1, 2 and 3 and provides satisfactory evidence to the board that he or she:

1. **Educational or qualification requirements; clinical experience.** Meets the educational or qualification requirements and clinical experience requirements as follows:

**A. Educational or qualification requirements.**

- (1) Possesses a minimum of a graduate degree or the equivalent in the field of marriage and family counseling or therapy;
- (2) Possesses a minimum of a graduate degree or its equivalent in an allied mental health degree program from a recognized educational institution and which program and educational institution is satisfactory to the board;
- (3) Is a physician, doctoral level psychologist or masters level social worker whose official transcript establishes to the satisfaction of the board that the person has accomplished approved training in marriage and family counseling or therapy;
- (4) Is a person who has been duly admitted to practice as a counselor and attorney in the judicial courts of any jurisdiction within the United States, and who has:

(a) Completed additional supervised graduate training in marital and family counseling or therapy in a program which is satisfactory to the board; or

(b) Completed additional supervised graduate training in a closely allied mental health degree program in a course of study and training which is satisfactory to the board; or

(5) Is a legal resident of this State and has been principally employed in the practice of marriage and family counseling in this State for at least 5 years prior to the effective date of this subchapter and submits satisfactory proof of the duration of his or her practice and meets the requirements of this paragraph, subparagraphs (1), (2), (3) or (4) and section 9065, subsections 1, 2 and 3, except that in lieu of an advanced degree or qualifications the applicant may, at the discretion of the board, substitute 10 years of experience, satisfactorily substantiated, as a marriage and family counselor and pays the original certification fee prescribed by this subchapter; and

B. Clinical experience requirements. Possesses at least 1,500 hours of supervised clinical experience of which a minimum of 500 hours shall be in marital and family counseling or therapy, all of which clinical experience was obtained concurrent with or subsequent to one's graduate degree or approved didactic training program. Such clinical experience and supervision shall be of a character approved by the board;

2. Fee. Pays the original certification fee prescribed by this subchapter; and

3. Application. Files an acceptable application for certification.

§ 9067. Applications received by January 1, 1984

Any person whose application is received by the board by January 1, 1984 shall be certified by the board if the applicant meets the qualifications set forth in section 9065, subsections 1, 2 and 3 and provides satisfactory evidence to the board that the applicant:

1. Educational or licensing qualifications; clinical experience. Meets the educational or licensure qualifications and clinical experience requirements as follows:

A. Educational or qualification requirements;

(1) Possesses at least a graduate degree from an accredited educational institution, so recognized by the board at the time such degree is granted, in marriage and family counseling or therapy, family life education, counselor education, clinical or counseling psychology, social work, sociology of the family, clinical sociology or a closely comparable field emphasizing marriage and family counseling;

(2) Shall be a licensed doctor of medicine, licensed doctor or osteopathy, licensed clinical psychologist or certified social worker who:

- (a) Is so duly licensed or certified in accordance with the laws of this State; and
  - (b) Possesses an official transcript which establishes to the satisfaction of the board that the person has completed an appropriate course of study in marriage and family counseling or therapy or in a closely comparable field emphasizing marriage and family counseling; or
- (3) Shall be a person who has been duly admitted to practice as a counselor and attorney in the judicial courts of any jurisdiction within the United States and who has:
- (a) Completed additional supervised graduate training in marital and family counseling or therapy in a program which is satisfactory to the board; or
  - (b) Completed additional supervised graduate training in a closely allied mental health degree program in a course of study and training which is satisfactory to the board; and

**B. Clinical experience requirements.** Notwithstanding the educational or qualification requirements set forth in paragraph A, the applicant shall have at least 2,000 hours of supervised clinical experience, which experience was obtained concurrent with or subsequent to his or her didactic training; 1,000 hours of this clinical experience requirement shall have been accumulated in the field of marriage and family counseling or therapy. In addition, the applicant shall have received a minimum of 200 hours of supervision, of a character approved by the board, while satisfying supervised clinical experience requirement set forth in this section;

- 2. **Application.** Files an acceptable application for certification;
- 3. **Fee.** Tenders the application for certification fee prescribed by this subchapter; and
- 4. **Examination.** Passes an examination in accordance with the provisions of section 9068.

#### § 9068. Examinations

- 1. **Time and place.** The board shall conduct an examination at least once a year at a time and place designated by the board.
- 2. **Questions.** Examinations shall include questions in such theoretical and applied fields which test an applicant's knowledge and competence to engage effectively in the practice of marital and family therapy.
- 3. **Written or oral examination.** Examinations may be written or oral, or both, as prescribed by the board.
- 4. **Vote of board.** An applicant shall be held to have passed an examination upon the affirmative vote of the majority of the members of the board present and voting.

5. **Subsequent examination.** Any person who fails an initial examination conducted by the board shall not be admitted to a subsequent examination for a period of at least 6 months. Any person who fails a 2nd examination conducted by the board shall not be admitted to subsequent examinations for a period of at least one year.

Any person who fails an examination conducted by the board for a 3rd time shall not be admitted to a subsequent examination for a period of at least 3 years.

**§ 9069. Continuing education**

1. **Standards.** The board shall prescribe continuing education standards for persons certified under this subchapter. These standards, in the judgment of the board, will:

- A. Assure the continued professional development of each certified professional person; and
- B. Maintain the highest standards of the profession.

2. **Evidence of continuing education.** The board shall require satisfactory evidence of such continuing education at the time the application for renewal is made, in accordance with section 9071.

**§ 9070. Document of certification**

The Central Licensing Division shall issue a document of certification to all applicants whose application forms and fees have been duly received and found to be in order and in compliance with the provisions of this subchapter.

**§ 9071. Renewal of certification and biennial fee**

The board shall require the renewal of all certificates of qualification biennially. Application forms for renewal shall be prepared by the board and issued to each currently certified professional counselor 30 days prior to the expiration of the person's then valid and current certification. The board shall collect with each such application a fee not to exceed \$100.

**§ 9072. Renewal document of certification**

A person making application for renewal under section 9071 shall be issued such a document of certification by the Central Licensing Division if the applicant:

1. **Application.** Files an acceptable application for renewal;
2. **Fee.** Tenders with the renewal application a fee not to exceed the sum of \$100; and
3. **Evidence of continuing education.** Submits satisfactory evidence of having complied with the continuing education requirements provided for in section 9069.

**SUBCHAPTER V  
VIOLATION AND DENIAL  
REVOCATION AND  
SUSPENSION OF  
CERTIFICATION**

**§ 9081. Violation of registration provisions**

Violation of any registration provision of subchapter III is a civil violation for which a forfeiture of not more than \$100 may be adjudged for each offense provided that any person so indicted shall have 30 days from the date of alleged infraction or infractions to comply with the appropriate provisions of subchapter III.

**§ 9082. Violation of certification provisions**

Any person not certified as a marital and family counselor or therapist, as provided in subchapter IV, who, on or subsequent to March 1, 1982, advertises or holds himself or herself out to be a certified marital and family counselor or therapist, or who, by any other name, style or description, purports to be certified to practice marital and family counseling, therapy, advising or consulting, in violation of section 9064, is guilty of a Class E crime.

**§ 9083. Denial; revocation; suspension**

The board may deny certification or proceed in Administrative Court, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, for the revocation or suspension of a privilege of certification granted under subchapter IV on the following grounds:

1. Conviction of Class A, B, C or D crime. Conviction of a Class A, B, C or D crime or a crime punishable by an equivalent fine or term of imprisonment;
2. Conviction of felony under federal law. Conviction of a felony under the federal laws of the United States or any of its territories;
3. Conviction of felony in other jurisdictions. Conviction of a felony under the laws of any jurisdiction within the United States;
4. Conviction of crime involving dishonesty, deceit or fraud. Conviction of any crime, an essential element of which is dishonesty, deceit or fraud;
5. Fraud or deceit in obtaining certification. Fraud or deceit in obtaining certification under subchapter IV; or
6. Dishonesty, fraud or criminal negligence in performance of duties. Dishonesty, fraud or criminal negligence in the performance of his or her duties as a certified professional counselor.

**§ 9084. Injunction**

As an additional or alternate remedy, the board may proceed in Superior Court to enjoin and restrain any unregistered or uncertified person from violating the prohibitions of sections 9051 and 9064. The board shall not be required to post bond to such proceeding.

**§ 9085. Practice not prohibited**

Once registered as a counselor under subchapter IV, unless specifically exempted from so registering, nothing in this Act shall prohibit any person from performing marriage and family counseling, therapy, advising or consulting.

**§ 9086. Advertising not prohibited**

Once registered as a counselor under subchapter III, unless specifically exempted from so registering, nothing in this Act shall prohibit any person from advertising the performance of marriage, marital and family counseling, therapy, advising or consulting and the persons from whom it may be obtained.

**SUBCHAPTER VI****MISCELLANEOUS PROVISIONS****§ 9091. Communications between marital counselor or therapist and clients**

No person, duly authorized by the State as a certified marital and family counselor, nor any of his past or present employees or associates, may be required to disclose any information which the counselor may have acquired in rendering professional marital and family counseling services and which information was necessary to enable the counselor to render professional marital and family counseling services, provided, that the presiding justice of a Superior Court may compel such disclosure if, in his judgment, it is necessary to a proper administration of justice. The proceedings of any such case shall be impounded ab initio.

**§ 9092. Documents to be posted**

Any person registered or certified under this Act shall display a validated document of registration or certification in a prominent location at his or her regular business location and shall produce evidence of registration or certification, whichever appropriate, upon request if the counselor is not practicing at his regular place of service.

**§ 9093. Repeal**

This Act is repealed on January 1, 1992, unless reenacted.

**STATEMENT OF FACT**

It is the purpose of this bill to establish a registration and certification agency and procedures which will:

1. Require registration for counselors practicing in the public domain; and
2. Provide a mechanism for the certification of marriage and family counselors and therapists.