

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 684, L.D. 936, Bill, "An Act to Provide for the Licensing of Counseling Professionals and to Create a Board of Counseling Professionals Licensure"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-A, sub-§9-A is enacted to read:

9-A. Board of \$35/Day 32 MRSA §13852
Counseling Professionals
Licensure

Sec. 2. 10 MRSA §8001, as repealed and replaced by PL 1987, c. 395, Pt. A, §34 and c. 488, §2, is repealed and the following enacted in its place:

§8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

1. Bureau of Banking. Banking, Bureau of;
2. Bureau of Consumer Credit Protection. Consumer Credit Protection, Bureau of;
3. Bureau of Insurance. Insurance, Bureau of;
4. Maine Athletic Commission. Athletic Commission, Maine;
5. Maine State Pilotage Commission. Pilotage Commission, Maine State;

- 1 6. Real Estate Commission. Real Estate Commission;
- 3
- 5 7. Arborist Examining Board. Arborist Examining Board;
- 7 8. Board of Licensing of Auctioneers. Auctioneers, Board
of Licensing of;
- 9 9. State Board of Barbers. Barbers, State Board of;
- 11 10. Board of Commercial Driver Education. Commercial
Driver Education, Board of;
- 13 11. Board of Registration of Dietetic Practice. Dietetic
Practice, Board of Registration of;
- 15 12. Electricians' Examining Board. Electricians' Examining
Board;
- 17 13. State Board of Registration for Professional
Foresters. Foresters, State Board of Registration for
Professional;
- 19 14. State Board of Funeral Service. Funeral Service, State
Board of;
- 21 15. State Board of Certification for Geologists and Soil
Scientists. Geologists and Soil Scientists, State Board of
Certification for;
- 23 16. Board of Hearing Aid Dealers and Fitters. Hearing Aid
Dealers and Fitters, Board of;
- 25 17. Manufactured Housing Board. Manufactured Housing Board;
- 27 18. Nursing Home Administrators Licensing Board. Nursing
Home Administrators Licensing Board;
- 29 19. Board of Occupational Therapy Practice. Occupational
Therapy Practice, Board of;
- 31 20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;
- 33 21. Board of Examiners in Physical Therapy. Physical
Therapy, Board of Examiners in;
- 35 22. Plumbers' Examining Board. Plumbers' Examining Board;
- 37 23. State Board of Examiners of Psychologists.
Psychologists, State Board of Examiners of;
- 39
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1 24. Radiologic Technology Board of Examiners. Radiologic
3 Technology Board of Examiners;

5 25. Board of Respiratory Care Practitioners. Respiratory
7 Care Practitioners, Board of;

9 26. State Board of Social Worker Registration. Social
11 Worker Registration, State Board of;

13 27. Board of Examiners on Speech Pathology and Audiology.
15 Speech Pathology and Audiology, Board of Examiners on;

17 28. Board of Registration of Substance Abuse Counselors.
19 Substance Abuse Counselors, Board of Registration of;

21 29. State Board of Veterinary Medicine. Veterinary
23 Medicine, State Board of;

25 30. Acupuncture Licensing Board. Acupuncture Licensing
27 Board;

29 31. Maine State Pharmacy Commission. Pharmacy Commission,
31 Maine State;

33 32. State Board of Registration for Land Surveyors.
35 Registration for Land Surveyors, State Board of;

37 33. Board of Chiropractic Examination and Registration.
39 Chiropractic Examination and Registration, Board of;

41 34. Board of Licensure of Railroad Personnel. Licensure of
43 Railroad Personnel, Board of; and

45 35. Board of Counseling Professionals Licensure.
47 Counseling Professionals Licensure, Board of.

49 **Sec. 3. 32 MRSA c. 119 is enacted to read:**

51 CHAPTER 119

53 COUNSELING PROFESSIONALS

55 §13851. Definitions

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

61 1. Board. "Board" means the Board of Counseling
63 Professionals Licensure.

65 2. Clinical professional counselor. "Clinical professional
67 counselor" means a professional counselor who renders or offers
69 to render for a fee, monetary or otherwise, to individuals,

1 families, groups, organizations or the general public, a
2 counseling service involving the application of the principles
3 and procedures of counseling to assess and treat intrapersonal
4 and interpersonal problems and other dysfunctional behaviors and
5 to assist in the overall development and adjustment of those
6 served.

7
8 3. Commissioner. "Commissioner" means the Commissioner of
9 Professional and Financial Regulation.

11 4. Conditional license. "Conditional license" means a
12 license granted to an individual who has met all the requirements
13 for licensure as defined in section 13858 and is in the process
14 of obtaining 2 years of supervised experience beyond the master
15 degree.

17 5. Department. "Department" means the Department of
18 Professional and Financial Regulation.

19
20 6. Marital and family therapy services. "Marital and
21 family therapy services" means the assessment and treatment of
22 intrapersonal and interpersonal problems through the application
23 of principles, methods and therapeutic techniques for the purpose
24 of resolving emotional conflicts, modifying perceptions and
25 behavior, enhancing communication and understanding among all
26 family members, and preventing family and individual crises.

27
28 7. Marriage and family therapist. "Marriage and family
29 therapist" means a person who renders or offers to render for a
30 fee, monetary or otherwise, marital and family therapy services.

31
32 8. Procedures of counseling. "Procedures of counseling"
33 means methods and techniques that include, but are not limited
34 to, the following.

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

38
39 B. "Consulting" means the application of scientific
40 principles and procedures in counseling to provide
41 assistance in understanding and solving a current or
42 potential problem that the client may have in relation to a
43 3rd party, be it an individual, a family, a group or an
44 organization.

45
46 C. "Counseling" means assisting individuals, families or
47 groups through the counseling relationship to develop
48 understanding of intrapersonal and interpersonal problems,
49 to define goals, to make decisions, to plan a course of
50 action reflecting their needs, and to use information and
51

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, educational 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 shall consist of 8 members appointed by the Governor. Each member shall be a citizen of the United States and a resident of this State. Six members shall be licensed counseling professionals under this chapter, 2 of whom shall be professional counselors, 2 shall be clinical professional counselors and 2 shall be marriage and family therapists. Each member shall have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. Two members shall be representatives of the general public.

3. Timetable. The Governor shall make initial appointments by January 1, 1990. The initial appointees, with the exception of the representatives of the general public, shall be licensed in accordance with this chapter following their appointment and qualification 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

1 member to be succeeded. Upon the expiration of the term of
2 office, a board member shall continue to serve until a successor
3 has been appointed and qualified. No person may be appointed for
4 more than 2 consecutive terms.

5
6 5. Removal. The Governor may remove any member of the
7 board for cause.

8
9 6. Compensation. Members of the board shall be compensated
10 according to the provisions of Title 5, chapter 379, provided
11 that expenses do not exceed the fees collected by the board. If
12 the fees to be collected under this chapter are insufficient to
13 pay the expenses provided by this section, the board members
14 shall be entitled to a pro rata payment in any years in which
15 those fees are insufficient.

16
17 7. Meetings; quorum. The board shall hold at least 2
18 regular meetings each year. Additional meetings may be held upon
19 the call of the chair or the secretary or upon the written
20 request of any 2 board members. Five members of the board
21 constitute a quorum.

22 §13853. Powers and duties of the board

23
24 The board shall have the following powers and duties in
25 addition to all other powers and duties otherwise set forth in
26 this chapter.

27
28 1. Standards. The board shall administer and enforce this
29 chapter, set forth education and examination standards and
30 evaluate the qualifications for licensure.

31
32 2. Rules. The board may adopt, in accordance with the
33 Maine Administrative Procedure Act, Title 5, chapter 375, rules
34 necessary to carry out the purposes of this chapter.

35
36 3. Complaints. The board shall investigate or cause to be
37 investigated all complaints made on its own motion or on written
38 complaint filed with the board and all cases of noncompliance
39 with or violation of this chapter or any rules adopted by the
40 board.

41
42 4. Records. The board shall keep records and minutes as
43 are necessary to the ordinary dispatch of its functions.

44
45 5. Reports. The board shall submit to the commissioner its
46 annual report of its operations for the preceding fiscal year no
47 later than August 1st of each year.

48
49 6. Contracts. The board may enter into contracts to carry
50 out its responsibilities under this chapter.
51

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

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

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

15 10. Officers. The board shall elect from among its members
17 a secretary and other officers as it deems necessary. The
19 secretary shall keep records and minutes of all activities and
 meetings.

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

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

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

39 The board shall not refuse to renew a license for any reason
41 other than failure to pay a required fee, unless it has afforded
43 the licensee an opportunity for an adjudicatory hearing. The
45 board shall hold an adjudicatory hearing at the written request
47 of any person who is denied a license without a hearing for any
49 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 therefor and the right to request a
 hearing. Hearings shall be conducted in conformity with the
51 Maine Administrative Procedure Act, Title 5, chapter 375,
 subchapter IV, to the extent applicable.

1 §13854. Licensing

3 1. Licensing required. Effective October 1, 1990, no
5 person, unless specifically exempted by this chapter, may
7 practice counseling or profess to be a clinical professional
9 counselor, professional counselor, marriage and family therapist,
11 or conditional license holder unless licensed in accordance with
13 this chapter.

15 2. Individual licensing. Only an individual may be
17 licensed under this chapter.

19 3. Violation; injunction. Any person who violates this
21 chapter is guilty of a Class E crime. The State may bring an
23 action in Superior Court to enjoin any person from violating this
25 chapter, regardless of whether proceedings have been or may be
27 instituted in the Administrative Court or whether criminal
29 proceedings have been or may be instituted.

31 §13855. Psychological testing; assessment services

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

49 §13856. Exemptions to licensure

51 1. Other professionals. Nothing in this chapter may be
53 construed to apply to the activities and services of members of
55 other professions licensed, certified or registered by the State
57 such as, but not limited to, psychiatrists, physicians,
59 psychologists, social workers and substance abuse counselors
61 performing counseling consistent with the laws of the State
63 governing their practices.

65 2. Governmental employees. Nothing in this chapter may be
67 construed to apply to the activities and services of an employee
69 or other agent of a recognized academic institution; employee
71 assistance program; a federal, state, county or local government
73 institution, program, agency or facility; or a school committee,
75 school district, school board or board of trustees, provided that
77 the individual is performing those activities solely within the
79 agency or under the jurisdiction of that agency and provided
81 further that a license granted under this chapter is not a
83 requirement for employment.

3. Clergy. Nothing in this chapter may be construed to apply to the activities and services of any priest, rabbi, clergyman 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.

§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 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

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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 couples and families and 200 hours of supervision, at least 100 of which shall be individual supervision.

4. Supervision. Supervision may be provided by a qualified and duly certified or licensed counseling professional, clinical

1 social worker, psychologist or psychiatrist. Any other
2 supervisor must be individually approved by the board.

3
4 5. Examination. All applicants shall be required to pass a
5 written examination in subjects the board deems necessary to
6 determine the fitness of the applicant to practice. The board
7 shall establish the passing score for all examinations.
8 Examinations will be held at such times as the board deems
9 necessary.

11 §13859. Fees

12
13 1. Amount. Application and examination fees may be
14 established by the board in amounts which are reasonable and
15 necessary for their respective purposes. License fees may not
16 exceed the following amounts.

17
18 A. Original and renewal fees for clinical professional
19 counselor, professional counselor or marriage and family
20 counselor - \$300 biennially.

21
22 B. Original and renewal fees for conditional counselor -
23 \$150 biennially.

25 §13860. Terms of licenses

26
27 1. Biennial renewal. Licenses shall expire biennially on
28 December 31st or on such other date as the commissioner
29 determines. Notice of expiration shall be mailed to each
30 licensee's last known address at least 30 days in advance of the
31 expiration of the license. The notice shall include any requests
32 for information necessary for renewal.

33
34 Licenses may be renewed up to 90 days after the date of
35 expiration upon payment of a late fee of \$10 in addition to the
36 renewal fee. Any person who submits an application for renewal
37 more than 90 days after the license renewal date shall be subject
38 to all requirements governing new applicants under this chapter,
39 except that the board may, giving due consideration to the
40 protection of the public, waive examination if that renewal
41 examination is made within 2 years from the date of that
42 expiration.

43
44 2. Continuing education. The board, by rule, may establish
45 continuing education requirements. Applicants for renewal of
46 license must show proof of satisfying the continuing education
47 requirements set forth by the board.

49 §13861. Disciplinary action grounds; procedure; complaints

50
51 1. Grounds. The board may suspend, revoke or refuse to
renew a license pursuant to Title 5, section 10004. In addition,

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the board may take any other action pursuant to Title 10, section 8003, subsection 5. The board's actions may be taken based on any of the following grounds:

5 A. The practice of fraud or deceit in obtaining a license
7 under this chapter or in connection with service rendered
 within the scope of the license issued;

9 B. Habitual intemperance in the use of alcohol or the
11 habitual use of narcotic, hypnotic or other drugs listed as
13 controlled substances by the drug enforcement
15 administration, which use has resulted in the licensee being
 unable to perform duties or perform those duties in a manner
 which would endanger the health or safety of the patients to
 be served;

17 C. A medical finding of mental incompetency;

19 D. Aiding or abetting a person not duly licensed under this
21 chapter who represents that person as being so;

23 E. Incompetence in the practice of counseling. A licensee
25 shall be deemed incompetent in the practice if the licensee
27 has engaged in conduct which evidences a lack of ability or
29 fitness to discharge the duty owed by the licensee to a
 client, patient or the general public, or has engaged in
 conduct which evidences a lack of knowledge or inability to
 apply principles or skills to carry out the practice for
 which that person is licensed;

31 F. Unprofessional conduct, which is the violation of any
33 standard of professional behavior or code of ethics adopted
 by the board;

35 G. Subject to the limitations of Title 5, chapter 341,
37 conviction of a crime that involves dishonesty or false
39 statement or that relates directly to the practice of
 counseling, or conviction of any crime for which
 incarceration for one year or more may be imposed;

41 H. The licensee has had any professional or occupational
43 license revoked for disciplinary reasons, or any application
45 rejected for reasons relating to untrustworthiness, within 3
 years of the date of application; or

47 I. Violation of any provisions of this chapter or any rule
 of the board.

49 2. Procedure. Except as provided in Title 5, section
51 10004, no license may be denied, suspended, or revoked nor
 renewal refused for the reasons set forth in subsection 1,
 without prior written notice and opportunity for hearing on that

1 denial, suspension or revocation. The burden of proof shall be
2 on the board in any proceeding to suspend or revoke a license.
3 No license may be denied, suspended or revoked under this section
4 except by majority vote of the board.

5
6 3. Complaints. Any person may file a complaint with the
7 board seeking disciplinary action against the holder of a license
8 issued by the board. Complaints shall be in writing in a form
9 prescribed by the board by rule. If the board determines that a
10 complaint alleges facts that, if true, would require denial,
11 revocation, suspension, nonrenewal of a license or other
12 disciplinary action, the board shall conduct a hearing pursuant
13 to the Maine Administrative Procedure Act, Title 5, chapter 375.
14 Whenever the board establishes that a complaint does not state
15 facts that warrant a hearing, the complaint may be dismissed.
16 Persons making complaints shall be advised in writing of each
17 formal decision made by the board regarding that complaint.

18 Any individual whose license has been denied, suspended or
19 revoked may apply to the board for licensure reinstatement one
20 year after the date of the board's original action. A competency
21 review shall be a condition of reinstatement. The board shall
22 determine the nature of this review.

23
24 The board shall conduct its proceedings in accordance with the
25 provisions of Title 5, chapter 375, subchapter IV.

26 §13862. Privileged communication

27
28 Except at the request or consent of the client, no person
29 licensed under this chapter may be required to testify in any
30 civil or criminal action, suit or proceeding at law or in equity
31 respecting any information that the person licensed may have
32 acquired in providing counseling services or marriage and family
33 therapy services to the client in a professional and contractual
34 capacity if that information was necessary to enable the licensee
35 to furnish professional counseling services to the client. When
36 the physical or mental condition of the client is an issue in
37 that action, suit or proceeding or when a court in the exercise
38 of sound discretion deems the disclosure necessary to the proper
39 administration of justice, no information communicated to or
40 otherwise learned by that licensed person in connection with the
41 provision of counseling or marriage and family therapy services
42 may be privileged and disclosure may be required.

43
44 Nothing in this section may prohibit disclosure by a person
45 licensed under this chapter of information concerning a client
46 when that disclosure is required by law and nothing in this
47 section may modify or affect Title 22, sections 4011 to 4015.

48
49 This section may not be construed to prevent a 3rd-party
50 reimbursor from inspecting and copying, in the ordinary course of

1 Allocates funds for the
2 expenses of the board,
3 including funds to reimburse
4 the Division of Licensing and
5 Enforcement.

7 **DEPARTMENT OF PROFESSIONAL AND**
8 **FINANCIAL REGULATION**
9 **TOTAL**

\$20,000

\$70,000

11 **Sec. 5. Sunset.** This Act shall be repealed effective October
12 1, 1999.

13

15

FISCAL NOTE

17 This bill will result in an increase of dedicated revenue to
18 the Board of Counseling Professionals Licensure of approximately
19 \$70,000 in fiscal year 1990-91. Approximately \$20,000 of the
20 additional 1990-91 revenue will be transferred to the Division of
21 Licensing and Enforcement to reimburse the division for start-up
22 costs incurred in fiscal year 1989-90.'

23

25

STATEMENT OF FACT

27

28 This amendment changes the original intent of the bill from
29 a registration act to a strict licensure act, which will prohibit
30 practice in this State by those individuals not licensed by the
31 Board of Counseling Professionals Licensure and makes it a Class
32 E crime to do so.

33

34 The amendment more clearly defines the responsibilities of
35 the board, restructures the board to make it more manageable,
36 more clearly defines the various license categories and
37 requirements and, lastly, details more clearly the exemptions to
38 licensure.

39

40 The amendment adds an allocation and a fiscal note that
41 indicates that start-up costs for the board will be loaned to the
42 board from existing revenues of the department to be repaid when
43 licensing begins and fee money becomes available.

44 In compliance with the Maine Revised Statutes, Title 5,
45 section 12015, subsection 3, paragraphs A to G, the following is
46 a concise report addressing specific issues involved in the
47 establishment of a professional licensing board:

49

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1 1. The committee heard testimony that there are many
3 documented cases of individuals proclaiming themselves to be
5 professional counselors who have little or no training in the
7 profession. This has often led to tragic results such as
divorce, sexual improprieties and suicide. Also, recently
publicized cases in Maine have demonstrated the damage that can
occur through such improprieties.

9 Persons seeking help with their emotional problems are under
11 significant emotional stress. Also, being under emotional
13 stress, the consumer is clearly not in the best position to make
informed and careful decisions on choosing one professional over
15 another. The emotional stress may also make it difficult if not
impossible for the consumer to extricate himself or herself from
a substandard professional relationship.

17 2. Many psychologically abusive and unprofessional acts are
19 not categorized as criminal behaviors, leaving the courts with
little or no power to protect the consumer from the unethical
21 counselor. Civil cases are costly and lengthy, and the personal
nature of the issues involved often discourage public trial.

23 3. Since some credentialing bodies are unregulated, and it
25 is often possible to purchase credentials, membership in
professional organizations alone does not guarantee competence.
The State Government exists to serve the public interest and,
27 therefore, consumers can rely upon state licensure to indicate
both a level of professional competence as well as to provide
29 recourse if the licensee fails to act in an ethical and
professional manner.

31 4. The several professional organizations involved all do
33 have strict codes of ethics governing the behavior of their
members. However, often those who would violate such ethical
35 standards avoid memberships in these voluntary associations.
Furthermore, a lack of membership in these organizations is no
37 barrier to proclaiming oneself an expert professional in the
field. Thus, one can be censured or one's membership terminated
39 from a national voluntary organization and still continue to
practice in this State.

41 5. The standards proposed meet the guidelines set forth by
43 the national professional organizations cited above. These
organizations combined have set the standards for counselor and
45 therapist licensing in over 30 states. This proposed bill is
closely modeled after that recently enacted in the state of
47 Massachusetts. The bill further states that the board has the
ability to amend and establish new standards as appropriate and
49 in compliance with pertinent legislation.

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1 6. The board shall consist of 8 members appointed by the
Governor who meet the following qualifications: six members
3 shall be licensed practicing counseling professionals, and 2
members shall be representatives of the general public who have
5 no direct affiliation with the practice of professional
counseling.

7
9 7. This bill will assure that those individuals calling
themselves licensed professional counselors and licensed marriage
and family therapists will have met the educational and
11 experiential standards set by their respective professions.
State licensing provides the public with an easily recognizable
13 standard for choosing a counselor, as well as direct and
effective recourse in the event of inappropriate behavior on the
15 part of the licensed professional. The regulatory board shall
publish and make available to consumers a list of names and
17 addresses of all persons licensed under this law.

Reported by the Majority of the Committee on Business Legislation
Reproduced and distributed under the direction of the Clerk of the
House

6/15/89

(Filing No. H-541)