

MAINE STATE LEGISLATURE

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L.D. 2384

(Filing No. S-686)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P.
929, L.D. 2384, Bill, "An Act to Restructure State Government"

Amend the amendment by inserting at the end after Part D the
following:

PART E

Sec. E-1. 32 MRSA cc. 81, 83 and 119, as amended, are repealed.

Sec. E-2. 32 MRSA c. 119-A is enacted to read:

CHAPTER 119-A

COUNSELING PROFESSIONALS

SUBCHAPTER I

GENERAL PROVISIONS

§13871. Definitions

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

1. Accredited educational institution. As used in
subchapter IV only, an "accredited educational institution" is an
institution accredited by the Council on Social Work Education.

2. Associate substance abuse counselor. "Associate
substance abuse counselor" means a practitioner who provides the
primary service of professional substance abuse counseling to the

SENATE AMENDMENT

2 public for a fee, monetary or otherwise, who does not engage in
3 private practice and who meets the criteria established in
4 subchapter III for an associate substance abuse counselor.

6 3. Board. "Board" means the Board of Licensing Counseling
7 Professionals.

8 4. Certified social worker independent practice. A
9 "certified social worker independent practice" is a person who
10 was licensed as a certified social worker and permitted to engage
11 in the independent practice of social work pursuant to former
12 section 7052, before January 1, 1985.

14 5. Clinical professional counselor. "Clinical professional
15 counselor" means a professional counselor who renders or offers
16 to render for a fee, monetary or otherwise, to individuals,
17 families, groups, organizations or the general public, a
18 counseling service involving the application of the principles
19 and procedures of counseling to assess and treat intrapersonal
20 and interpersonal problems and other dysfunctional behaviors and
21 to assist in the overall development and adjustment of those
22 served.

24 6. Clinical setting. A "clinical setting" is a setting
25 where mental disorders are evaluated, prevented, diagnosed and
26 treated using psychosocial evaluation.

28 7. College level course. "College level course" means any
29 education class or program that includes at least 15 contact
30 hours per credit.

32 8. Commissioner. "Commissioner" means the Commissioner of
33 Labor and Commerce.

34 9. Conditional license. "Conditional license" means a
35 license granted to an applicant for licensure who has met all the
36 requirements defined in section 13882, except for supervised
37 experience.

40 10. Consumer of substance abuse services. A "consumer of
41 substance abuse services" is a person affected by or recovering
42 from alcoholism or other drug abuse.

44 11. Counselor. "Counselor" means an individual who for a
45 fee, monetary or otherwise, engages in any of the procedures of
46 counseling defined in subsection 23.

48 12. Department. "Department" means the Department of Labor
49 and Commerce.

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2 13. Inactive substance abuse counselor. "Inactive
substance abuse counselor" means a licensed, certified or
4 registered substance abuse counselor who registers with the board
for a leave from the field for a period not to exceed 2 years.
6 Inactive substance abuse counselors are not required to take the
written or oral examinations nor to provide documentation of
8 continuing education during the period they have abstained from
practice. Inactive substance abuse counselors must notify the
board for license renewal prior to resuming their practice.

10 14. Licensed clinical social worker. A "licensed clinical
12 social worker" is a person who has received a license as a
clinical social worker from the board.

14 15. Licensed master social worker. A "licensed master
16 social worker" is a person who has received a license as a master
social worker from the board.

18 16. Licensed social worker. A "licensed social worker" is
20 a person who has received a license as a licensed social worker
from the board.

22 17. Licensed substance abuse counselor. "Licensed
24 substance abuse counselor" means an individual who is providing
the service of professional substance abuse counseling to the
26 public for a fee, monetary or otherwise, and who meets the
criteria established in subchapter III for a licensed substance
28 abuse counselor.

30 18. Marital and family therapy services. "Marital and
family therapy services" means the assessment and treatment of
32 intrapersonal and interpersonal problems through the application
of principles, methods and therapeutic techniques for the purpose
34 of resolving emotional conflicts, modifying perceptions and
behavior, enhancing communication and understanding among all
36 family members, and preventing family and individual crises.

38 19. Marriage and family therapist. "Marriage and family
therapist" means a person who renders or offers to render for a
40 fee, monetary or otherwise, marital and family therapy services.

42 20. Nonprovider. A "nonprovider" means an individual who
neither is presently nor has been any of the following for the
44 past 3 years:

- 46 A. A counselor;
- 48 B. An administrator or board member of a facility or
50 program that provides counseling services; or

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

21. Pastoral counselor. "Pastoral counselor" means an individual who is trained and certified to provide for a fee, monetary or otherwise, pastoral counseling, which is ministry to individuals, families, couples, groups, organizations and the general public involving the application of principles and procedures of counseling to assess and treat intrapersonal and interpersonal problems and other dysfunctional behavior of a social and spiritual nature, and to assist in the overall development and healing process of those served.

22. Private practice. "Private practice" is practicing counseling or social work on a self-employed basis.

23. Procedures of counseling. "Procedures of counseling" means methods and techniques that include, but are not limited to the following.

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

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

C. "Counseling" means assisting individuals, families or groups through a counseling relationship to develop understanding of intrapersonal and interpersonal problems, to define goals, to make decisions, to plan a course of action reflecting their needs, and to use information and 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 considered appropriate with referral sources.

24. 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

2 more effective personal, emotional, social, educational and
vocational development and adjustment.

4 25. Psychosocial evaluation. "Psychosocial evaluation"
6 includes the determination and examination by social workers of
8 the psychosocial situation of an individual or group related to
10 interpersonal and intrapersonal stress, family background, family
12 interaction, living arrangements and socioeconomic problems and
14 treatment, evaluation, plans and goals, including the diagnosis
of mental illness and emotional disorders for the purpose of
treatment and therapeutic intervention, but excluding the
diagnosis of organic mental illness or treatment of any illness
by organic therapy, to the extent permitted by the licensure
provisions of this chapter.

16 26. Social work. "Social work" means engaging in
18 psychosocial evaluation and intervention, including therapy, to
20 the extent permitted by the licensure provisions of this chapter,
22 to effect a change in the feelings, attitudes and behavior of a
client, whether an individual, group or community. "Social work"
also means engaging in community organization, social planning,
administration and research.

24 27. Substance abuse counseling services. "Substance abuse
26 counseling services" means counseling services offered for a fee,
28 monetary or otherwise, as part of the treatment and
30 rehabilitation of persons abusing alcohol or other drugs. The
32 purpose of substance abuse counseling services is to help
individuals, families and groups confront and resolve problems
caused by the abuse of alcohol or other drugs. Substance abuse
counseling services are the 12 core functions defined by rule of
the board.

34 **§13872. Board of Licensing Counseling Professionals;**
36 **establishment; compensation**

38 1. Establishment. The Board of Licensing Counseling
40 Professionals within the Department of Labor and Commerce as
established by Title 5, section 12004-A, subsection 9-A, shall
carry out the purposes of this chapter.

42 2. Members. The board consists of 10 members. Seven
44 members are appointed by the Governor, one of whom must be a
46 member of the public and 6 must be licensed counseling
48 professionals under this chapter. Two members must be
50 professional counselors, 2 must be social workers and 2 must be
substance abuse counselors. Three members, appointed by the
Chancellor of the University of Maine System, must be
representatives of the University of Maine System who as faculty
provide training to each type of counselor. Each nonpublic

1 member must have been, for at least 5 years immediately preceding
2 appointment, actively engaged as a practitioner, educator or
3 researcher. The public member may not be currently practicing or
4 receiving compensation for counseling services. Each member must
5 be a citizen of the United States and a resident of this State.

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7 3. Timetable. The Governor and Chancellor of the
8 University of Maine System shall make initial appointments by
9 January 1, 1993. The initial Governor's appointees, with the
10 exception of the member of the public, must be licensed in
11 accordance with this chapter following their appointment and
12 qualification as members of the board. The board shall elect a
13 chair and secretary at its first meeting of each year, as long as
14 no person serves as chair for more than 3 years. The
15 commissioner shall call the first meeting of the board, which
16 must take place within 30 days of the completion of the
17 appointments of the initial members.

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19 4. Terms of office. Of the first board members, the
20 Governor shall appoint 3 for a term of one year, 3 for a term of
21 2 years and one for a term of 3 years. All other board members
22 are appointed for a term of 3 years, except that any person
23 chosen to fill a vacancy must be appointed only for the unexpired
24 term of the board member replaced. Upon expiration of a board
25 member's term, the board member continues to serve until a
26 successor has been appointed and qualified.

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28 5. Removal. The Governor may remove any member of the
29 board for cause and the reason for the termination of each
30 appointment must be communicated to each member so terminated.
31 The appointment of any member of the board must be terminated if
32 a member is absent for 6 consecutive board meetings without good
33 and just cause that is communicated to the chair.

34
35 6. Compensation. Members of the board are compensated
36 according to the provisions of Title 5, chapter 379, provided
37 that expenses do not exceed the fees collected by the board. If
38 the fees collected under this chapter are insufficient to pay the
39 expenses provided by this section, the board members are entitled
40 to a pro rata payment in any years in which those fees are
41 insufficient.

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43 7. Meetings; quorum. The board shall hold at least 2
44 regular meetings each year. Additional meetings may be held upon
45 the call of the chair or secretary or upon the written request of
46 any 2 board members. Five members of the board constitute a
47 quorum.

48 §13873. Powers and duties
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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 929,
L.D. 2384

2 The board, department and commissioner have the following
3 powers and duties in addition to all other powers and duties
4 otherwise set forth in this chapter.

6 1. Standards. The board shall administer and enforce this
7 chapter, set forth education and examination standards and
8 evaluate the qualifications for licensure.

10 2. Rules. The board may adopt, in accordance with Title 5,
11 chapter 375, rules necessary to carry out the purposes of this
12 chapter.

14 3. Complaints. The board shall investigate or cause to be
15 investigated all complaints made on its own motion or on written
16 complaint filed with the board and all cases of noncompliance
17 with or violation of this chapter or any rules adopted by the
18 board.

20 4. Records. The board shall keep records and minutes
21 necessary to the ordinary dispatch of its functions.

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

24 6. Budget. The board shall submit to the commissioner its
25 budgetary requirements in the same manner provided in Title 5,
26 section 1665.

28 7. Register. The department shall make available, at cost,
29 a register that contains the names of all individuals licensed by
30 the board.

32 8. Employees. The commissioner may appoint, subject to the
33 Civil Service Law, such employees as may be necessary to carry
34 out this chapter. Any person so employed must be in the
35 department and under the administrative and supervisory direction
36 of the commissioner.

38 9. Officers. The board shall elect from among its members
39 officers as it determines necessary. The secretary shall keep
40 records and minutes of all activities and meetings.

42 10. Code of ethics. The board shall adopt a code of ethics
43 generally in keeping with standards established by the national
44 professional associations concerned with the areas of board
45 responsibility.

48 11. Hearings. The board shall conduct hearings to assist
49 with investigations and to determine whether grounds exist for
50 suspension, revocation or denial of a license, or as otherwise

SENATE AMENDMENT

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2 determined necessary to the fulfillment of its responsibilities
3 under this chapter.

4 12. Disclosure statements. Under this chapter all
5 licensees and registrants are required to provide disclosure
6 statements prior to treatment. The board may adopt, by rule, a
7 standard disclosure statement. This disclosure statement must
8 include, but not be limited to the name and address of the
9 licensee or registrant, the original date and the expiration date
10 of the license, the proposed course of treatment and financial
11 arrangements for clients.

12 The board may not refuse to renew a license for any reason other
13 than failure to pay a required fee, unless it has afforded the
14 licensee an opportunity for an adjudicatory hearing. The board
15 shall hold an adjudicatory hearing at the written request of any
16 person who is denied a license without a hearing for any reason
17 other than failure to pay a required fee, provided that the
18 request for a hearing is received by the board within 30 days of
19 the applicant's receipt of a written notice of the denial of the
20 application, the reasons for denial and the right to request a
21 hearing. Hearings must be conducted in conformity with Title 5,
22 chapter 375, subchapter IV, to the extent applicable.

23 13. Issue licenses. The board shall issue licenses as
24 necessary to implement this chapter.

25 14. Client bill of rights. The board shall specify the
26 information that counselors are to include in a client bill of
27 rights that is to be provided to all clients by all counselors.

28 15. Report. No later than August 1st of each year, the
29 board shall submit to the commissioner, for the preceding fiscal
30 year ending June 30th, an annual report of its operations and
31 financial position together with such comments and
32 recommendations as the board determines essential. The
33 commissioner shall maintain the board's funds in a separate
34 account and provide the board with a quarterly accounting of its
35 revenues and expenses. When submitting any budget request to the
36 Legislature, the department and the Governor shall provide that
37 any funds for the board be listed in a separate account.

38 16. Examination. The board may design and adopt an
39 examination or other suitable criteria for establishing a
40 candidate's knowledge, skill and experience in counseling. Any
41 criteria adopted by the board for establishing a candidate's
42 knowledge, skill and experience in counseling, substance abuse
43 counseling or social work must be clearly defined, have an
44 established base-line scoring procedure that is objectively
45 measured, be in writing and be available to the public upon
46 request.

2 **§13874. Licensing**

4 1. Licensing. Effective October 1, 1992, no person, unless
6 specifically exempted by this chapter, may profess to be a
8 clinical professional counselor, professional counselor, marriage
and family therapist, licensed pastoral counselor or conditional
license holder, unless licensed in accordance with this chapter.

10 A person, unless specifically exempted by this chapter, may not
12 practice as a substance abuse counselor or profess to the public
to be, or assume or use the title or designation of an "inactive
14 substance abuse counselor," "licensed substance abuse counselor"
or "associate substance abuse counselor," or the abbreviation
16 "I.S.A.C.," "L.S.A.C." or "A.S.A.C.," or any other title,
designation, words, letters or device tending to indicate that
18 such a person is licensed or registered, unless that person is
licensed or registered with and holds a current and valid license
or certificate of registration from the board.

20 A person may not make a representation to the public or use the
22 title of social worker, unless licensed by the board as a
licensed clinical social worker, licensed master social worker,
24 certified social worker or a licensed social worker. Any person
performing the functions of a social worker as part of a
26 profession or occupation or in a voluntary capacity is not
subject to this section.

28 Notwithstanding Title 17-A, section 4-A, any person who violates
30 this subsection is subject to a fine of not less than \$50 nor
more than \$500 for each offense.

32 2. Violation; injunction. Except as provided in subsection
34 1, any person who violates this chapter is guilty of a Class E
crime. The State may bring an action in Superior Court to enjoin
36 any person from violating this chapter, regardless of whether
proceedings have been or may be instituted in the Administrative
38 Court or whether criminal proceedings have been or may be
instituted.

40 3. Individual licensing. Only an individual may be
42 licensed under this chapter.

44 **§13875. Psychological testing; assessment services**

46 This chapter may not be construed as permitting clinical
48 professional counselors, professional counselors, marriage and
family therapists, pastoral counselors, social workers, substance
abuse counselors or conditional license holders that profess to
50 the public that they are psychologists or psychological examiners

2 as defined in section 3811, subsection 1, or to offer primarily
3 or solely the services of psychological testing. The board shall
4 adopt ethical standards relating to the utilization of assessment
5 techniques.

6 **§13876. Exemptions to licensure**

8 1. Other professionals. This chapter may not be construed
9 to apply to the activities and services of members of other
10 professions licensed, certified or registered by the State such
11 as, but not limited to psychiatrists, physicians, psychologists
12 or registered nurses performing counseling consistent with the
13 laws of the State governing their practices.

14 2. Government and school employees. This chapter may not
15 be construed to apply to the activities and services of an
16 employee or other agent of a recognized academic institution;
17 employee assistance program; a federal, state, county or local
18 government institution, program agency or facility; or a school
19 committee, school district, school approved for attendance
20 purposes pursuant to Title 20-A, section 2901, school board or
21 board of trustees, provided that the individual is performing
22 those activities solely within the agency or under the
23 jurisdiction of that agency and that a license granted under this
24 chapter is not a requirement for employment.

25 3. Clergy. This chapter may not be construed to apply to
26 the activities and services of any priest, rabbi, clergy,
27 including a Christian Science healer, or minister of the gospel
28 of any religious denomination when performing counseling services
29 as part of religious duties and in connection with a specific
30 synagogue or church of any religious denomination.

31 4. Interns. This chapter may not be construed to apply to
32 the activities and services of a student, intern or trainee in
33 counseling or marriage and family therapy pursuing a course of
34 study in counseling or marriage and family therapy in a
35 regionally accredited institution of higher education or training
36 institution, if these activities are performed under supervision
37 and constitute a part of the supervised course of study.

38 5. Lecturers; consultants. This chapter may not be
39 construed to apply to the activities and services of visiting
40 lecturers or the occasional services of qualified consultants
41 from outside the State or the use of occasional services of
42 organizations from outside the State employing qualified
43 counselors.

44 6. Peer groups; self-help groups. This chapter may not be
45 construed to prevent members of peer groups or self-help groups
46 from providing services to one another.

2 from performing peer counseling solely in the context of the peer
3 groups or self-help groups.

4 7. Management consultants. This chapter may not be
5 construed to apply to the activities and services of any
6 management consultant when performing services, counseling or
7 otherwise with clients other than private individuals. Those
8 clients include but are not limited to for-profit and
9 not-for-profit corporations, partnerships, sole proprietorships,
10 academic institutions and governmental entities.

12 8. Educational and career consultants. This chapter may
13 not be construed to apply to the counseling activities of
14 educational, vocational or career consultants when performed as
15 an adjunct to their prime function of educational, vocational or
16 career consultation.

18 9. Human resource and organizational developers. This
19 chapter may not be construed to apply to the counseling
20 activities of human resource developers and organizational
21 developers when this counseling is an adjunct to their prime
22 function.

24 10. Other. This chapter may not be construed to apply to
25 the activities and services of individuals who practice as
26 expressive art therapists, energy field workers, astrologers,
27 tarot card readers, psychic diviners, aromatherapists, crystal
28 workers, palm readers or practitioners of similar disciplines as
29 determined by the board.

30 **§13877. Comity; transition**

32 The board may waive examination for an applicant licensed or
33 certified as a professional in counseling, clinical counseling,
34 marriage and family therapy, pastoral counseling, substance abuse
35 counseling, social work or a comparable field by another state,
36 territory or possession of the United States, the District of
37 Columbia or any foreign country whose requirements are determined
38 by the board to be at least equivalent to those requirements in
39 this chapter.

42 Any person licensed, certified or registered under former
43 chapter 81, 83 or 119 upon the effective date of this chapter is
44 automatically licensed, certified or registered under this
45 chapter for the remainder of the time the person was licensed,
46 certified or registered without renewal under former chapter 81,
47 83 or 119. Any initial license, certificate or registration
48 application or license, certificate or registration renewal or
49 reinstatement proceeding pending under former chapter 81, 83 or
50 119 upon the effective date of this chapter is governed by this
51 chapter.

2 **§13878. Terms of licenses**

4 1. Biennial renewal. Licenses expire biennially on
6 December 31st or on such other date as the commissioner
8 determines. Notice of expiration must be mailed to each
10 licensee's last known address at least 30 days in advance of the
12 expiration of the license. The notice must include any requests
14 for information necessary for renewal.

16 Licenses may be renewed up to 90 days after the date of
18 expiration upon payment of a late fee of \$10 in addition to the
20 renewal fee. Any person who submits an application for renewal
22 more than 90 days after the license renewal date is subject to
24 all requirements governing new applicants under this chapter,
26 except that the board, giving due consideration to the protection
28 of the public, may waive examination if that renewal application
30 is made within 2 years from the date of that expiration.

32 2. Continuing education and supervision. The board by rule
34 may establish continuing education and supervision requirements.
36 Applicants for renewal of a license must show proof of satisfying
38 the continuing education requirements set forth by the board.

40 **§13879. Disciplinary action grounds; procedure; complaints**

42 1. Grounds. The board may suspend, revoke or refuse to
44 renew a license or registration pursuant to Title 5, section
46 10004. In addition the board may take any other action pursuant
48 to Title 10, section 8003, subsection 5. The board's actions may
50 be taken based on any of the following grounds:

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

58 B. Habitual intemperance in the use of alcohol or the
60 habitual use of narcotic, hypnotic or other drugs listed as
62 controlled substances by the drug enforcement
64 administration, which use results in the licensee being
66 unable to perform duties or results in the licensee
68 performing duties in a manner that endangers the health or
70 safety of the patients served;

72 C. A medical finding of incompetency;

74 D. Aiding or abetting a person not duly licensed under this
76 chapter in professing to be so licensed;

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

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

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false 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;

H. The licensee or registrant has had any professional or occupational license revoked for disciplinary reasons or any application rejected for reasons related to untrustworthiness within 3 years of the date of application; or

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

2. Procedure. Except as provided in Title 5, section 10004, a license or registration may not be denied, suspended or revoked nor renewal or registration refused for the reasons set forth in subsection 1 without prior written notice and opportunity for hearing on that denial, suspension or revocation. The burden of proof is on the board in any proceeding to suspend or revoke a license or registration. A license or registration may not be denied, suspended or revoked under this section except by majority vote of the board.

3. Complaints. Any person may file a complaint with the board seeking disciplinary action against the holder of a license issued by the board or a person registered with the board. Complaints must be in writing in a form prescribed by the board by rule. If the board determines that a complaint alleges facts that, if true, would require denial, revocation, suspension or nonrenewal of a license or registration, or other disciplinary action, the board shall conduct a hearing pursuant to Title 5, chapter 375. Whenever the board establishes that a complaint does not state facts that warrant a hearing, the complaint may be

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2 dismissed. Persons making complaints must be advised in writing
3 of each formal decision made by the board regarding that
4 complaint.

5 Any individual whose license or registration has been denied,
6 suspended or revoked may apply to the board for licensure or
7 registration reinstatement one year after the date of the board's
8 original action. A competency review is a condition of
9 reinstatement. The board shall determine the nature of this
10 review.

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

13 **§13880. Privileged communication**

14 Except at the request or consent of the client, a person
15 licensed under this chapter may not be required to testify in any
16 civil or criminal action, suit or proceeding at law or in equity
17 respecting any information that the person licensed or registered
18 may have acquired in providing counseling services or marriage
19 and family therapy services to the client in a professional and
20 contractual capacity if that information was necessary to enable
21 the licensee to furnish professional counseling services to the
22 client. When the physical or mental condition of the client is
23 an issue in that action, suit or proceeding or when a court in
24 the exercise of sound discretion determines that the disclosure
25 is necessary to the proper administration of justice, information
26 communicated to or otherwise learned by that licensed or
27 registered person in connection with the provision of counseling
28 or marriage and family therapy services is not privileged and
29 disclosure may be required.

30 This section does not prohibit disclosure by a person
31 licensed under this chapter of information concerning a client
32 when that disclosure is required by law and nothing in this
33 section modifies or affects Title 22, sections 4011 to 4015.

34 This section may not be construed to prevent a 3rd-party
35 reimbursor from inspecting and copying, in the ordinary course of
36 determining eligibility for or entitlement to benefits, any
37 records related to the diagnosis, treatment or other services
38 provided to any persons, including a minor or incompetent, for
39 which coverage, benefit or reimbursement is claimed as long as
40 the policy or certificate under which the claim is made provides
41 that access to those records is permitted. This section may not
42 be construed to prevent access to any records pursuant to any
43 peer review or utilization review procedures applied and
44 implemented in good faith.

§13881. Registration

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1. Registration. Effective October 1, 1992, an individual may not engage in procedures of counseling for a fee, monetary or otherwise, unless that individual is licensed pursuant to this chapter or registers with the department. Each individual who is not licensed and who engages in procedures of counseling shall register with the department every 2 years. Each individual who registers shall fill out a form designed by the board.

2. Information required. Each individual who registers shall provide the following information on the form designed by the board. The board shall compile this information and make it available to the public upon request and for a fee that covers the cost of making this information available:

- A. Name, address and telephone;
- B. Major fields of training and expertise, including degrees and professional certifications held, and from where conferred;
- C. Method of billing and previous experience and policy with regard to 3rd-party payments;
- D. The fee schedule and provisions for pro bono work or sliding scale modifications of the fee schedule; and
- E. A description of practice.

3. Bill of rights; code of ethics. Each individual who registers under this section shall sign, post and make a copy available to each client of:

- A. The client bill of rights approved by the board;
- B. The code of professional ethics approved by the board; and
- C. The name and telephone number of the board's complaint officer and a description of the complaint process.

4. Registration fee. Each individual registering under this section shall pay a registration fee, not to exceed \$50 biennially, established by the board for the purposes of the administration of this section.

5. Registration not allowed. An individual whose license, certification or registration has been revoked or suspended in this State or any other state and in this or any related field

2 may not register to practice in this State unless the period of
3 revocation or suspension has been completed and the board has
4 conducted a competency review and determined that rehabilitation
5 has taken place.

6 6. Disciplinary action. Any individual who is registered
7 under this section is subject to the provisions of section 13879.

8
9 7. Registration not certification. Registration does not
10 imply or certify in any way that the registrant meets any
11 standards or criteria of education or training.

12
13 **SUBCHAPTER II**

14 **LICENSING OF PROFESSIONAL COUNSELORS**

15 **§13882. Requirements for licensure as a professional counselor**

16
17 To be eligible for a license to practice counseling at any
18 level, an applicant must be at least 18 years of age and must
19 satisfactorily pass any examination the board prescribes by its
20 rules. Each applicant shall demonstrate trustworthiness and
21 competence to engage in the practice of counseling in such a
22 manner as to safeguard the interests of the public.

23
24 The following must be considered as minimum evidence
25 satisfactory to the board that an applicant is qualified for
26 licensure under this chapter.

27
28 1. Licensed professional counselor. To be qualified as a
29 licensed professional counselor, an applicant must demonstrate to
30 the satisfaction of the board adherence to the ethics of the
31 counseling profession, must have successfully completed the
32 examination prescribed by the board and must have received:

33
34 A. A master's degree in counseling or an allied mental
35 health field from an accredited institution or program
36 approved by the board. The schooling must have included a
37 minimum core curriculum as adopted by the board; and

38
39 B. Two years of experience after attaining a master's
40 degree with a minimum of 2,000 hours of supervised
41 experience.

42
43 2. Licensed clinical professional counselor. To be
44 qualified as a licensed clinical professional counselor, an
45 applicant must demonstrate to the satisfaction of the board
46 adherence to the ethics of the counseling profession, must have
47 successfully completed the examination prescribed by the board
48 and must have received:

- 2 A. A master's degree in counseling or an allied mental
4 health field from an accredited institution or program
6 approved by the board. The schooling must have included a
 minimum core curriculum, as adopted by the board, of at
 least 45 semester hours; and
- 8 B. Two years of experience after attaining a master's
10 degree, to include at least 3,000 hours of supervised
12 clinical experience with a minimum of 100 hours of personal
 supervision.
- 14 3. Licensed marriage and family therapist. To be qualified
16 as a licensed marriage and family therapist, an applicant must
18 demonstrate to the satisfaction of the board adherence to the
 ethics of the counseling profession, must have successfully
 completed the examination prescribed by the board and must have
 received:
- 20 A. A master's degree in marriage and family therapy or its
22 equivalent from an accredited institution or program
24 approved by the board. The schooling must have included a
 minimum core curriculum to include a one-year clinical
 practicum adopted by the board; and
- 26 B. Two years of experience after attaining a master's
28 degree comprised of at least 1,000 hours of direct clinical
30 contact with couples and families and 200 hours of
 supervision, at least 100 of which is individual supervision.
- 32 4. Licensed pastoral counselor. To be qualified as a
 licensed pastoral counselor, an applicant must have:
- 34 A. Demonstrated to the satisfaction of the board adherence
36 to the standard ethics of the pastoral counseling profession;
- 38 B. Received a Master of Divinity degree from an accredited
40 institution or program approved by the board. Academic
42 preparation must include a minimum graduate core curriculum
44 to include 20 credit hours of counseling and human relations
46 and 400 hours of clinical pastoral education;
- 48 C. Two years of experience after attaining the degree,
50 comprised of at least 1,000 hours of direct clinical contact
 with individuals, couples and families;
- D. Two hundred hours of supervision, including at least 1/3
 of those hours with a certified pastoral counseling
 supervisor, at least 30 hours of which must be
 interdisciplinary, 30 hours of which must be individual

2 supervision by one supervisor of no more than 3 cases from
3 intake to termination and 70 hours of which must be
4 individual supervision of multiple case material;

5 E. A call, appointment or charge from a church, synagogue,
6 religious order or other clearly defined legal religious
7 organization to perform these services as a function of
8 ministry; and

9 F. Completed successfully the examination prescribed by the
10 board pursuant to subsection 6.

11 5. Supervision. Supervision may be provided by a qualified
12 and duly certified or licensed counseling professional, clinical
13 social worker, psychologist or psychiatrist. Any other
14 supervisor must be individually approved by the board.

15 6. Examination. All applicants must be required to pass a
16 written examination in subjects the board considers necessary to
17 determine the fitness of the applicant to practice. The board
18 establishes the passing score for all examinations. Examinations
19 must be held at least twice a year. The examination must be
20 graded using established written baseline scores for failure or
21 passage, be based on accepted counseling criteria and include
22 measurable and clearly defined procedures for grading the results
23 and issuing a pass or fail decision. Decisions on all
24 examinations must be in writing and include a grade and, whenever
25 possible, a summary of the criteria for the grade and an
26 explanation of the procedure for reexamination or appeal.

27 7. Existing counselors. Those individuals who hold at
28 least a master's degree or its equivalent in counseling, an
29 allied mental health field or a behavioral or social science and
30 were actively engaged as a counselor for at least 2 of the
31 preceding 5 years prior to January 1, 1991 have met all the
32 requirements for licensure and may sit for the examination.

33 8. License not allowed. Notwithstanding subsections 1 to
34 7, an individual whose license, certification or registration has
35 been revoked or suspended in this State or any other state and in
36 this or any other related field may not be licensed under this
37 section, unless the period of revocation or suspension has been
38 completed and the board has conducted a competency review and
39 determined that rehabilitation has taken place.

40 §13883. Fees

41 1. Amount. Application and examination fees may be
42 established by the board in amounts that are reasonable and
43 necessary for their respective purposes. License fees may not
44 exceed the following amounts.

2 A. Original and renewal fees for a clinical professional
4 counselor, professional counselor, marriage and family
counselor or pastoral counselor are \$300 biennially.

6 B. Original and renewal fees for a conditional counselor
8 are \$150 biennially.

10 **SUBCHAPTER III**

12 **LICENSING OF SUBSTANCE ABUSE COUNSELORS**

14 **§13884. Substance abuse counselor licensing and registration**

16 1. Substance abuse counselor. In order to safeguard the
18 health and safety of the citizens of the State, any person who
20 performs or offers to perform substance abuse counseling services
22 for a fee, monetary or otherwise, and professes to be a substance
abuse counselor is required to submit evidence of the
qualifications to practice and must be registered, certified or
licensed in accordance with this chapter.

24 2. Evidence of qualifications. Any individual who is
26 providing the service of substance abuse counseling to the public
28 for a fee, monetary or otherwise, and who is not employed in a
30 program certified or licensed by the State is required to submit
32 evidence of the qualifications to practice and must be licensed
34 as a licensed substance abuse counselor as provided in this
subchapter. Any individual who is providing the service of
substance abuse counseling to the public for a fee, monetary or
otherwise, and who is employed in a program certified or licensed
by the State is required to register or be licensed pursuant to
this chapter.

36 3. Registration and standards. The board may register and
38 set standards of practice for all persons practicing as substance
40 abuse counselors in this State. Any standards set by the board
42 for practice for substance abuse counselors working in this State
must be clearly defined, measurable, written in accordance with
accepted standards and available to the public upon request.
Educational background must be a consideration in any licensing
or registration standards adopted by the board.

44 **§13885. Eligibility requirements for persons providing substance**
46 **abuse counseling**

48 To be eligible to practice as a substance abuse counselor,
an applicant must:

1. Age; education. Be at least 18 years of age, have a high school diploma or its equivalent and demonstrate trustworthiness and competence to engage in the practice of substance abuse counseling in such a manner as to safeguard the interests of the public; and

2. Abstinence from drugs and alcohol. Have abstained from the active abuse of alcohol or any other drug that in the judgment of the board has been or could have been detrimental to the applicant's performance or competency as a substance abuse counselor. It is recommended strongly that applicants must have abstained for at least the 2-year period immediately preceding the date that application is made. In considering an applicant for registration, the board may not consider a history of alcoholism or drug addiction as an essential qualification or disqualification for certification or licensure.

§13886. Requirements for registration

An individual may not practice as a substance abuse counselor for a fee, monetary or otherwise, unless that individual is licensed pursuant to this chapter or registers with the board. Each individual who is not licensed and engages in substance abuse counseling shall register with the board every 2 years. Each individual who registers shall fill out a form designed by the board. A person registered to provide substance abuse counseling services may not practice without supervision or engage in private practice.

§13887. Requirements for qualification as a licensed substance abuse counselor

The board shall issue a license to practice as a licensed substance abuse counselor upon the affirmative vote of at least 5 members of the board to any applicant who has satisfactorily met the following minimal requirements:

1. Eligibility. Met the eligibility requirements in section 13885;

2. Examination. Obtained passing grades, as established by the board, on the written and oral examinations the board has prescribed by rule;

3. Education. Obtained at least an associate's degree in an appropriate social science field from an accredited institution or program approved by the board with a concentration of course work in the 12 core functions defined by rule of the board;

2 4. Supervision. Completed a minimum of 4,000 supervised
3 direct client service hours in the 12 core functions defined by
4 rule of the board. This work experience may be gained in any
5 supervised activity, including volunteer work or student
6 placement, that relates to the core functions described in the
7 board's licensing examination; and

8 5. Experience. Provided documentation of experience with a
9 wide range of clients, in a wide range of treatment settings
10 while working independently.

12 **§13888. Associate substance abuse counselor**

14 The board may issue a license to practice as an associate
15 substance abuse counselor upon the affirmative vote of 6 members
16 of the board to any applicant who has met the following minimal
17 requirements:

18 1. Eligibility. Met the eligibility requirements in
19 section 13885;

22 2. Examination. Obtained a passing grade, as established
23 by the board, on the written exam;

24 3. Education. Completed 300 clock hours of education in
25 appropriate social science fields or its equivalent in
26 appropriate substance abuse training, with at least 50% of the
27 education in college-level courses related to the 12 core
28 functions defined by rule of the board;

30 4. Supervision. Completed 4,000 supervised direct client
31 service hours in the 12 core functions defined by rule of the
32 board. This work experience may be gained in any supervised
33 activity, including volunteer work or student placement, that
34 relates to the core functions; and

35 5. Experience. Provided documentation of experience in
36 substance abuse counseling in one particular setting or client
37 population.

40 **§13889. Reapplication for certificate**

42 Any applicant who is not issued a license or a certificate
43 of registration may reapply for registration after a period of
44 not less than 6 months from the date of the last denial.

46 **§13890. Other qualifications**

48 Any individual who has obtained a master's degree in
49 counseling, substance abuse or a related field and can document
50 the following:

2 1,000 hours of direct service to clients with problems related to
3 substance abuse is eligible to apply for licensure and be
4 licensed in accordance with this chapter. The board may adopt
5 rules to recognize exceptional education or experience that
6 qualifies an applicant to apply for licensure.

7 **§13891. Special eligibility provisions**

8
9 Any person who is licensed by the board or under former
10 chapter 81 as an associate substance abuse counselor, licensed
11 substance abuse counselor or inactive substance abuse counselor
12 who was actively engaged as a substance abuse counselor for one
13 year prior to October 1, 1993 is deemed to have met all the
14 requirements for that person's respective credential. Any
15 registered substance abuse counselor shall, after October 1,
16 1993, cease using the title "registered substance abuse
17 counselor" or the initials "R.S.A.C." unless that person has met
18 the standards for licensure that existed prior to that date.

19 **§13892. Application; membership fees**

20
21 Application for registration as a registered substance abuse
22 counselor, licensure as a licensed substance abuse counselor or
23 licensure as an associate substance abuse counselor must be on
24 forms prescribed and furnished by the board. Application and
25 examination fees may be established by the board in amounts that
26 are reasonable and necessary for their respective purposes.
27 Successful applicants shall pay biennial fees of \$75 for
28 registration, \$100 for licensure as an associate substance abuse
29 counselor and \$150 for licensure as a licensed substance abuse
30 counselor. The payment of fees is suspended during the term of
31 inactive status.

32 **§13893. Examinations**

33
34 The board shall make reasonable arrangements for written and
35 oral examinations to be held at such times and places as
36 necessary to accommodate those persons applying to take the
37 examinations. The examinations must be graded using established
38 written baseline scores for failure or passage, be based on
39 accepted substance abuse counseling criteria and include
40 measurable and clearly defined procedures for grading the results
41 and issuing a pass or fail decision. Decisions on all
42 examinations, oral and written, must be in writing and include a
43 grade, a summary of the criteria for the grade and an explanation
44 of the procedure for reexamination or appeal. Notice of the
45 examination results must be forwarded to the applicants within 15
46 days of the date on which the examination was conducted. The
47 notice must include a written explanation of the appeal process.
48 The board may use fees generated from examinations to pay
49 examination evaluators.

2 The appeal process must include an outside review as
4 established by rules adopted by the board under Title 5, chapter
 375, subchapter II. All applicants have the right to review
 their test results and any scoring comments.

6 **§13894. Issuance after denial, suspension or revocation**

8 Any individual whose license or registration has been
10 denied, suspended or revoked may apply to the board for licensure
12 or registration reinstatement one year after the date of the
14 board's original action. A competency review is a condition of
 reinstatement. The board shall determine the nature of this
 review and adopt rules in accordance with Title 5, chapter 375,
 subchapter II.

16 **§13895. Expiration and renewal**

18 The license and certificate of registration expire
20 biennially on August 31st at such other time as the commissioner
22 may designate. Licensure or registration may be renewed for the
24 succeeding 2-year period upon written application of the
26 registrant, the approval of the board and the payment of the fee
28 provided. A fee for renewal of a license or certificate of
30 registration is \$150 biennially for licensure as a licensed
 substance abuse counselor, \$100 biennially for licensure as an
 associate substance abuse counselor and \$75 biennially for
 registration, due and payable on or before the expiration date.
 Before a license or certificate of registration may be renewed,
 the applicant must present evidence of continued professional
 learning and training of a type acceptable to the board.

32 Licensure or registration may be renewed up to 90 days after
34 the date of expiration upon payment of a late fee of \$10 in
36 addition to the renewal fee. Any person who submits an
38 application for renewal more than 90 days after the license
40 renewal date is subject to all requirements governing new
42 applicants under this chapter, except that the board may in its
44 discretion, giving due consideration to the protection of the
46 public, waive examination if that renewal application is made
48 within 2 years from the date of that expiration or if the
50 applicant is a registered inactive substance abuse counselor.
 The board is responsible for mailing notification of the date of
 expiration of a license or a certificate of registration to any
 licensed substance abuse counselor, associate substance abuse
 counselor, inactive substance abuse counselor or registered
 substance abuse counselor not later than 30 days prior to the
 date of expiration. At a minimum, applicants for renewal must
 document 250 hours of supervised experience within the core
 functions defined by rule of the board and the successful

2 completion of at least 50 hours of continuing education related
3 to substance abuse during the 2-year period.

4 **§13896. Treatment of minors**

6 Any person licensed under this subchapter who renders
7 counseling services to a minor for the treatment of abuse of
8 drugs or alcohol is under no obligation to obtain the consent of
9 that minor's parent or guardian or to inform that parent or
10 guardian of that treatment. This section may not be construed to
11 prohibit a licensed person who renders treatment from informing
12 that parent or guardian. For the purposes of this section,
13 "abuse of drugs" means the use of drugs solely for their
14 stimulant, depressant or hallucinogenic effect on the higher
15 functions of the central nervous system and not as a therapeutic
16 agent recommended by a practitioner in the course of medical
17 treatment.

18 **§13897. Receipts and disbursements**

20 All fees received by the board under this chapter must be
21 used to carry out the purposes of this chapter. Any balance may
22 not lapse, but must be carried forward as a continuing account to
23 be expended for the same purposes in the following fiscal years.

26 **SUBCHAPTER IV**

28 **LICENSING OF SOCIAL WORKERS**

30 **§13898. General provisions**

32 1. Services to minors for drug abuse. Any person certified
33 or licensed under this subchapter who renders social work
34 services to a minor for problems associated with the abuse of
35 drugs or alcohol is under no obligation to obtain the consent of
36 that minor's parent or guardian or to inform that parent or
37 guardian of the treatment. This section may not be construed to
38 prohibit the licensed person rendering this treatment from
39 informing that parent or guardian. For purposes of this section,
40 "abuse of drugs" means the use of drugs solely for their
41 stimulant, depressant or hallucinogenic effect on the higher
42 functions of the central nervous system and not as a therapeutic
43 agent recommended by a practitioner in the course of medical
44 treatment.

46 2. Communication between social workers and clients.
47 Except at the request of or the consent of the client, a person
48 licensed under this chapter may not be required to testify in any
49 civil or criminal action, suit or proceeding at law or in equity
50 respecting any information that the person may have acquired in

2 providing social work services to the client in a professional
4 and contractual capacity if that information was necessary to
6 enable that person to furnish professional social work services
8 to the client. When the physical or mental condition of the
10 client is an issue in that action, suit or proceeding or when a
12 court in the exercise of sound discretion deems the disclosure
14 necessary to the proper administration of justice, information
16 communicated to, or otherwise learned by, that person in
18 connection with the provision of social work services is not
20 privileged and disclosure of that information may be required.

22 This section does not prohibit disclosure of information
24 concerning a client by a person licensed under this chapter when
26 that disclosure is required by law. This section does not modify
28 or affect Title 22, sections 4011 to 4015.

30 **§13899. Licensure**

32 **1. License required.** In order to safeguard the life,
34 health and welfare of the people of this State, a person
36 practicing or offering to practice as a certified social worker -
38 independent practice, licensed clinical social worker, licensed
40 master social worker or licensed social worker is required to
42 submit evidence to the board that the person is qualified to so
44 practice and be licensed as provided in this subchapter.

46 The board may grant a conditional license to a person eligible to
48 take the examination for licensure who is waiting to sit for the
examination or retake the examination according to rules issued
by the board.

2. Qualifications. To be eligible for a license to
practice social work at any level, an applicant must be at least
18 years of age and pass satisfactorily any examination the
board prescribes by rule. An applicant must demonstrate
trustworthiness and competence to engage in the practice of
social work in such a manner as to safeguard the interests of the
public.

3. Licensed clinical social worker. To qualify as a
licensed clinical social worker, an applicant must demonstrate to
the satisfaction of the board adherence to the ethics of the
social work profession; successfully complete the examination
prescribed by the board; and have:

A. A master's or doctoral degree in social work or social
welfare in a clinical concentration from an accredited
educational institution and;

2 (1) Subsequently completed 2 years of social work
4 experience with 96 hours of consultation in a clinical
6 setting; or

8 (2) Demonstrated 2 years of full-time clinical social
10 work experience or its equivalent and completed the
12 graduate degree prior to January 1, 1987 and completed
14 2 years of subsequent social work experience with 96
16 hours of consultation in a private setting; or

18 B. A master's or doctoral degree in social work in a
20 nonclinical concentration from an accredited educational
22 institution and:

24 (1) Subsequently completed 4 years of social work
26 experience with 192 hours of consultation in a clinical
28 setting; or

30 (2) Demonstrated 2 years of full-time clinical social
32 work experience or its equivalent and completed the
34 graduate degree prior to January 1, 1987 and completed
36 4 years of subsequent social work experience with 192
38 hours of consultation in a private setting.

40 The board may waive up to one year of the clinical experience
42 required after attaining a master's degree pursuant to this
44 subsection for those candidates who demonstrate to the
46 satisfaction of the board equivalent clinical experience prior to
48 receiving the master's degree in social work.

The board shall issue rules, in accordance with Title 5, chapter
375, defining the clinical experience required for this level of
licensure.

4 4. Licensed master social worker. To qualify as a licensed
6 master social worker, an applicant must have a master's or
8 doctoral degree in social work or social welfare from an
10 accredited educational institution, demonstrate to the
12 satisfaction of the board adherence to the ethics of the social
14 work profession and successfully complete the examination
16 prescribed by the board. After meeting these qualifications, the
18 applicant receives a licensed master social worker license. A
20 person with those qualifications wishing to practice social work
22 in a clinical setting receives upon application a licensed master
24 social worker, conditional license.

26 5. Licensed social worker. To qualify as a licensed social
28 worker, an applicant must meet one of the following requirements.

2 A. The applicant must have a bachelor's degree in social
4 work or social welfare from an accredited educational
6 institution, demonstrate to the satisfaction of the board
adherence to the ethics of the social worker profession and
successfully complete the examination prescribed by the
board; or

8 B. The applicant must have a bachelor's degree in a related
10 field from an institution that, at the time the degree was
12 received, did not have a program accredited by the Council
14 of Social Work Education but subsequently offered such a
program; demonstrate to the satisfaction of the board
adherence to the ethics of the social worker profession; and
successfully complete the examination prescribed by the
board.

16 The board shall issue rules, in accordance with Title 5, chapter
18 375, by which an individual who has a bachelor's degree that does
20 not qualify under paragraph A or B may be eligible for a license.

22 A person having the necessary qualifications prescribed in
24 this chapter for licensure as a licensed clinical social worker,
26 licensed master social worker or licensed social worker is
eligible for that license though the person may not be practicing
this profession at the time of making the application.

28 **§13900. Functions**

30 A social worker at any level may not diagnose organic mental
illness or treat any illness by organic therapy.

32 1. Licensed master social worker. A licensed master social
34 worker may:

36 A. Engage in administration, research, consultation, social
38 planning and teaching related to the functions of this
section;

40 B. Perform all the functions of a licensed social worker;
and

42 C. Engage in a nonclinical private practice.

44 A licensed master social worker who meets the requirements for
46 licensure as a licensed clinical social worker prior to January
48 1, 1987, except for completing the licensed clinical social
worker examination, may engage in the clinical consultation of a
licensed master social worker, conditional for the purpose of
50 preparing the licensed master social worker, conditional for
eventual licensed clinical social worker status or regular

licensure... This includes responsibility for ongoing training and evaluation. The licensed master social worker has an obligation to assess the licensed master social worker, conditional's competence and ethics and share this assessment with the board at the time the licensed master social worker applies for the licensed clinical level.

In addition to paragraphs A, B and C, a person holding a licensed master social worker, conditional license may engage in psychosocial evaluation, including diagnosis and treatment of mental illness and emotional disorders, and provide clinical consultation to licensed social workers, social work students, other professionals practicing related professions and paraprofessionals engaging in related activities.

A licensed master social worker, conditional may not engage in private clinical practice, unless permitted under section 13899, subsection 3, and must receive individual consultation 4 hours a month while practicing social work in a clinical setting.

2. Licensed clinical social worker. A licensed clinical social worker may:

A. Practice social work in a clinical setting without consultation;

B. Engage in psychosocial evaluation, including diagnosis and treatment of mental illness and emotional disorders;

C. Engage in clinical private practice of social work;

D. Perform all the functions of a licensed master social worker; and

E. Engage in the clinical consultation of a licensed master social worker for the purpose of preparing the licensed master social worker for eventual licensed clinical social worker status or regular licensure. This includes responsibility for ongoing training and evaluation. The licensed clinical social worker has an obligation to assess the licensed master social workers' competence and ethics and share this assessment with the board at the time the licensed master social worker applies for the licensed clinical level.

3. Certified social worker - independent practice. A certified social worker - independent practice may:

A. Perform all the functions of a licensed master social worker;

2 B. Practice social work in a clinical setting without
3 consultation; and

4 C. Engage in clinical private practice of social work.

6
7 A certified social worker - independent practice who meets the
8 requirements for licensure as a licensed clinical social worker
9 prior to January 1, 1987, except for completing the licensed
10 clinical social worker examination, may engage in the clinical
11 consultation of a licensed master social worker, conditional for
12 the purpose of preparing the licensed master social worker,
13 conditional for eventual licensed clinical social worker status
14 or regular licensure. This includes responsibility for ongoing
15 training and evaluation. The certified social worker -
16 independent practice has an obligation to assess the licensed
17 master social worker, conditional's competence and ethics and
18 share this assessment with the board at the time the licensed
19 master social worker applies for the licensed clinical level.

20 4. Licensed social worker. A licensed social worker may:

22 A. Engage in psychosocial evaluation, excluding the
23 diagnosis and treatment of mental illness, and conduct basic
24 data gathering of records and specific life issues of
25 individuals, groups and families, assess this data and
26 formulate and implement a plan to achieve specific goals
27 related to specific life issues;

30 B. Serve as an advocate for clients or groups of clients
31 for the purpose of achieving specific goals relating to
32 specific life issues;

34 C. Refer clients to other professional services;

36 D. Plan, manage, direct or coordinate social services; and

38 E. Participate in the training and the education of social
39 work students from an accredited institution and supervise
40 licensed social workers.

42 A licensed social worker may not engage in the private practice
43 of social work, diagnose mental illness and emotional disorders
44 or provide psychotherapy. A licensed social worker with less
45 than 2 years' experience must receive consultation from a
46 licensed master social worker, a licensed clinical social worker
47 or a certified social worker - independent practice in a manner
48 prescribed by the board on a group or individual basis 4 hours a
49 month. Licensed social workers in health care facilities
50 licensed by the Department of Human Services must receive

2 consultation on a quarterly basis in a manner prescribed by the
3 Department of Human Services. The Department of Human Services'
4 staff giving consultation to licensed social workers in
5 intermediate care facilities must be on the master or clinical
6 level by January 1, 1993.

7 Notwithstanding this subsection, licensed social workers employed
8 by the Department of Human Services must receive consultation in
9 a manner prescribed by the Department of Human Services.

10 State agencies employing social workers are responsible for
11 providing supervision for those social workers to maintain their
12 licenses.

13 **§13900-A. Application; fees**

14
15 Application for a license as a licensed clinical social
16 worker, licensed master social worker or licensed social worker
17 must be on a form prescribed and furnished by the board. An
18 application fee and an examination fee may be established by the
19 board in amounts that are reasonable and necessary for their
20 respective purposes. All fees must accompany the application.

21
22 The license fee for a licensed social worker must be
23 established by the board in an amount not to exceed \$70.

24
25 The license fee for a licensed master social worker must be
26 established by the board in an amount not to exceed \$110.

27
28 The license fee for a licensed clinical social worker must
29 be established by the board in an amount not to exceed \$175.

30
31 Fees for initial and renewal licenses must be set so that
32 total fee receipts do not exceed the amount required to cover
33 properly the expense of performing the duties imposed upon the
34 board.

35
36 If the board denies the issuance of a license to any
37 applicant, the application and examination fees are nonrefundable.

38
39 **§13900-B. Examinations**

40
41 Written examinations must be held at times and places
42 determined by the board and must be based on fundamental social
43 work subjects as determined by the board.

44
45 The passing grade on any examination must be established by
46 the board based on national testing scores set by the testing
47 company. A candidate failing an examination may apply for
48 reexamination, which must be granted upon payment of a fee
49

2 established by the board in an amount not to exceed the original
3 application and examination fees. A candidate for licensure
4 having an average grade of less than 50% in the written
5 examination may not apply for reexamination for one year.

6 **§13900-C. Certificates**

8 The board shall issue a license to any applicant who, in the
9 opinion of the board, has satisfactorily met the requirements of
10 this chapter.

12 **§13900-D. Psychosocial evaluation**

14 In the process of making a diagnosis and formulating a
15 treatment plan for mental illness or emotional disorder, a social
16 worker shall ensure, consistent with rules promulgated by the
17 board, that the person is examined by a physician and may take
18 into account the physician's opinion in forming the psychosocial
19 evaluation. When a person has been seen by a physician within 3
20 months prior to seeking mental health treatment, a telephone
21 conversation between that physician and the social worker may be
22 held in lieu of the examination required by this section. The
23 medical visit or the telephone conversation must be documented in
24 the clinical records of the person. This requirement applies
25 only in cases when there is a presence of psychopathology. The
26 board shall define standards by rule in accordance with Title 5,
27 chapter 375, to implement this section.

28 **Sec. E-3. Transition provisions.**

30 1. The Board of Licensing Counseling Professionals is the
31 successor in every way to the powers, duties and functions of the
32 former State Board of Substance Abuse Counselors, the State Board
33 of Social Worker Licensure and the Board of Counseling
34 Professionals Licensure.

36 2. All existing rules and procedures in effect, in
37 operation or promulgated by the 3 former boards described in
38 subsection 1, or any of their administrative units or officers,
39 are hereby declared in effect and continue in effect until
40 rescinded, revised or amended by the proper authority.

42 3. All existing contracts, agreements and compacts
43 currently in effect that pertain to the 3 former boards described
44 in subsection 1 continue in effect.


46 4. Any positions authorized and allocated subject to the
47 personnel laws to the 3 former boards described in subsection 1
48 are transferred to the Board of Licensing Counseling
49 Professionals and continue to be authorized.
50

2 5. All records, property and equipment previously belonging
3 to or allocated for the use of the 3 former boards described in
4 subsection 1 become, on the effective date of this Act, the
5 property of the Board of Licensing Counseling Professionals.

6
7 6. All existing forms, licenses, letterheads and similar
8 items bearing the name of or referring to any of the 3 former
9 boards described in subsection 1 may be utilized by the Board of
10 Licensing Counseling Professionals until existing supplies of
11 those items are exhausted.'

12
13
14 **STATEMENT OF FACT**

15 This amendment combines the State Board of Substance Abuse
16 Counselors, the State Board of Social Worker Licensure and the
17 Board of Counseling Professionals Licensure into one board: the
18 Board of Licensing Counseling Professionals. This board will be
19 responsible for licensing all 3 types of counseling
20 professionals: social workers, substance abuse counselors and
21 other counseling professionals.
22

23
24
25
26 (Senator BUSTIN)
27 SPONSORED BY: 

28 COUNTY: Kennebec
29
30

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