

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1559

H.P. 1142

House of Representatives, April 14, 2003

An Act To Amend the Laws Concerning State Board of Alcohol and Drug Counselors

Submitted by the Department of Behavioral and Developmental Services pursuant to Joint Rule 204.

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SULLIVAN of Biddeford.
Cosponsored by Senator MARTIN of Aroostook and
Representatives: CURLEY of Scarborough, DUGAY of Cherryfield, EARLE of Damariscotta,
PERRY of Calais.

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

2
4 **Sec. 1. 32 MRSA §6203, sub-§§1-B to 1-E** are enacted to read:

6 **1-B. Agency.** "Agency" means an establishment, organization
8 or institution, public or private, that is licensed by the
10 Department of Behavioral and Developmental Services and that
12 offers, purports to offer, maintains or operates one or more
programs for the assessment, diagnosis, care, treatment or
rehabilitation of individuals who are suffering physically,
emotionally or psychologically from the abuse of alcohol or other
drugs.

14 **1-C. Alcohol and drug counseling aide.** "Alcohol and drug
16 counseling aide" means an individual who is registered by the
18 board to engage in an apprenticeship for the purpose of acquiring
20 knowledge and experience in the performance of alcohol and drug
22 counseling services, including but not limited to knowledge of
24 ethical standards. An alcohol and drug counseling aide may
26 facilitate individual and direct group counseling or assume other
28 facilitation duties under supervision and may supervise
nonclinical activities. An alcohol and drug counseling aide may
write treatment chart notations when the notations are cosigned
by a board-certified clinical supervisor. All work performed
must be under the supervision of a board-certified clinical
supervisor. An alcohol and drug counseling aide may not engage
in independent or private practice. All work associated with the
apprenticeship may be conducted only in an agency.

30 **1-D. Certified alcohol and drug counselor.** "Certified
32 alcohol and drug counselor" means an individual who provides
34 individual or group alcohol and drug counseling services unaided
36 and who meets the criteria established in section 6214-C. A
certified alcohol and drug counselor may not engage in
independent or private practice. All work performed must be
under the supervision of a board-certified clinical supervisor
within an agency.

38 **1-E. Certified clinical supervisor.** "Certified clinical
40 supervisor" means an individual who is certified by the board to
42 provide supervision to individuals who provide alcohol and drug
44 counseling services as required by this chapter. For the
46 purposes of this subsection, "supervision" includes, but is not
limited to, oversight of case record reviews, case management,
development of counseling skills, education and treatment
modalities, clinical supervision log maintenance, and client
treatment plans and activities.

48 **Sec. 2. 32 MRSA §6203, sub-§5,** as amended by PL 1995, c. 394,
50 §4, is repealed and the following enacted in its place:

2 **5. Licensed alcohol and drug counselor.** "Licensed alcohol
3 and drug counselor" means an individual who provides individual
4 or group alcohol and drug counseling services independently
5 within an agency or in private practice and who meets the
6 criteria established in sections 6214-D. A licensed alcohol and
7 drug counselor may also assume clinical supervision duties upon
8 being certified by the board as a clinical supervisor.

10 **Sec. 3. 32 MRSA §6203, sub-§5-A,** as amended by PL 1995, c.
11 394, §4, is further amended to read:

12 **5-A. Inactive alcohol and drug counselor.** "Inactive
13 alcohol and drug counselor" means a person who is licensed or,
14 registered or certified to provide alcohol and drug counselor
15 counseling services and who registers with applies to the board
16 for a leave from the field for a period not to exceed 2 years an
17 inactive license under section 6219-B. Inactive alcohol and drug
18 counselors are not required to take the written or oral
19 examinations nor provide documentation of continuing education
20 during the period they have abstained from practice. Inactive
21 alcohol and drug counselors must notify the board for license
22 renewal prior to resuming their practice.

24 **Sec. 4. 32 MRSA §6203, sub-§7-A,** as enacted by PL 1995, c.
25 394, §5, is repealed.

28 **Sec. 5. 32 MRSA §6205,** as amended by PL 1995, c. 394, §6, is
29 further amended to read:

30 **§6205. Licensing**

31 A person may not, unless specifically exempted by this
32 chapter, practice as an alcohol and drug counselor or profess to
33 the public to be, or assume or use the title or designation of,
34 "inactive certified alcohol and drug counselor," "licensed
35 alcohol and drug counselor" or registered "alcohol and drug
36 counselor counseling aide" or the abbreviation ""I.A.D.C."
37 "C.A.D.C.," "L.A.D.C." or "R.A.D.C." "A.D.C.A." or any other
38 title, designation, words, letters or device tending to indicate
39 that such a person is licensed, certified or registered, unless
40 that person is licensed, certified or registered with and holds a
41 current and valid license, certificate or certificate of
42 registration from the board. Any person who offers or gives
43 alcohol and drug counseling services in violation of this section
44 must be punished, upon conviction, by a fine of not less than \$50
45 and not more than \$500 for each such offense.

2 **Sec. 6. 32 MRSA §6207**, as amended by PL 1995, c. 394, §7, is repealed.

4 **Sec. 7. 32 MRSA §6207-A** is enacted to read:

6 **§6207-A. License required**

8 ~~Unless exempted under section 6206, a person may not practice alcohol and drug counseling or begin an apprenticeship in this State unless that person has first obtained a license, certification or registration as provided in this chapter.~~

12 **Sec. 8. 32 MRSA §6212, sub-§4**, as amended by PL 1983, c. 413, §214, is further amended to read:

16 **4. Rules.** The board may adopt such rules, ~~including but not limited to rules regarding examinations; clinical supervision; reasonable practice and education requirements for registering alcohol and drug counseling aides; licensing alcohol and drug counselors; certified alcohol and drug counselors; and certified clinical supervisors,~~ and establish such advisory committees as the board may ~~deem~~ determine necessary and proper to carry out this chapter. ~~All rules shall be adopted in accordance with the procedures established by the Maine Administrative Procedure Act, Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II 2-A.~~

28 **Sec. 9. 32 MRSA §6212, sub-§11**, as enacted by PL 1991, c. 456, §20, is repealed.

32 **Sec. 10. 32 MRSA §6212, sub-§12**, as amended by PL 1999, c. 685, §17, is further amended to read:

34 **12. Clinical supervision.** For purposes of direct clinical supervision of licensed practitioners in the field of alcohol and drug counseling, the board may certify upon receipt of proper application and fee under section 6215 licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors and, clinical social workers, and any other licensed or certified mental health professionals who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession and who meet the requirements established by board rules. ~~Other members of any mental health profession must meet the criteria set forth by the International--Certification--and--Reciprocity--Consortium--or equivalent--qualifications--as--determined--by--the--board--by rulemaking.~~

50 **Sec. 11. 32 MRSA §6213**, as amended by PL 1995, c. 394, §13, is repealed.

2 **Sec. 12. 32 MRSA §6213-A**, as amended by PL 1995, c. 394, §14,
is repealed.

4 **Sec. 13. 32 MRSA §6213-B** is enacted to read:

6 **§6213-B. Alcohol and drug counseling aide; qualification**
8 **for registration**

10 **1. Requirements.** The board shall issue a registration to
12 practice as an alcohol and drug counseling aide to an applicant
who meets the following minimal requirements. An applicant must:

14 A. Be at least 18 years of age;

16 B. Have a high school diploma or its equivalent;

18 C. Be employed at an agency;

20 D. Provide the name of the person who will be the
22 applicant's certified clinical supervisor; and

24 E. Have paid an application and registration fee under
section 6215.

26 **Sec. 14. 32 MRSA §6214-A**, as amended by PL 1997, c. 210, §11,
is repealed.

28 **Sec. 15. 32 MRSA §6214-B**, as amended by PL 1995, c. 394, §19,
30 is repealed.

32 **Sec. 16. 32 MRSA §§6214-C and 6214-D** are enacted to read:

34 **§6214-C. Certified alcohol and drug counselor; qualification**
36 **for certification**

38 **1. Eligibility.** To be eligible to practice as a certified
alcohol and drug counselor, an applicant must:

40 A. Be at least 18 years of age;

42 B. Have taken and passed an examination as prescribed by
44 board rule;

46 C. Have paid an application and certification fee as set
under section 6215; and

48 D. Meet one of the following educational requirements:

2 (1) A high school diploma or its equivalent and a
3 minimum of 4,000 hours of documented clinically
4 supervised work experience as an alcohol and drug
5 counseling aide consisting of at least 3 of the
6 following alcohol and drug treatment functions:

7 (a) Clinical evaluation consisting of intake
8 screening and differential assessment;

9 (b) Treatment planning, including initial,
10 ongoing and discharge planning;

11 (c) Counseling of individuals, groups, couples or
12 families;

13 (d) Case management. For purposes of this
14 paragraph, "case management" means services that
15 include, at a minimum, assessment of the needs of
16 a client and the client's family, service
17 planning, referral and linkage to other services,
18 advocacy, monitoring and crisis management; or

19 (e) Client and family education; or

20 (2) At a minimum, course work as defined by board rule
21 or an associate degree from an accredited college or
22 university in behavioral sciences, addiction counseling
23 or a related field as defined by board rule.

24 **§6214-D. Licensed alcohol and drug counselor; qualification**
25 **for licensure**

26 **1. Eligibility. To be eligible to practice as a licensed**
27 **alcohol and drug counselor, an applicant must:**

28 **A. Be at least 18 years of age;**

29 **B. Have taken and passed an examination as prescribed by**
30 **board rule;**

31 **C. Have paid an application and license fee under section**
32 **6215; and**

33 **D. Meet one of the following educational requirements:**

34 **(1) A high school diploma or its equivalent, course**
35 **work as defined by board rule and a minimum of 6,000**
36 **hours of documented supervised practice in alcohol and**
37 **drug counseling or 2,000 hours if the applicant holds a**

2 valid certified alcohol and drug counselor
3 certification;

4 (2) An associate or bachelor's degree from an
5 accredited college or university in clinically based
6 behavioral sciences or addiction counseling or a
7 related field as defined by board rule, course work as
8 defined by board rule and a minimum of 4,000 hours of
9 documented supervised practice in alcohol and drug
10 counseling; or

11 (3) A master's degree from an accredited college or
12 university in clinically based behavioral sciences or
13 addiction counseling or a related field as defined by
14 board rule, course work as defined by board rule and a
15 minimum of 2,000 hours of documented supervised
16 practice in alcohol and drug counseling.

17 **Sec. 17. 32 MRSA §6215**, as amended by PL 1999, c. 685, §18,
18 is further amended to read:

19 **§6215. Application; fees**

20 Application for registration as ~~a registered alcohol and~~
21 ~~drug counselor, certification~~ or licensure as ~~a licensed to~~
22 practice alcohol and drug counselor counseling must be on forms
23 prescribed and furnished by the board. The Director of the Office
24 of Licensing and Registration may establish by rule fees for
25 purposes authorized under this subchapter in amounts that are
26 reasonable and necessary for their respective purposes, except
27 that the fee for any one purpose may not exceed \$200 annually.
28 Rules adopted pursuant to this section are routine technical
29 rules pursuant to Title 5, chapter 375, subchapter II-A 2-A.

30 **Sec. 18. 32 MRSA §6216**, as amended by PL 1995, c. 394, §21,
31 is repealed and the following enacted in its place:

32 **§6216. Examinations**

33 The board shall prepare an examination to measure the
34 competence of an applicant to engage in the practice of alcohol
35 and drug counseling in accordance with this chapter. The board
36 may employ and cooperate with any organization or consultant in
37 the preparation, administration and grading of an examination.
38 The board may adopt rules establishing examination criteria.
39 Applicants for examination must pay an examination fee as set
40 under section 6215.

2 **Sec. 19. 32 MRSA §6217-A**, as amended by PL 1995, c. 394, §§22
to 25 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is
further amended to read:

4
6 **§6217-A. Suspension and revocation**

8 The board may suspend or revoke a registration, certificate
or license ~~or certificate of registration~~ pursuant to Title 5,
10 section 10004. In addition, the board may refuse to issue or
renew or the District Court may suspend, revoke or refuse to
12 renew a license ~~or~~ certificate ~~or~~ or registration on any of the
following grounds:

14 **1. Fraud or deceit.** The practice of fraud or deceit in
obtaining a registration, certificate or license ~~or a certificate~~
16 ~~or registration~~ under this chapter or in connection with services
rendered as an alcohol and drug counselor, alcohol and drug
18 counseling aide or clinical supervisor;

20 **2. Active abuse.** Active abuse of alcohol or any other drug
that in the judgment of the board is detrimental to the
22 performance or competency of an alcohol and drug counselor,
alcohol and drug counseling aide or clinical supervisor;

24 **3. Mental incompetency.** A legal finding of mental
26 incompetency;

28 **4. Aiding and abetting misrepresentation.** Aiding or
abetting a person not duly licensed, certified or registered as
30 an a provider of alcohol and drug counselor counseling services
in representing that person as a licensed alcohol and drug
32 counselor, certified clinical supervisor, certified alcohol and
drug counselor or registered alcohol and drug ~~counselor~~
34 counseling aide in this State;

36 **5. Unprofessional conduct or negligence.** Any gross
negligence, incompetency, misconduct or violation of the existing
38 code of ethics in the performance of alcohol and drug counseling
services;

40 **6. Criminal conviction.** Subject to the limitations of
42 Title 5, chapter 341, conviction of a Class A, B or C crime or of
a crime ~~which~~ that, if committed in this State, would be
44 punishable by one year or more of imprisonment; ~~or~~

46 **6-A. Incompetence in the practice of counseling.** Any
incompetence in the practice of counseling such as engaging in
48 conduct that evidences a lack of ability or fitness to discharge
the duty owed by the certified alcohol and drug counselor,
50 alcohol and drug counseling aide or certified clinical supervisor

2 to a client or engaging in conduct that evidences a lack of
knowledge or inability to apply principles or skills to carry out
4 the practice for which that person is licensed, certified or
registered; or

6 **7. Valid cause.** Any other valid cause including violation
of any provision of this chapter or rule of the board.

8 **Sec. 20. 32 MRSA §6218,** as amended by PL 1991, c. 456, §31,
10 is further amended to read:

12 **§6218. Issuance after denial, suspension or revocation**

14 Any individual whose license, certification or registration
has been denied, suspended or revoked may apply to the board for
16 licensure, registration or certification reinstatement one year
after the date of the board's original action. A competency
18 review is a condition of reinstatement. The board shall
determine the nature of this review and shall adopt rules in
20 accordance with the Maine Administrative Procedure Act, Title 5,
chapter 375, subchapter ~~II~~ 2-A.

22 **Sec. 21. 32 MRSA §6219,** as amended by PL 1999, c. 685, §19,
24 is further amended to read:

26 **§6219. Expiration and renewal**

28 ~~The--license--and--registration~~ All licenses, certifications
and registrations issued pursuant to this chapter expire annually
30 on November 30th or at such other time as the Commissioner of
Professional and Financial Regulation may designate. ~~Licensure~~
~~or--registration--may--be--renewed--upon--written--application--the~~
32 ~~approval--of--the--board--and--the--payment--of--the--fee--provided.~~
~~Before--a--license--or--registration--may--be--renewed--the--applicant~~
34 ~~must--present--evidence--of--continued--professional--learning--and~~
~~training--of--a--type--acceptable--to--the--board,--At--a--minimum,~~
36 ~~applicants--for--renewal--must--document--the--successful--completion--of~~
~~at--least--50--hours--of--continuing--education,--as--defined--by--the~~
38 ~~board,--within--2--years.~~ Licenses, certificate holders and
40 registrants must renew their licenses, certificates and
registrations on or before November 30th annually by filing an
42 application prescribed by the board, completing any continuing
education requirements established by board rule and paying the
44 required fee under section 6215.

46 ~~Licensure--or--registration~~ Licenses, certifications and
registrations issued pursuant to this chapter may be renewed up
48 to 90 days after the date of expiration upon payment of a late
fee in addition to the renewal fee. Any person who submits an
50 application for renewal more than 90 days after the ~~license~~

2 renewal date is subject to all requirements governing new
3 applicants under this chapter, except that the board may in its
4 discretion, giving due consideration to the protection of the
5 public, waive examination if that renewal application is made
6 within 2 years from the date of that expiration or if the
7 applicant is a registered inactive alcohol and drug counselor.
8 The board is responsible for mailing notification of the date of
9 expiration ~~of a license or a certificate of registration~~ to any
10 licensed alcohol and drug counselor, ~~or inactive alcohol and drug~~
11 ~~counselor or registered alcohol and drug counselor~~ not later than
12 30 days prior to the date of expiration.

13 **Sec. 22. 32 MRS.A §§6219-A and 6219-B** are enacted to read:

14 **§6219-A. Continuing education**

15 **1. Requirements.** The board may adopt continuing education
16 requirements and approve programs and courses by rule. Rules
17 adopted pursuant to this subsection are routine technical rules
18 as defined by Title 5, chapter 375, subchapter 2-A.

19 **2. Program approval.** Each application for approval of a
20 continuing education program or course must be submitted
21 according to the guidelines prescribed by rule, together with the
22 required fee under section 6215. The fee is retained whether or
23 not the application is approved.

24 **3. Core requirement.** The board may establish a core
25 educational requirement for each license type under this chapter.

26 **§6219-B. Inactive license status**

27 **1. Placement on inactive status.** A registrant, certificate
28 holder or licensee under this chapter who does not desire to
29 perform any of the activities described in section 6203,
30 subsections 1-C, 1-D, 1-E and 5 and who wants to preserve the
31 registration, certificate, or license while not engaged in any
32 alcohol and drug counseling activity may surrender that
33 registration, certificate or license to the board for placement
34 on inactive status. The board may place the registration,
35 certificate or license on inactive status and issue an inactive
36 license only upon proper application and payment of the required
37 fee under section 6215. During inactive status, the registrant,
38 certificate holder or licensee is required to renew the inactive
39 registration, certificate or license annually but is not required
40 to meet the continuing educational provisions of section 6219-A.

41 **2. Reinstatement to active status.** A registrant,
42 certificate holder or licensee who has surrendered a
43 registration, certificate or license pursuant to this section may
44 renew the registration, certificate or license by paying the
45 required fee and completing the continuing education
46 requirements of section 6219-A.

2 have that registration, certificate or license reinstated to
4 active status by submitting proper application and payment of the
6 required fee under section 6215 and completing continuing
8 education requirements as determined by board rule. Rules
10 adopted pursuant to this subsection are routine technical rules
12 as defined by Title 5, chapter 375, subchapter 2-A.

14 **Sec. 23. 32 MRSA §6220**, as amended by PL 1991, c. 456, §33,
16 is repealed and the following enacted in its place:

18 **§6220. Endorsement**

20 The board may waive the requirements of this chapter and
22 grant a registration, certificate or license to any applicant who
24 presents proof of authorization to practice by another
26 jurisdiction of the United States or another country that
28 maintains professional standards considered by the board to be
30 substantially equivalent to or higher than those set forth in
32 this chapter, as long as there is no cause for denial of a
34 registration, certificate or license under section 6217-A. The
36 applicant must pay the application and license fee as set under
38 section 6215.

40 **Sec. 24. Change license status.** The Department of Professional
42 and Financial Regulation shall change its records pertaining to
44 licenses to reflect the changes in status of licenses affected by
46 the provisions of this Act and shall issue the appropriate
48 licenses to implement the following provisions.

1. Every person holding an active alcohol and drug counselor
registration, R.A.D.C., must be issued an alcohol and drug
counseling aide registration, A.D.C.A., at the time the
registrant next is issued a registration upon proper application
and satisfaction of the registration requirements.

2. Every person holding an active alcohol and drug
counselor registration at the time the registrant next is up for
renewal may apply for the alcohol and drug counselor certificate,
C.A.D.C. The applicant must meet the certified alcohol and drug
counselor requirements of this Act.

3. Every person holding an active alcohol and drug
counselor license at the time the licensee next is up for renewal
must be issued an alcohol and drug counselor license, L.A.D.C.,
upon proper application for renewal.

Sec. 25. Effective date. This Act takes effect November 1, 2004.

SUMMARY

2
4 This bill reorganizes the alcohol and drug counselor
6 registration currently issued by the State Board of Alcohol and
8 Drug Counselors by recognizing practitioners who provide public
10 services at varying levels within agencies licensed by the Office
12 of Substance Abuse in the Department of Behavioral and
14 Developmental Services. This bill provides an alternative
16 pathway to certification and licensure for persons without
18 degree-level education by recognizing work experience in the
20 field of alcohol and drug counseling as one of the criteria for
certification and licensing. This bill requires an alcohol and
drug counseling aide and a certified alcohol and drug counselor
to be supervised by a board-certified clinical supervisor. This
bill eliminates outdated practices and language as it pertains to
examinations and reciprocity. This bill clarifies requirements
for continuing education and inactive licenses issued by the
board and makes minor technical changes throughout the alcohol
and drug practice laws.