

SENATE BILL NO. 86

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 37:1106(A) and (D) and 1110 and R.S. 44:4.1(B)(23) and to enact R.S. 37:1107(F) and (G), 1116(C) and (D), and 1123, relative to the Louisiana Mental Health Counselor Licensing Act; to provide for fees; to provide for counselor intern and marriage and family therapist intern registrations; to provide for temporary licenses and registrations; to provide for criminal history record information; to provide for costs of administrative proceedings; to provide for the recovery of certain costs on judicial review; to provide for terms, procedures, and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1106(A) and (D) and 1110 are hereby amended and reenacted and R.S. 37:1107(F) and (G), 1116(C) and (D), and 1123 are hereby enacted to read as follows:

§1106. Fees; application for license; **violations; penalties**

A. ~~(1) The board shall collect the following fees:~~ **Fees established and collected by the board pursuant to this Chapter shall be set by rule and shall not exceed the following maximum amounts:**

- ~~(1) For privileging review and registration, a fee of \$100 per occurrence.~~
- ~~(2) For applications, licenses, and seals, a fee of \$200.~~
- ~~(3) For renewal of licenses, a fee of \$150.~~
- ~~(4) For late fees for license renewals, a fee of \$50.~~
- ~~(5) For reissuance of licenses or duplicate licenses, a fee of \$25.~~
- ~~(6) For name changes on records, a fee of \$25.~~
- ~~(7) For copies of licensed professional counselors' files, a fee of \$25.~~
- ~~(8) For copies of any documents in the board's possession, a fee which represents the cost incurred by the board.~~

1 and judicial review, in addition to other remedies provided by law.

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3 §1107. Requirements for licensed professional counselor; temporary license or
4 registration; renewal of license or registration

5 * * *

6 F. The board may issue a registration as a counselor intern to an
7 applicant who meets qualifications established by the board. The board shall
8 adopt rules pursuant to the Administrative Procedure Act establishing such
9 qualifications and requirements as necessary for the adequate protection of the
10 health and welfare of the residents of this state. Such qualifications shall
11 include, at a minimum, that the applicant shall be at least twenty-one years old,
12 of good moral character, in compliance with all applicable provisions of law or
13 board regulations, and possess a graduate degree the substance of which is
14 mental health counseling.

15 G.(1) Pending the results of the criminal history information inquiry,
16 the board may issue a temporary license or registration authorizing the practice
17 of licensed professional counseling, for a period of time not to exceed ninety
18 calendar days from the date of issuance.

19 (2) The board shall adopt rules and regulations in accordance with the
20 Administrative Procedure Act establishing the necessary qualifications,
21 requirements, and formalities for the issuance of such licenses and registrations
22 as are necessary for the adequate protection of the health and welfare of the
23 residents of this state.

24 * * *

25 §1110. Denial, revocation, or suspension of license or registration

26 A. The board shall withhold, deny, revoke, or suspend any license or
27 registration issued or applied for in accordance with the provisions of this Chapter
28 or otherwise discipline a licensee upon proof that the applicant, ~~or licensee,~~ or
29 registrant:

30 (1) Has been convicted in a court of competent jurisdiction of a felony, the

1 conviction being final, or upon a plea of guilty or nolo contendere to a felony, the
2 record of conviction or plea being conclusive evidence thereof.

3 (2) Has been convicted in a court of competent jurisdiction of any crime or
4 offense which reflects the inability of the practitioner to practice with due regard for
5 the health and safety of clients or patients.

6 (3) Has violated the code of ethics adopted by the board.

7 (4) Is abusing drugs or alcohol to an extent or in a manner dangerous to any
8 other person or the public, or to an extent that said use impairs his ability to perform
9 the work of a licensee or registrant.

10 (5) Has impersonated another person holding a professional license or
11 registration issued pursuant to this Chapter or allowed another person to use his
12 license or registration.

13 (6) Has used fraud or deception in applying for a license or registration or
14 in taking an examination provided for in this Chapter.

15 (7) Has allowed his name, ~~or~~ license, or registration issued under this
16 Chapter to be used in connection with any person or persons who practice outside of
17 the area of their training, experience, or competence.

18 (8) Is legally adjudicated mentally incompetent, the record of such
19 adjudication being conclusive evidence thereof.

20 (9) Has willfully or negligently violated any of the provisions of this
21 Chapter.

22 B. Notice of denial, revocation, suspension, or disciplinary action shall be
23 sent to the applicant, ~~or~~ licensee, or registrant by registered mail or personal service
24 setting forth the particular reasons for the proposed action and fixing a date at which
25 time the applicant, registrant, or licensee shall be given an opportunity for a prompt
26 and fair hearing. The written notice shall be sent to the person's last known address,
27 but the nonappearance of the person shall not prevent such a hearing. For the
28 purpose of such hearing, the board may subpoena persons, books, and papers, on its
29 own behalf or on behalf of the applicant, ~~or~~ licensee, or registrant who may appear
30 by counsel or personally in his own behalf.

1 C. On the basis of any hearing or upon default of applicant, ~~or licensee, or~~
 2 registrant, the board shall make a determination specifying its findings of fact and
 3 conclusions of law. A copy of such determination shall be sent by registered mail
 4 or served personally upon the applicant, ~~or licensee, or~~ registrant. The decision of
 5 the board denying, revoking, or suspending the license or registration, shall become
 6 final thirty days after receipt of the copy of the determination unless within said
 7 period the applicant, ~~or licensee, or~~ registrant appeals the decision as provided by
 8 the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. No such appeal
 9 while pending appropriate court action shall supersede such denial, revocation, or
 10 suspension. All proceedings and evidence presented at hearings before the board
 11 may be admissible during appellate proceedings.

12 D. Every order and judgment of the board shall take effect immediately on
 13 its promulgation unless the board in such order or judgment fixes a probationary
 14 period for applicant, ~~or licensee, or~~ registrant. Such order and judgment shall
 15 continue in effect until expiration of any specified time period or termination by a
 16 court of competent jurisdiction. The board shall notify all applicants, licensees, or
 17 registrants of any action taken against a licensee and may make public its orders and
 18 judgments in such manner and form as it deems proper if such orders and judgments
 19 are not consent orders or compromise judgments.

20 E. The board is authorized to suspend the license of a licensee and the
 21 registration of a registrant for a period not exceeding two years. At the end of this
 22 period, the board shall re-evaluate the suspension and may recommend to the
 23 chairman the reinstatement or revocation of the license or registration. A person
 24 whose license or registration has been revoked under the provisions of this Section
 25 may apply for reinstatement after a period of not less than two years from the date
 26 such denial, or revocation is legally effective. The board may, upon favorable action
 27 by a majority of the board members present and voting, recommend such
 28 reinstatement.

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30 §1116. Licensure application for marriage and family therapists; temporary license

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or registration

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C. The board may issue a registration as a marriage and family therapist intern to an applicant who meets qualifications established by the board. The board shall adopt rules pursuant to the Administrative Procedure Act establishing such qualifications and requirements as necessary for the adequate protection of the health and welfare of the residents of this state. Such qualifications shall include, at a minimum, that the applicant shall be at least twenty-one years old, of good moral character, in compliance with applicable provisions of law or board regulations, and possess a graduate degree in marriage and family therapy, or a related clinical mental health field from a regionally accredited institution of higher education, or a certificate from a postgraduate training institute in marriage and family therapy.

D. (1) Pending the results of the criminal history information inquiry, the board may issue a temporary license or registration authorizing the practice of marriage and family therapy, for a period of time not to exceed ninety calendar days from the date of issuance.

(2) The board shall adopt rules and regulations in accordance with the Administrative Procedure Act establishing the necessary qualifications, requirements, and formalities for the issuance of such licenses and registrations as are necessary for the adequate protection of the health and welfare of the residents of this state.

* * *

§1123. Louisiana Licensed Professional Counselors Board of Examiners; authorization to obtain criminal history record information

A. As used in this Section, the following terms shall have the following meanings:

(1) "Applicant" means an individual who has made application to the board for the issuance, renewal, or reinstatement of any form of licensure which the board is authorized by law to issue.

1 (2) "Board" means the Louisiana Licensed Professional Counselors
2 Board of Examiners.

3 (3) "Bureau" means the Louisiana Bureau of Criminal Identification
4 and Information of the office of state police within the Department of Public
5 Safety and Corrections.

6 (4) "Criminal history record information" means information collected
7 by state and federal criminal justice agencies on individuals consisting of
8 identifiable descriptions and notations of arrests, detentions, indictments, bills
9 of information, or any formal criminal charges, and any disposition arising
10 therefrom, including sentencing, criminal correctional supervision and release.
11 It shall not include intelligence information gathered for investigatory purposes
12 or any identification information which does not indicate involvement of the
13 individual in the criminal justice system.

14 (5) "FBI" means the Federal Bureau of Investigation of the United
15 States Department of Justice.

16 (6) "Licensure" means any license, certification, or registration which
17 the board is authorized to issue.

18 B. In addition to any other requirements established by board rules, the
19 board may require an applicant, as a condition of eligibility for licensure:

20 (1) To submit a full set of fingerprints, in a form and manner prescribed
21 by the board.

22 (2) To permit the board to request and obtain state and national
23 criminal history record information on the applicant.

24 (3) To pay the reasonable costs incurred by the board in requesting and
25 obtaining state and national criminal history record information on the
26 applicant.

27 C. In accordance with the provisions and procedure prescribed by this
28 Section, the board may request and obtain state and national criminal history
29 record information from the bureau and the FBI relative to any applicant for
30 licensure whose fingerprints the board has obtained pursuant to this Section for

1 the purpose of determining the applicant's suitability and eligibility for
 2 licensure.

3 D. Upon request by the board and upon the board's submission of an
 4 applicant's fingerprints, and such other identifying information as may be
 5 required, the bureau shall survey its criminal history records and identification
 6 files and make a simultaneous request of the FBI for like information from
 7 other jurisdictions. The bureau may charge the board a reasonable processing
 8 fee for conducting and reporting on any such search.

9 E. Any and all state or national criminal history record information
 10 obtained by the board from the bureau or FBI which is not already a matter of
 11 public record shall be deemed nonpublic and confidential information restricted
 12 to the exclusive use by the board, its members, officers, investigators, agents,
 13 and attorneys in evaluating the applicant's eligibility or disqualification for
 14 licensure. No such information or records related thereto shall, except with the
 15 written consent of the applicant or by order of a court of competent jurisdiction,
 16 be released or otherwise disclosed by the board to any other person or agency.

17 F. Upon investigation of the application and other evidence submitted,
 18 the board shall notify each applicant that the application and evidence
 19 submitted for consideration is satisfactory and accepted, or is unsatisfactory
 20 and rejected. If an application is rejected, such notice shall state the reasons for
 21 the rejection and the applicant's right to a compliance hearing in accordance
 22 with the rules and regulations promulgated by the board.

23 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

24 §4.1. Exceptions

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26 B. The legislature further recognizes that there exist exceptions, exemptions,
 27 and limitations to the laws pertaining to public records throughout the revised
 28 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 29 limitations are hereby continued in effect by incorporation into this Chapter by
 30 citation:

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(23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
1123(E), 1277, 1278, 1285, 1326, 1518, 1745.15, 1747, 1806, 2156.1, 2406, 2505.1,
3481, 3507.1

* * *

Section 3. This Act shall become effective on January 1, 2014.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____