

SENATE BILL NO. 194

BY SENATOR MILLS AND REPRESENTATIVE HAZEL

1 AN ACT

2 To amend and reenact R.S. 37:1102(A), 1103(7), the introductory paragraph of (10), (11),
3 and (12), 1105(A), (E), and (G), 1106(A)(1)(a), (c), (g), and (j) and (D)(1), 1107(A),
4 (F), and (G), the introductory paragraph of 1110(A), (A)(4) through (7) and (B)
5 through (E), 1111(A), 1114, 1116(B)(3), (C), and (D), 1119, 1121, 1122(A), and
6 1123(A)(6), to enact R.S. 37:1103(13) and (14), and to repeal R.S. 37:1113(6) and
7 1117(D), relative to mental health counselors; to provide for a provisional license as
8 a provisional licensed marriage and family therapist; to provide for a provisional
9 license as a provisional licensed professional counselor; to define a provisional
10 licensed marriage and family therapist and a provisional licensed professional
11 counselor; to provide for quorum of the Louisiana Licensed Professional Counselors
12 Board of Examiners; to provide with respect to a fee schedule; to provide for
13 requirements for licensure of a professional counselor; to provide for a provisional
14 license; to provide for a temporary license and a temporary provisional license; to
15 provide for disciplinary authority; to provide with respect to penalties; to provide for
16 privileged communications; to provide a provisional licensure for provisional
17 marriage and family therapist; to provide for a temporary provisional marriage and
18 family therapist license; to provide for the renewal of a provisional marriage and
19 family counselor license; to provide for prohibited acts; to provide for authorization
20 to obtain criminal history record information; to provide for an effective date; and
21 to provide for related matters.

22 Be it enacted by the Legislature of Louisiana:

23 Section 1. R.S. 37:1102(A), 1103(7), the introductory paragraph of (10), (11), and
24 (12), 1105(A), (E), and (G), 1106(A)(1)(a), (c), (g), and (j) and (D)(1), 1107(A), (F), and
25 (G), the introductory paragraph of 1110(A), (A)(4) through (7) and (B) through (E),

1 1111(A), 1114, 1116(B)(3), (C), and (D), 1119, 1121, 1122(A), and 1123(A)(6) are hereby
2 amended and reenacted, and R.S. 37:1103(13) and (14) are hereby enacted to read as
3 follows:

4 §1102. Statement of purpose

5 A. It is declared to be the policy of this state that those persons who render
6 service to the public in the mental health counseling area are entitled to use the title
7 "licensed professional counselor" or "provisional licensed professional
8 counselor". It is further declared to be the policy of this state that activities of such
9 persons in the mental health counseling area should be regulated for the protection
10 of public health, safety, and welfare. Therefore, it is the purpose of this Chapter to
11 provide for the regulation of the practice of mental health counseling in the state of
12 Louisiana and to provide for the regulation of the use of the title "licensed
13 professional counselor" and "provisional licensed professional counselor".

14 * * *

15 §1103. Definitions

16 * * *

17 (7) "Mental health counseling services" means rendering or offering
18 prevention, assessment, diagnosis, and treatment, which includes psychotherapy, of
19 mental, emotional, behavioral, and addiction disorders to individuals, groups,
20 organizations, or the general public by a licensed professional counselor, that is
21 consistent with his professional training as prescribed by R.S. 37:1107(A)~~(8)(6)~~, by
22 a provisional licensed professional counselor, that is consistent with the
23 requirements as prescribed by R.S. 37:1107(F), and code of ethics/behavior
24 involving the application of principles, methods, or procedures of the mental health
25 counseling profession. However, nothing in this Chapter shall be construed to
26 authorize any person licensed under the provisions of this Chapter to assess,
27 diagnose, or provide treatment to any individual suffering from a serious mental
28 illness, as defined by this Section, when medication may be indicated, except when
29 a licensed professional counselor, in accordance with industry best practices,
30 consults and collaborates with a practitioner who holds a license or permit with the

1 Louisiana State Board of Medical Examiners or an advanced practice registered
 2 nurse licensed by the Louisiana State Board of Nursing who is certified as a
 3 psychiatric nurse practitioner. Moreover, except as provided in this Section, nothing
 4 in this Chapter shall be construed to authorize any person licensed hereunder to
 5 administer or interpret tests in accordance with the provisions of R.S. 37:2352(5),
 6 except as provided by Title 46, Part LXIII, Chapter 17, Section 1702(E) of the
 7 Louisiana Administrative Code, or engage in the practice of psychology or to
 8 prescribe, either orally or in writing, distribute, dispense, or administer any
 9 medications.

10 * * *

11 (10) "Practice of mental health counseling" means rendering or offering
 12 prevention, assessment, diagnosis, and treatment, which includes psychotherapy, of
 13 mental, emotional, behavioral, and addiction disorders to individuals, groups,
 14 organizations, or the general public by a licensed professional counselor, which is
 15 consistent with his professional training as prescribed by R.S. 37:1107(A)~~(8)~~(6), **by**
 16 **a provisional licensed professional counselor, that is consistent with the**
 17 **requirements as prescribed by R.S. 37:1107(F)**, and code of ethics/behavior
 18 involving the application of principles, methods, or procedures of the mental health
 19 counseling profession which includes but is not limited to:

20 * * *

21 (11) **"Provisional licensed marriage and family therapist" means any**
 22 **person who has completed the requirements provided in R.S. 37:1116(C) and**
 23 **in applicable rules of the board and who has been issued a provisional license**
 24 **pursuant to the provisions of this Chapter, and such provisional license is in**
 25 **force and not suspended or revoked. Provisional licensed marriage and family**
 26 **therapists may use the title "provisional licensed marriage and family**
 27 **therapist" only under the direction and active supervision of a board approved**
 28 **supervisor and only while obtaining the post-graduate degree experience**
 29 **required for licensure as a marriage and family therapist. A provisional licensed**
 30 **marriage and family therapist shall not, under any circumstances, provide or**

1 advertise that he is authorized to provide marriage and family therapy
 2 independently.

3 (12) "Provisional licensed professional counselor" means any person who
 4 has completed the requirements provided in R.S. 37:1107(F) and in applicable
 5 rules of the board, and who has been issued a provisional license to provide
 6 mental health counseling services and to practice mental health counseling.
 7 Provisional licensed professional counselors may use the title "provisional
 8 licensed professional counselor" and shall practice mental health counseling
 9 only under the direction and active supervision of a board approved supervisor
 10 and only while obtaining the post-graduate degree experience required for
 11 licensure as a professional counselor. A provisional licensed professional
 12 counselor shall not, under any circumstances, practice mental health counseling
 13 independently or advertise that he is authorized to practice independently.

14 (13) "Qualified supervision" means the supervision for a licensed marriage
 15 and family therapist of clinical services, in accordance with standards developed by
 16 the advisory committee, and approved by the board by an individual who has been
 17 recognized by the advisory committee as an approved supervisor.

18 ~~(12)~~(14) "Serious mental illness" means any of the following diagnoses:

19 (a) Schizophrenia or schizoaffective disorder.

20 (b) Bipolar disorder.

21 (c) Panic disorder.

22 (d) Obsessive-compulsive disorder.

23 (e) Major depressive disorder - moderate to severe.

24 (f) Anorexia/bulimia.

25 (g) Intermittent explosive disorder.

26 (h) Autism.

27 (i) Psychosis NOS (not otherwise specified) when diagnosed in a child under
 28 seventeen years of age.

29 (j) Rett's disorder.

30 (k) Tourette's disorder.

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(l) Dementia.

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§1105. Board meetings; procedures; powers and duties

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board. The board shall hold a meeting within sixty days after October 1, 1987, and semiannually thereafter. The board shall elect from its membership a chairman, vice chairman, and secretary. The board may meet at such other times as deemed necessary by the chairman, or by the majority of its members, or by the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. ~~Four~~ **Six** members of the board shall constitute a quorum at any meeting or hearing.

* * *

E. The board may examine, approve, revoke, suspend, and renew the license of applicants and conduct investigations into alleged violations by a licensed professional counselor, **provisional licensed professional counselor**, or applicant of this Chapter and rules and regulations promulgated pursuant thereto. The board shall review applications at least once a year. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional counselors which shall be made available to the public. Any person aggrieved by a ruling of the board may, within thirty days after notification, appeal to the district court for the parish of East Baton Rouge. The board shall have the power to conduct hearings on suspension or revocation of a license.

* * *

G. The board shall approve, revoke, suspend, and renew the license of applicants for licensure as marriage and family therapists **and the provisional license of applicants for provisional licensure as marriage and family therapists** upon recommendation of the advisory committee.

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

A.(1) Fees established and collected by the board pursuant to this Chapter

1 shall be set by rule and shall not exceed the following maximum amounts:

2 (a) Application of privilege, credential, or ~~registration~~ **provisional license**
3 \$200

4 * * *

5 (c) Renewal of privilege, credential, ~~registration~~, **provisional license**, or
6 license \$300

7 * * *

8 (g) Reissuance of privilege, credential, ~~registration~~, **provisional license**, or
9 license \$50

10 * * *

11 (j) Formal verification of status of any privilege, credential, ~~registration~~,
12 **provisional license**, or license \$25

13 * * *

14 D.(1) The board may assess and collect fines in an amount not to exceed five
15 thousand dollars for violations of this Chapter and rules promulgated by the board.
16 In addition to the disciplinary action or fine assessed by the board, the board may
17 also assess all costs incurred in connection with the proceedings, including but not
18 limited to the costs of an investigator, a stenographer, legal fees, or witness fees, and
19 any costs and fees incurred by the board on any judicial review or appeal. All costs
20 and fees shall be paid no later than ninety days after the decision of the board
21 becomes final and delays for seeking judicial review of the decision have expired
22 without action by an aggrieved party. No license, **provisional license, or** certificate,
23 ~~or registration~~ shall be issued, reinstated, or renewed until such costs and fees are
24 paid.

25 * * *

26 §1107. Requirements for licensed professional counselor; **provisional license;**
27 temporary license or ~~registration~~ **temporary provisional license;**
28 renewal of license or ~~registration~~ **temporary provisional license**

29 A. The board shall issue a license to each applicant who files an application
30 upon a form and in such manner as the board prescribes, accompanied by such fee

1 as required by R.S. 37:1106, and who furnishes satisfactory evidence to the board
2 that he:

3 (1) Is at least twenty-one years of age.

4 (2) Is of good moral character.

5 ~~(3) Is a citizen of the United States or has legally declared his intention of~~
6 ~~becoming such.~~

7 ~~(4) Is a resident of the state of Louisiana or is in the act of establishing~~
8 ~~residency in the state of Louisiana.~~

9 ~~(5)~~ **(3)** Is not in violation of any of the provisions of this Chapter and the rules
10 and regulations adopted hereunder.

11 ~~(6)~~ **(4)** Can document a minimum of three thousand hours of supervised
12 experience during a minimum of two years of post-master's degree experience in
13 professional mental health counseling under the supervision of a licensed
14 professional counselor. Five hundred hours of supervised experience may be gained
15 for each thirty graduate semester hours earned beyond the master's degree, provided
16 that such hours are clearly related to the field of mental health counseling and are
17 acceptable to the board, provided that in no case the applicant has less than two
18 thousand hours of supervised experience.

19 ~~(7)~~ **(5)** Has declared special competencies and demonstrated professional
20 competence therein by passing a written and, at the discretion of the board, an oral
21 examination, as the board shall prescribe.

22 ~~(8)~~ **(6)**(a) Has received a graduate degree the substance of which is
23 professional mental health counseling in content from a regionally accredited
24 institution of higher education offering a graduate program in counseling that is
25 approved by the board and has accumulated at least forty-eight graduate semester
26 hours prior to September 1, 2015, and at least sixty graduate hours after September
27 1, 2015. All applicants shall complete a course in each of the eight required areas
28 specified in Subparagraph (b) of this Paragraph and shall complete a supervised
29 internship in mental health counseling as defined in the rules and regulations adopted
30 by the board pursuant to the Administrative Procedure Act. Applicants may apply

1 post-masters counseling courses towards licensure if their degree program consisted
2 of less than sixty hours.

3 (b) The following eight areas are required to have at least one semester
4 course:

5 (i) Counseling/theories of personality.

6 (ii) Human growth and development.

7 (iii) Abnormal behavior.

8 (iv) Techniques of counseling.

9 (v) Group dynamics, processes, and counseling.

10 (vi) Lifestyle and career development.

11 (vii) Appraisal of individuals.

12 (viii) Ethics.

13 (c) The following two areas are encouraged for inclusion in graduate training:

14 (i) Substance abuse.

15 (ii) Marriage and family studies.

16 (d) Techniques of counseling.

17 (e) Group dynamics, processes, and counseling.

18 (f) Lifestyle and career development.

19 (g) Appraisal of individuals.

20 (h) Substance abuse.

21 (i) Marriage and family studies.

22 * * *

23 F. The board may issue a ~~registration~~ **provisional license** as a ~~counselor~~
24 ~~intern~~ **provisional licensed professional counselor** to an applicant who meets
25 qualifications established by the board. The board shall adopt rules pursuant to the
26 Administrative Procedure Act establishing such qualifications and requirements **for**
27 **the issuance of a provisional license** as necessary for the adequate protection of the
28 health and welfare of the residents of this state. Such qualifications shall include, at
29 a minimum, that the applicant shall be at least twenty-one years old, of good moral
30 character, in compliance with all applicable provisions of law or board regulations,

1 and possess a graduate degree the substance of which is mental health counseling.

2 G.(1) Pending the results of the criminal history information inquiry, the
3 board may issue a temporary license ~~or registration~~ **or a temporary provisional**
4 **license** authorizing the practice of ~~licensed professional counseling~~ **mental health**
5 **counseling**, for a period of time not to exceed ninety calendar days from the date of
6 issuance.

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

12 * * *

13 §1110. Denial, revocation, or suspension of licenses ~~or registration~~

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

18 * * *

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

22 (5) Has impersonated another person holding a professional license ~~or~~
23 ~~registration~~ issued pursuant to this Chapter or allowed another person to use his
24 license ~~or registration~~.

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

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

30 * * *

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

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

21 D. Every order and judgment of the board shall take effect immediately on
22 its promulgation unless the board in such order or judgment fixes a probationary
23 period for the applicant; or licensee; ~~or registrant~~. Such order and judgment shall
24 continue in effect until expiration of any specified time period or termination by a
25 court of competent jurisdiction. The board shall notify all applicants; or licensees;
26 ~~or registrants~~ of any action taken against a licensee and may make public its orders
27 and judgments in such manner and form as it deems proper if such orders and
28 judgments are not consent orders or compromise judgments.

29 E. The board is authorized to suspend the license of a licensee ~~and the~~
30 ~~registration of a registrant~~ for a period not exceeding two years. At the end of this

1 period, the board shall re-evaluate the suspension and may recommend to the
 2 chairman the reinstatement or revocation of the license ~~or registration~~. A person
 3 whose license ~~or registration~~ has been revoked under the provisions of this Section
 4 may apply for reinstatement after a period of not less than two years from the date
 5 such denial, or revocation is legally effective. The board may, upon favorable action
 6 by a majority of the board members present and voting, recommend such
 7 reinstatement.

8 §1111. Violations; penalties

9 A. No person shall assume or use the title or designation "licensed
 10 professional counselor" **or "provisional licensed professional counselor"** or
 11 engage in the practice of mental health counseling unless he has in his possession a
 12 valid license issued by the board under the authority of this Chapter. ~~This provision~~
 13 ~~shall become effective on January 1, 1988~~. Whoever violates the provisions of this
 14 Subsection shall be guilty of a misdemeanor and shall upon conviction be fined not
 15 more than five hundred dollars.

16 * * *

17 §1114. Privileged communications

18 Testimonial privileges, exceptions, and waiver with respect to
 19 communications between a licensed professional counselor **or a provisional**
 20 **licensed professional counselor** and his client are governed by the Louisiana Code
 21 of Evidence.

22 * * *

23 §1116. Licensure application for marriage and family therapists; **provisional**
 24 **license;** temporary license or ~~registration~~ **temporary provisional**
 25 **license**

26 * * *

27 B. An applicant who meets the requirements of Subsection A of this Section
 28 shall be recommended by the advisory committee to the board for issuance of a
 29 license by the board upon providing satisfactory evidence to the advisory committee
 30 that such person meets the following requirements:

* * *

(3) Passage of an examination ~~administered~~ **approved** by the board.

C. The board may issue a ~~registration~~ **provisional license** as a **provisional licensed** 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~~ **a temporary provisional license** 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.

* * *

§1119. Renewal of licenses for marriage and family therapists; **renewal of provisional licenses for marriage and family therapists**

A.**(1)** Licenses for marriage and family therapists shall be valid for two years and must be renewed biennially.

~~B.~~**(2)** On or before January first of the year preceding the expiration of a license, the board shall forward to the licensee a form of application for renewal.

~~C.~~**(3)** A marriage and family therapist must accrue forty clock hours of

1 continuing education by every renewal period every two years.

2 ~~Ð(4)~~ Upon the receipt of the completed application form, verification of
3 completion of required continuing education units, and the required renewal fee, the
4 advisory committee shall recommend to the board for issuance of a license renewal.

5 **B. The board shall adopt rules pursuant to the Administrative Procedure**
6 **Act establishing such qualifications and requirements for the renewal of**
7 **provisional licensed marriage and family therapist licenses.**

8 * * *

9 §1121. Exemptions from licensure as marriage and family therapists

10 Nothing in this Chapter shall prevent qualified members of other professional
11 groups as defined by the board including but not limited to clinical social workers,
12 psychiatric nurses, psychologists, physicians, licensed professional counselors, or
13 members of the clergy, including Christian Science practitioners, from doing or
14 advertising that they perform work of a marriage and family therapy nature
15 consistent with the accepted standards of their respective professions. However, no
16 such persons shall use the title "licensed marriage and family therapist" **or**
17 **"provisional licensed marriage and family therapist"**.

18 §1122. Prohibited acts; penalties

19 A. No person, unless licensed as a marriage and family therapist, shall
20 advertise as being a "licensed marriage and family therapist" **or a "provisional**
21 **licensed marriage and family therapist"**.

22 * * *

23 §1123. Louisiana Licensed Professional Counselors Board of Examiners;
24 authorization to obtain criminal history record information

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

27 * * *

28 (6) "Licensure" means any license, **provisional license, or** certification, ~~or~~
29 ~~registration~~ that the board is authorized to issue.

30 * * *

1 Section 2. R.S. 37:1113(6) and 1117(D) are hereby repealed.

2 Section 3. This Act shall become effective on May 1, 2015.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____