

Regular Session, 2013

SENATE BILL NO. 86

BY SENATOR MORRELL

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

COMMERCIAL REGULATIONS. Provides relative to the Louisiana Mental Health Counselor Licensing Act. (2/3 - CA7s2.1(A)) (1/1/14)

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

10 Be it enacted by the Legislature of Louisiana:

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

13 §1106. Fees; application for license; **violations; penalties**

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

17 ~~(1) For privileging review and registration, a fee of \$100 per occurrence.~~



1 fees, or witness fees, and any costs and fees incurred by the board on any  
 2 judicial review or appeal. All costs and fees shall be paid no later than ninety  
 3 days after the decision of the board becomes final and delays for seeking  
 4 judicial review of the decision have expired without action by an aggrieved  
 5 party. No license, certificate, or registration shall be issued, reinstated, or  
 6 renewed until such costs and fees are paid.

7 (2) A person aggrieved by a final decision of the board who prevails  
 8 upon judicial review may recover reasonable costs, attorney fees, and other  
 9 expenses incurred as a result of the administrative investigation, adjudication  
 10 and judicial review, in addition to other remedies provided by law.

11 \* \* \*

12 §1107. Requirements for licensed professional counselor; temporary license or  
 13 registration; renewal of license or registration

14 \* \* \*

15 F. The board may issue a registration as a counselor intern to an  
 16 applicant who meets qualifications established by the board. The board shall  
 17 adopt rules pursuant to the Administrative Procedure Act establishing such  
 18 qualifications and requirements as necessary for the adequate protection of the  
 19 health and welfare of the residents of this state. Such qualifications shall  
 20 include, but not be limited to, that the applicant shall be at least twenty-one  
 21 years old, of good moral character, in compliance with all applicable provisions  
 22 of law or board regulations, and possess a graduate degree the substance of  
 23 which is mental health counseling.

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

28 (2) The board shall adopt rules and regulations in accordance with the  
 29 Administrative Procedure Act establishing the necessary qualifications,



1 (9) Has willfully or negligently violated any of the provisions of this  
2 Chapter.

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

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

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

1 consent orders or compromise judgments.

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

11 \* \* \*

12 §1116. Licensure application for marriage and family therapists; **temporary license**  
 13 **or registration**

14 \* \* \*

15 **C. The board may issue a registration as a marriage and family**  
 16 **therapist intern to an applicant who meets qualifications established by the**  
 17 **board. The board shall adopt rules pursuant to the Administrative Procedure**  
 18 **Act establishing such qualifications and requirements as necessary for the**  
 19 **adequate protection of the health and welfare of the residents of this state. Such**  
 20 **qualifications shall include, but not be limited to, the applicant shall be at least**  
 21 **twenty-one years old, of good moral character, in compliance with applicable**  
 22 **provisions of law or board regulations, and possess a graduate degree in**  
 23 **marriage and family therapy, or a related clinical mental health field from a**  
 24 **regionally accredited institution of higher education, or a certificate from a**  
 25 **postgraduate training institute in marriage and family therapy.**

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



1 the board is authorized to issue.

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

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

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

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

11 C. In accordance with the provisions and procedure prescribed by this  
12 Section, the board may request and obtain state and national criminal history  
13 record information from the bureau and the FBI relative to any applicant for  
14 licensure whose fingerprints the board has obtained pursuant to this Section for  
15 the purpose of determining the applicant's suitability and eligibility for  
16 licensure.

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

23 E. Any and all state or national criminal history record information  
24 obtained by the board from the bureau or FBI which is not already a matter of  
25 public record shall be deemed nonpublic and confidential information restricted  
26 to the exclusive use by the board, its members, officers, investigators, agents,  
27 and attorneys in evaluating the applicant's eligibility or disqualification for  
28 licensure. No such information or records related thereto shall, except with the  
29 written consent of the applicant or by order of a court of competent jurisdiction,

1           be released or otherwise disclosed by the board to any other person or agency.

2           F. Upon investigation of the application and other evidence submitted,  
 3           the board shall notify each applicant that the application and evidence  
 4           submitted for consideration is satisfactory and accepted, or is unsatisfactory  
 5           and rejected. If an application is rejected, such notice shall state the reasons for  
 6           the rejection and the applicant's right to a compliance hearing in accordance  
 7           with the rules and regulations promulgated by the board.

8           Section 2. This Act shall become effective on January 1, 2014.

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The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

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#### DIGEST

Morrell (SB 86)

Present law provides the fee schedule for the Louisiana Licensed Professional Counselors Board of Examiners ("board").

Proposed law provides the maximum amount of each fee the board may collect as follows:

(1)	Application of privilege, credential, or registration	\$200
(2)	Application of licensure	\$325
(3)	Renewal of privilege, credential, registration, or license	\$300
(4)	Examination or reexamination	\$250
(5)	Late fees	\$100
(6)	Failure to update contact information with board	\$100
(7)	Reissuance of privilege, credential, registration, or license	\$50
(8)	Name changes on record	\$50
(9)	Copies of documents in the board's possession	\$50
(10)	Formal verification of status of any privilege, credential, registration, or license	\$25

Proposed law provides that the board shall not increase any fee by more than a total of 15% over a consecutive three-year period.

Present law allows the board to assess and collect fines in an amount not to exceed \$500.

Proposed law increases the amount the board may assess and collect in fines from not to exceed \$500 to not to exceed \$1,500.

Proposed law authorizes the board to assess all costs incurred in connection with any disciplinary proceeding, including but not limited to the costs of an investigator, a stenographer, legal fees, or witness fees, and any costs and fees incurred by the board on any judicial review or appeal.

Proposed law provides that all costs and fees shall be paid no later than 90 days after the decision of the board becomes final and delays for seeking judicial review of the decision have expired without action by an aggrieved party.

Proposed law prohibits any license, certificate, or registration from being issued, reinstated, or renewed until such costs and fees are paid.

Proposed law provides that a person aggrieved by a final decision of the board who prevails upon judicial review may recover reasonable costs, attorney fees, and other expenses incurred as a result of the administrative investigation, adjudication, and judicial review, in addition to other remedies provided by law.

Proposed law allows the board to issue a registration as a counselor intern to an applicant who meets qualifications established by the board. The board shall adopt rules pursuant to the APA, establishing qualifications and requirements as necessary for the adequate protection of the health and welfare of the residents of the state. Such qualifications shall include but are not limited to the applicant being at least 21 years of age, have good moral character, in compliant with all applicable provisions of law or board regulations, and possess a graduate degree the substance of which is mental health counseling.

Proposed law provides that 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 APA establishing such qualifications and requirements as necessary for the adequate protection of the health and welfare of Louisiana residents. Such qualifications shall include, but are not limited to the applicant being at least 21 years of age, having good moral character, in compliant with applicable provisions of the 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.

Proposed law provides for the issuance of temporary licenses and registrations effective for a period of 90 calendar days from the date of issuance.

Present law provides for the denial, revocation, or suspension of licenses.

Proposed law maintains present law and provides for the denial, revocation, or suspension of registrations.

Proposed law authorizes the board to require an applicant, as a condition of eligibility for licensure, to do the following:

- (1) Submit a full set of fingerprints, in a form and manner prescribed by the board.
- (2) Permit the board to request and obtain state and national criminal history and identification files required, along with a bureau survey of criminal history and identification files with a simultaneous request of the FBI for like information from other jurisdictions.
- (3) Pay the reasonable costs incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

Proposed law provides that the board may request and obtain state and national criminal history record information from the Louisiana Bureau of Criminal Identification and

Information of the office of state police within the Department of Public Safety and Corrections ("bureau") and the Federal Bureau of Investigation ("FBI") relative to any applicant for licensure whose fingerprints the board has obtained pursuant to law for the purpose of determining the applicant's suitability and eligibility for licensure.

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

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

Proposed law provides that upon investigation of the application and other evidence submitted, the board shall notify each applicant that the application and evidence submitted for consideration is satisfactory and accepted, or unsatisfactory and rejected. If an application is rejected, such notice shall state the reasons for such rejection and the applicant's right to a compliance hearing in accordance with the rules and regulations promulgated by the board.

Effective January 1, 2014.

(Amends R.S. 37:1106(A) and (D) and 1110; adds R.S. 37:1107(F) and (G), 1116(C) and (D), and 1123)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Reduces the amount of fines the board may collect from not to exceed \$5,000 to not to exceed \$1,500.
2. Provides that all costs and fees shall be paid no later than 90 days after the decision of the board becomes final and delays for seeking judicial review of the decision have expired without action by an aggrieved party.
3. Provides that a person aggrieved by a final decision of the board who prevails upon judicial review may recover reasonable costs, attorney fees, and other expenses incurred as a result of the administrative investigation, adjudication, and judicial review, in addition to other remedies provided by law.

##### Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.
2. Allows the board to issue registration as a counselor intern to an applicant meeting board qualifications.

3. Allows the board to issue registration as a marriage and family therapist intern to an applicant meeting board qualifications.
4. Requires the board to survey criminal history records and identification files as well as requesting like data from the FBI.