

A Bill

SENATE BILL 341

By: Senator Henry

As engrossed 2-12-79
As engrossed 3-7-79

For An Act To Be Entitled

1 "AN ACT TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF
2 COUNSELING; TO CREATE A BOARD OF EXAMINERS IN COUNSELING
3 AND PRESCRIBE THE POWERS AND DUTIES OF THE BOARD; TO
4 PROVIDE FOR THE EXAMINATION AND LICENSURE OF COUNSELORS;
5 AND FOR OTHER PURPOSES."

6
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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9 SECTION 1. STATEMENT OF POLICY AND PURPOSE. It is declared to be the
10 policy of this State that activities of those persons who render service
11 to the public in the counseling area and use the title Licensed Professional
12 Counselor or Licensed Associate Counselor should be regulated for the
13 protection of public health, safety, and welfare. Therefore, it is the
14 purpose and intent of this Act to provide for the regulation of the practice
15 of counseling in the State of Arkansas; to create a Board of Examiners in
16 Counseling, and prescribe the duties and powers of said Board; to provide
17 for the examination and licensure of counselors, fix penalties for the
18 violation of this Act; and to impose license fees and provide for the use
19 of funds derived therefrom. It is also the purpose of this Act to provide
20 for the regulation of the use of the titles Licensed Professional Counselor
21 and Licensed Associate Counselor for those who offer counseling services
22 to the public.

23
24 SECTION 2. BOARD OF EXAMINERS IN COUNSELING CREATED. There is hereby
25 created a Board to be known as the Arkansas Board of Examiners in Counseling
26 composed of seven (7) members, appointed by the Governor of this State
27 within sixty (60) days after the effective date of this Act, in the manner
28 and for the term of office as hereinafter provided. Said Board shall
29 perform such duties and have such powers as the Act prescribes and confers
30 upon it.

31
32 SECTION 3. DEFINITIONS. As used in this Act, unless the context

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1 requires a different meaning, these definitions apply:

2 (a) "Licensed Professional Counselor" shall mean any person who
3 holds himself or herself out to the public by any title or description of
4 services incorporating the words Licensed Professional Counselor; and who
5 offers to render counseling services to individuals, groups, organizations,
6 corporations, institutions, government agencies, or the general public
7 for monetary remuneration or otherwise, implying that he or she is
8 licensed, trained, experienced, and/or expert in counseling, and who holds
9 a current, valid license to practice counseling, with the exception of those
10 professions listed in Section 15 of this Act.

11 (b) "Licensed Associate Counselor" shall mean any person who holds
12 himself or herself out to the public by any title or description of services
13 incorporating the words Licensed Association Counselor; and who offers to
14 render counseling services to individuals, groups, organizations, corporations,
15 institutions, government agencies, or the general public for monetary
16 remuneration or otherwise implying that he or she is licensed, trained,
17 experienced, and/or expert in counseling, and who holds a current, valid
18 license to practice counseling, under the supervision of a duly licensed
19 professional counselor. Nothing in this definition shall be construed to
20 include those professions excluded by Section 15 of this Act.

21 (c) "Board" shall mean the Arkansas Board of Examiners in Counseling
22 whose members shall be appointed by the Governor of the State of Arkansas
23 in accordance with the provisions of Section 5 of this Act.

24 (d) "Counseling Services" shall mean those acts and behaviors coming
25 within the "Practice of Counseling" as defined in this Act.

26 (e) "Practice of Counseling" shall mean rendering or offering to
27 render to individuals, groups, organizations, or the general public any
28 service involving the application of principles, methods, or procedures of the
29 counseling profession which include but are not restricted to:

30 (1) "Counseling" which means assisting an individual or groups,
31 through the counseling relationship, to develop understandings of personal
32 problems to define goals, and to plan action reflecting his or her interests,
33 abilities, aptitudes, and needs as these are related to personal-social
34 concerns, educational progress, and occupations and careers.

35 (2) "Appraisal activities" which means selecting, administering,
36 scoring, and interpreting instruments designed to assess an individual's

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1 aptitudes, attitudes, abilities, achievements, interests, and personal
2 characteristics, but shall not include the use of projective techniques
3 in the assessment personality.

4 (3) "Consulting" which means interpreting or reporting scientific
5 fact or theory to provide assistance in solving current or potential
6 problems of individuals, groups, or organizations.

7 (4) "Referral activities" which means the evaluating of data
8 to identify problems and to determine the advisability of referral to other
9 specialists.

10 (5) "Research activities" which means reporting, designing,
11 conducting, or consulting on research in counseling with human subjects.

12
13 SECTION 4. PROFESSIONAL ETHICS. The Board of Examiners in Counseling
14 of the State of Arkansas shall adopt the Code of Ethics of the American
15 Personnel and Guidance Association and any revisions or additions deemed
16 appropriate by this Board to govern appropriate practice or behavior
17 referred to in this Act.

18
19 SECTION 5. THE ESTABLISHMENT OF THE BOARD. There is hereby created a
20 Board to be known as the Arkansas Board of Examiners in Counseling consisting
21 of seven (7) members who shall be appointed by the Governor in the following
22 manner:

23 (a) Within thirty (30) days from the effective date of this Act, the
24 Executive Committee of the Arkansas Personnel and Guidance Association
25 shall submit to the Governor a list of qualified candidates for the Board;
26 the composition of said Board shall include six licensed or licensable
27 counselors, three (3) who are practicing counselors and three (3) who
28 are counselor educators or supervisors, and one (1) member from the general
29 public who is not licensed or licensable. Appointments shall ensure that
30 the Board consists of citizens of the United States, residents of Arkansas,
31 at least one member of each sex, and at least one member of an ethnic
32 minority.

33 (b) Board members shall be appointed for a three (3) year term.
34 Initial appointment to the Board shall be for the following terms: Two (2)
35 members for one (1) year, two (2) members for two (2) years, and three (3)
36 members for three (3) years.

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1 (c) Not later than November 1 of each year, the Executive Committee
2 of the Arkansas Personnel and Guidance Association shall submit to the
3 Governor the names of qualified candidates to fill the expired terms of the
4 Board members. Other vacancies occurring in the Board shall be filled for
5 the unexpired term by appointment of the Governor from candidates submitted
6 within thirty (30) days of such vacancy by the Executive Committee of the
7 Arkansas Personnel and Guidance Association. Such appointments shall be
8 made within thirty (30) days after the candidate's names have been submitted.

9 (d) Any Board member may be removed by the Governor, after written
10 notice and hearing, for incapacity, incompetence, neglect of duty, misfeasance
11 or malfeasance in office.

12 (e) Board members shall be ineligible for reappointment for a period
13 of three (3) years following completion of their terms.
14

15 SECTION 6. THE ORGANIZATION OF THE BOARD. The Board of Examiners in
16 Counseling shall organize within thirty (30) days following the appointment
17 of any new members by the Governor on January 2 of each year. The Board
18 shall elect a Chairman and Secretary from its members to serve for terms
19 of one year. The members shall immediately and before performing public
20 duties take the Constitutional Oath of Office, and shall file same in the
21 Office of the Governor, who upon receiving said Oath of Office shall issue
22 to each member a certificate of appointment. Each member shall receive
23 all necessary expenses incident to holding meetings provided that such
24 expenses shall in no case exceed funds available to the Board. The Board
25 shall hold at least one (1) meeting each year. Additional meetings may
26 be held at the discretion of the Chairman or upon the written request of
27 any three (3) members of the Board. The Board shall adopt such rules,
28 regulations and procedures as they deem necessary for the performance of
29 their duties. Five (5) members of the Board shall at all times constitute
30 a quorum. The Board shall adopt a seal which must be affixed to all
31 licenses issued by the Board. The Board shall be empowered to accept
32 grants from foundations and institutions to carry on its functions and to
33 hire such assistants as are necessary to perform its activities. The
Board is required to charge an application fee determined by the Board.

SECTION 7. LICENSURE FEES. All fees from applicants seeking licensure

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1 under this Act, and all license or renewal fees received shall be paid to
 2 said Board. No part of any fee shall be returnable under any condition
 3 other than failure of the Board to hold examinations at the time originally
 4 announced, whereupon the entire fee may be returned at the option of the
 5 applicant. All fees collected or gifts or grants shall be deposited in
 6 the State Treasury to the credit of the Board. There is hereby appropriated
 7 from the Treasury funds to the credit of the Board to be used for printing,
 8 travel expenses of the Board, and other necessary expenses to the carrying
 9 out of the provisions of this Act. Expenses shall be paid under written
 10 direction of the Chairman and Secretary of the Board in accordance with
 11 usual State procedures.
 12

13 SECTION 8. REQUIREMENTS FOR LICENSED PROFESSIONAL COUNSELOR. The
 14 Board shall issue a license as a Licensed Professional Counselor to each
 15 applicant who files an application upon a form and in such a manner as the
 16 Board prescribes, accompanied by such fee as set by the Board, and who
 17 furnishes satisfactory evidence of the following to the Board that:

18 (a) the applicant is a major under the laws of Arkansas;

19 (b) the applicant is a citizen of the United States or has
 20 declared his intention to become a citizen;

21 (c) the applicant is highly regarded in personal character and
 22 professional ethics;

23 (d) the applicant is a resident of or is in the act of establishing
 24 residency in the State of Arkansas;

25 (e) the applicant is not in violation of any of the provisions of
 26 this Act and the rules and regulations adopted hereunder;

27 (f) the applicant has received a graduate degree from a regionally
 28 accredited institution of higher education which is primarily professional
 29 counseling in content and has accumulated at least thirty-six (36) graduate
 30 semester hours and which meets the academic and training content standard
 31 established by the Board (the Board shall use the standards for the prepara-
 32 tion of counselors prepared by that special professional association
 33 nationally as a guide in establishing the standards for counseling);

34 (g) the applicant has three (3) years of supervised fulltime
 35 experience in professional counseling acceptable to the Board; one (1)
 36 year of experience may be gained for each thirty (30) graduate semester

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1 hours earned beyond the Master's degree, provided that such hours are
2 clearly related to the field of counseling and are acceptable to the Board,
3 provided that in no case the applicant has less than one (1) year of the
4 professional experience; and

5 (h) the applicant will declare special competencies and demonstrate
6 professional competence in specialty areas by passing an examination written
7 and/or oral and/or situational, as the Board will prescribe. Upon examina-
8 tion of credentials the Board may, by a majority of the Board members
9 present and voting, consider such credentials adequate evidence of professional
10 competence and recommend to the Chairman of the Board that a license be
11 approved in that specialty.
12

13 SECTION 9. REQUIREMENTS FOR LICENSED ASSOCIATE COUNSELOR. The Board
14 shall issue a license of Licensed Associate Counselor to each applicant
15 who meets the requirements established in Section 8 of this Act with the
16 exception of subsection (g). The Licensed Associate Counselor may practice
17 only under direct supervision of a Licensed Professional Counselor. The
18 plan for supervision of the Licensed Associate Counselor must be approved
19 by the Board prior to any actual performance of counseling on the part of
20 the Licensed Associate Counselor. Any Licensed Associate Counselor may
21 petition the Board for licensure review for the Licensed Professional
22 Counselor provided that requirements of Section 8, subsection (g) have
23 been completed.
24

25 SECTION 10. INTERIM LICENSURE. The Board will issue to any person
26 upon application during the first six months following the effective date
27 of this Act the license of Licensed Professional Counselor provided that
28 the applicant meets the requirements of subsections (a) through (f) of
29 Section 8 of this Act and further provided that the Board shall have the
30 power to consider experience of the applicant prior to application for
31 licensure as a waiver of all or part of the supervised experience requirement
32 of Section 8 (g) and further provided that if the prior experience of the
33 applicant does not meet all requirements of Section 8 (g) then the applicant
34 will be issued the Licensed Associate Counselor license with acceptable
35 experience credited toward the experience requirements of Section 8 (g) of
36 this Act.

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1 SECTION 11. EXAMINATION OF APPLICANTS. The place of examination shall
2 be designated in advance by the Board, and such examination shall be given
3 annually at such time and place and under the supervision as the Board may
4 determine, and specifically at such other times as in the opinion of the
5 Board the number of applicants warrants.

6 The examination shall require that the applicant demonstrate his or
7 her knowledge and application thereof in those areas deemed relevant to
8 his or her specialty and identify those services he or she intends to offer
9 to the public.

10 The Board will report the results of the examination and recommend
11 to the Chairman action to be taken. To insure impartiality, written
12 examination documents shall be identified by number, and no paper shall be
13 marked in the name of any applicant. In the event an applicant fails to
14 pass the entire examination, he or she may reapply and shall be allowed
15 to take a subsequent examination. An applicant who has failed two (2)
16 successive examinations may not reapply for two (2) years from the date of
17 the last examination.

18 The Board is required to preserve examination materials and an accurate
19 transcript of the questions and answers to any examination, and the applicant's
20 performance on each section, as part of its records for a period of two
21 (2) years following the date of the examination.

22
23 SECTION 12. RENEWAL. Counselors licensed under this Act shall be
24 required to submit biannually at the time of renewal, a license renewal fee
25 to be established by the Board. No license shall be renewed unless the
26 renewal request is accompanied by evidence satisfactory to the Board of the
27 completion during the previous twenty-four (24) months of relevant pro-
28 fessional or continued educational experience. Failure to pay the biannual
29 renewal fee within the time stated shall automatically suspend the right of
30 any licensee to practice while delinquent. Such lapsed license may be
31 renewed within a period of one (1) year after payment of all fees in arrears.

32 If any Licensed Professional Counselor or Licensed Associate Counselor
33 duly licensed under this Act, by virtue of additional training and experience,
34 is qualified to practice in a specialty other than that for which he or she
35 was deemed competent at the time of initial licensing and wishes to offer
36 such service under the provisions of this Act, he or she is required to

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1 submit additional credentials and he or she is to be given the opportunity
2 to demonstrate his or her knowledge and application thereof in areas deemed
3 relevant to his or her specialty.

4
5 SECTION 13. LICENSING UNDER SPECIAL CONDITIONS. The Board may at
6 its discretion waive formal examination requirements of a candidate,
7 provided that such candidate is licensed or certified to practice counseling
8 by a similar board in another state and, further provided, that in the
9 opinion of the Board, the standards and qualifications required for the
10 practice of counseling in the candidate's licensing state are at least equal
11 to those required by this Act. The Board has the power to waive formal
12 examination requirements only and does not have the power to waive any
13 required period of supervision as provided in this Act.

14
15 SECTION 14. PRIVILEGED COMMUNICATION. For the purposes of this Act the
16 confidential relations and communications between a licensed counselor and
17 client are placed upon the same basis as those provided by statute between
18 an attorney and client. Nothing in this Act shall be construed to require
19 any such privileged communication be disclosed.

20
21 SECTION 15. PRACTICE WITHOUT LICENSE PROHIBITED -- PENALTY. Any
22 person who shall hold himself or herself out to the public as being engaged
23 in the practice of counseling as defined in Section 3 of this Act or,
24 represents himself or herself by the title Licensed Professional Counselor
25 or Licensed Associate Counselor and shall not then possess in full force
26 and virtue a valid license to practice counseling as provided in this Act
27 shall be deemed guilty of a class A misdemeanor and upon conviction thereof
28 shall be punished by a fine of not less than Five Hundred Dollars (\$500.00)
29 nor more than One Thousand Dollars (\$1,000.00) and may be imprisoned for
30 a term not exceeding one (1) year. Each violation and conviction shall be
31 deemed a separate offense. Notwithstanding the limits imposed for a class
32 A misdemeanor, if the defendant has derived pecuniary gain in the form of
33 client fees received for services in violation of this Act, such fees will
34 be refunded.

35 Nothing in this Section shall be construed to limit the professional
36 pursuits of administrators, teachers, and school counselors certified by

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1 the State Department of Education within the scope of their duties in
 2 recognized public and private schools; non-resident persons engaged in
 3 consulting or research activities in counseling for a period not greater
 4 than thirty (30) days in a calendar year; clergymen; practitioners of
 5 medicine; psychologists; social workers; listed Christian Science prac-
 6 titioners; or individuals offering volunteer services who are approved by the
 7 organization or agency for whom the service is rendered; persons in the employ
 8 of the federal, state, or local government or accredited institutions of
 9 higher education, insofar as such activities and services are a part of the
 10 official duties in salaried positions; or other professionals; provided that
 11 such persons hold a valid license, certificate, or registration in the State of
 12 Arkansas and operating within the scope of their professional duties; provided
 13 that the title Licensed Professional Counselor or Licensed Associate Counselor
 14 is not used. Students engaged in counselor training programs and other persons
 15 preparing for the profession of licensed counselor may perform as part of their
 16 training the functions specified in Section 3 of this Act provided that such
 17 functions are performed only under supervision of a Licensed Professional
 18 Counselor.

19 No firm, partnership, or corporation may offer to the public or other
 20 firms, partnerships, or corporations any counseling services as specified in
 21 Section 3 hereof unless such services are performed or supervised by individu-
 22 als fully and validly licensed under this Act.

23
 24 SECTION 16. POWER TO PETITION FOR INJUNCTIONS. The courts of this
 25 State are hereby vested with the jurisdiction and power to enjoin the unlawful
 26 practice of counseling and/or false representation as a licensed counselor in
 27 any proceeding brought by the Arkansas Board of Examiners in Counseling or by
 28 any member thereof or by any citizen of this State.

29
 30 SECTION 17. SUSPENSION OR REVOCATION OF LICENSE. The Board shall have
 31 the power to suspend or revoke the license of any person licensed by the Board
 32 and found guilty of violating any ethical or professional standard. The sanc-
 33 tion of suspension upon order of the Board shall not be for a period greater
 34 than six (6) months and any licensee thereby sanctioned shall not be allowed
 35 to practice counseling in this State until the termination of the suspension
 36 period and subsequent timely review by the Board.

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SECTION 18. This Act shall not apply to persons whose counseling activities are confined to the area of alcohol and drug abuse.

/s/ M.M. Henry

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MAR 27 1979
 APPROVED BY *Bin Clinton*
 GOVERNOR

PRESIDENT OF SENATE
Joe Rice

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 CLERK OF THE HOUSE