

By: Representative Lott

To: Public Health and Human Services

HOUSE BILL NO. 1525

1 AN ACT TO AMEND SECTION 73-30-7, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THAT THE MISSISSIPPI STATE BOARD OF EXAMINERS FOR LICENSED
 3 PROFESSIONAL COUNSELORS SHALL ADOPT RULES AND REGULATIONS IN
 4 COMPLIANCE WITH THE AMERICAN COUNSELING ASSOCIATION INSTEAD OF THE
 5 AMERICAN ASSOCIATION FOR COUNSELING AND DEVELOPMENT; TO AMEND
 6 SECTION 73-30-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
 7 TO AMEND SECTION 73-30-21, MISSISSIPPI CODE OF 1972, TO REQUIRE
 8 SUCH BOARD TO OBTAIN CURRENT CRIMINAL AND CURRENT BACKGROUND
 9 CHECKS AND CHILD ABUSE REGISTRY CHECKS TO BE PLACED ON FILE FOR
 10 ANY APPLICANTS WHO APPLY FOR A LICENSE; TO AMEND SECTION 73-30-25,
 11 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROFESSIONALS
 12 REGISTERED, CERTIFIED OR LICENSED BY A RECOGNIZED STATE OR
 13 NATIONAL PROFESSIONAL COUNSELING ASSOCIATION SHALL BE REGULATED;
 14 AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 **SECTION 1.** Section 73-30-7, Mississippi Code of 1972, is
 17 amended as follows:

18 73-30-7. (1) The members of the board shall take an oath to
 19 perform faithfully the duties of their office. The oath shall be
 20 administered by a person qualified by law to administer oaths.
 21 Upon taking the oath as board members, the initial members shall
 22 be deemed licensed counselors for all purposes under this chapter.
 23 Within thirty (30) days after taking the oath of office, the first
 24 board appointed under this chapter shall meet for an
 25 organizational meeting on call by the Governor. At such meeting
 26 and at an organizational meeting in January every odd-numbered
 27 year thereafter, the board shall elect from its members a
 28 chairman, vice chairman and secretary-treasurer to serve for terms
 29 of two (2) years.

30 (2) The board shall adopt rules and regulations in
 31 compliance with the Mississippi Administrative Procedures Law,
 32 using the standards of the American Counseling Association as a

33 guide, not inconsistent with this chapter, for the conduct of its
34 business and the carrying out of its duties.

35 (3) After a person has applied for licensure, no member of
36 the board may supervise such applicant for a fee, nor shall any
37 member vote on any applicant previously supervised by that member.

38 (4) The board shall hold at least two (2) regular meetings
39 each year, and additional meetings may be held upon the call of
40 the chairman of the board or at the written request of any four
41 (4) members of the board.

42 (5) The board-approved examination for licensure shall be
43 administered at least once a year. Examinations may be written,
44 oral, situational, or any combination thereof, and shall deal with
45 theoretical and applied fields in counseling. In written
46 examinations, the examinee's name shall not be disclosed to any
47 person grading the examination until that grading is complete.

48 (6) The board shall be empowered to make reasonable rules
49 and regulations regarding its operation and to receive and
50 disburse revenues derived from application, licensing, examination
51 and renewal fees. All monies received by the board shall be
52 deposited in a special account in the State Treasury to be
53 designated "Board of Examiners for Licensed Professional
54 Counselors Account." This account shall fund all activities of
55 the board.

56 (7) Upon the filing of a complaint by any citizen of this
57 state with the board against a licensed professional counselor or
58 upon the board's own motion, the board may:

59 (a) Compel the attendance of witnesses;

60 (b) Request the production of books, documents and
61 other papers;

62 (c) Administer oaths to witnesses; and

63 (d) Hear testimony and receive evidence concerning all
64 matters within its jurisdiction.

65 (8) The members of the board are hereby individually exempt
66 from any civil liability as a result of any action taken by the
67 board.

68 **SECTION 2.** Section 73-30-13, Mississippi Code of 1972, is
69 amended as follows:

70 73-30-13. The board shall adopt the code of ethics of the
71 American Counseling Association. The chairman of the board shall
72 file these ethical standards with the Secretary of State.

73 **SECTION 3.** Section 73-30-21, Mississippi Code of 1972, is
74 amended as follows:

75 73-30-21. (1) The board may, after notice and opportunity
76 for a hearing, suspend, revoke or refuse to issue or renew a
77 license or may reprimand the license holder, upon a determination
78 by the board that such license holder or applicant for licensure
79 has:

80 (a) Been adjudged by any court to be mentally
81 incompetent or have had a guardian of person appointed;

82 (b) Been convicted of a felony;

83 (c) Sworn falsely under oath or affirmation;

84 (d) Obtained a license or certificate by fraud, deceit
85 or other misrepresentation;

86 (e) Engaged in the conduct of professional counseling
87 in a grossly negligent or incompetent manner;

88 (f) Intentionally violated any provision of this
89 chapter;

90 (g) Violated any rules or regulations of the board; or

91 (h) Aided or assisted another in falsely obtaining a
92 license under this chapter.

93 (2) No revoked license may be reinstated within twelve (12)
94 months after such revocation. Reinstatement thereafter shall be
95 upon such conditions as the board may prescribe, which may
96 include, without being limited to, successful passing of the
97 examination required by this chapter.

98 (3) A license certificate issued by the board is the
99 property of the board and must be surrendered on demand.

100 (4) The chancery court is hereby vested with the
101 jurisdiction and power to enjoin the unlawful practice of
102 counseling and/or the false representation as a licensed counselor
103 in a proceeding brought by the board or any members thereof or by
104 any citizen of this state.

105 (5) In addition to the reasons specified in subsection (1)
106 of this section, the board shall be authorized to suspend the
107 license of any licensee for being out of compliance with an order
108 for support, as defined in Section 93-11-153. The procedure for
109 suspension of a license for being out of compliance with an order
110 for support, and the procedure for the reissuance or reinstatement
111 of a license suspended for that purpose, and the payment of any
112 fees for the reissuance or reinstatement of a license suspended
113 for that purpose, shall be governed by Section 93-11-157 or
114 93-11-163, as the case may be. If there is any conflict between
115 any provision of Section 93-11-157 or 93-11-163 and any provision
116 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
117 as the case may be, shall control.

118 (6) The board shall require, through the appropriate
119 governmental authority, that current criminal records, background
120 checks and current child abuse registry checks are obtained, and
121 that such criminal record information and registry checks are on
122 file, for any applicants for licensure beginning July 1, 2007.

123 **SECTION 4.** Section 73-30-25, Mississippi Code of 1972, is
124 amended as follows:

125 73-30-25. It is not the intent of this chapter to regulate
126 against members of other duly regulated professions in this state
127 who do counseling in the normal course of the practice of their
128 own profession. This chapter does not apply to:

129 (a) Any person registered, certified or licensed by the
130 state to practice any other occupation or profession while

131 rendering counseling services in the performance of the occupation
132 or profession for which he is registered, certified or licensed;

133 (b) Certified school counselors when they are
134 practicing counseling within the scope of their employment;

135 (c) Certified vocational counselors when they are
136 practicing vocational counseling within the scope of their
137 employment;

138 (d) Counselors in post-secondary institutions when they
139 are practicing within the scope of their employment;

140 (e) Student interns or trainees in counseling pursuing
141 a course of study in counseling in a regionally or nationally
142 accredited institution of higher learning or training institution
143 if activities and services constitute a part of the supervised
144 course of study, provided that such persons be designated a
145 counselor intern;

146 (f) Professionals employed by regionally or nationally
147 accredited post-secondary institutions as counselor educators when
148 they are practicing counseling within the scope of their
149 employment;

150 * * *

151 (g) Duly ordained ministers or clergy while functioning
152 in their ministerial capacity and duly accredited Christian
153 Science practitioners;

154 (h) Professional employees of regional mental health
155 centers, state mental hospitals, vocational rehabilitation
156 institutions, youth court counselors and employees of the
157 Mississippi Department of Employment Security or other
158 governmental agency so long as they practice within the scope of
159 their employment;

160 (i) Professional employees of alcohol or drug abuse
161 centers or treatment facilities, whether privately or publicly
162 funded, so long as they practice within the scope of their
163 employment;

164 (j) Private employment counselors;

165 (k) Any nonresident temporarily employed in this state
166 to render counseling services for not more than thirty (30) days
167 in any year, if in the opinion of the board the person would
168 qualify for a license under this chapter and if the person holds
169 any license required for counselors in his home state or country;
170 and

171 (l) Any social workers holding a master's degree in
172 social work from a school accredited by the Council on Social Work
173 Education and who do counseling in the normal course of the
174 practice of their own profession.

175 **SECTION 5.** This act shall take effect and be in force from
176 and after July 1, 2007.