MISSISSIPPI LEGISLATURE

REGULAR SESSION 2007

By: Representative Lott

To: Public Health and Human Services

**HOUSE BILL NO. 1525**

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

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

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

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

(2) The board shall adopt rules and regulations in compliance with the Mississippi Administrative Procedures Law, using the standards of the American Counseling Association as a
guide, not inconsistent with this chapter, for the conduct of its 
business and the carrying out of its duties.

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

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

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

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

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

(a) Compel the attendance of witnesses;
(b) Request the production of books, documents and 
other papers;
(c) Administer oaths to witnesses; and
(d) Hear testimony and receive evidence concerning all 
matters within its jurisdiction.
(8) The members of the board are hereby individually exempt from any civil liability as a result of any action taken by the board.

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

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

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

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

(a) Been adjudged by any court to be mentally incompetent or have had a guardian of person appointed;
(b) Been convicted of a felony;
(c) Sworn falsely under oath or affirmation;
(d) Obtained a license or certificate by fraud, deceit or other misrepresentation;
(e) Engaged in the conduct of professional counseling in a grossly negligent or incompetent manner;
(f) Intentionally violated any provision of this chapter;
(g) Violated any rules or regulations of the board; or
(h) Aided or assisted another in falsely obtaining a license under this chapter.

(2) No revoked license may be reinstated within twelve (12) months after such revocation. Reinstatement thereafter shall be upon such conditions as the board may prescribe, which may include, without being limited to, successful passing of the examination required by this chapter.
(3) A license certificate issued by the board is the property of the board and must be surrendered on demand.

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

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

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

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

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

(a) Any person registered, certified or licensed by the state to practice any other occupation or profession while
rendering counseling services in the performance of the occupation or profession for which he is registered, certified or licensed;

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

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

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

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

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

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

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

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

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

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

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