

By: Senator(s) Fillingane

To: Public Health and Welfare

SENATE BILL NO. 2944

1 AN ACT TO AMEND SECTIONS 73-30-7 AND 73-30-13, MISSISSIPPI
 2 CODE OF 1972, TO CLARIFY THE RULEMAKING AUTHORITY OF THE STATE
 3 BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS AND THE
 4 CODE OF ETHICS APPLICABLE TO LICENSED COUNSELORS; TO AMEND SECTION
 5 73-30-21, MISSISSIPPI CODE OF 1972, TO DIRECT THE BOARD TO REQUIRE
 6 CURRENT CRIMINAL RECORDS BACKGROUND CHECKS FOR APPLICANTS FOR
 7 LICENSURE; TO AMEND SECTION 73-30-25, MISSISSIPPI CODE OF 1972, TO
 8 DELETE THE EXEMPTION FOR CERTAIN COUNSELORS LICENSED BY ANOTHER
 9 JURISDICTION FROM LICENSURE REQUIREMENTS; AND FOR RELATED
 10 PURPOSES.

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

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

14 73-30-7. (1) The members of the board shall take an oath to
 15 perform faithfully the duties of their office. The oath shall be
 16 administered by a person qualified by law to administer oaths.
 17 Upon taking the oath as board members, the initial members shall
 18 be deemed licensed counselors for all purposes under this chapter.
 19 Within thirty (30) days after taking the oath of office, the first
 20 board appointed under this chapter shall meet for an
 21 organizational meeting on call by the Governor. At such meeting
 22 and at an organizational meeting in January every odd-numbered
 23 year thereafter, the board shall elect from its members a
 24 chairman, vice chairman and secretary-treasurer to serve for terms
 25 of two (2) years.

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

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

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

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

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

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

55 (a) Compel the attendance of witnesses;

56 (b) Request the production of books, documents and
57 other papers;

58 (c) Administer oaths to witnesses; and

59 (d) Hear testimony and receive evidence concerning all
60 matters within its jurisdiction.

61 (8) The members of the board are hereby individually exempt
62 from any civil liability as a result of any action taken by the
63 board.

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

66 73-30-13. The board shall adopt the code of ethics of the
67 American Counseling Association. The chairman of the board shall
68 file these ethical standards with the Secretary of State.

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

71 73-30-21. (1) The board may, after notice and opportunity
72 for a hearing, suspend, revoke or refuse to issue or renew a
73 license or may reprimand the license holder, upon a determination
74 by the board that such license holder or applicant for licensure
75 has:

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

78 (b) Been convicted of a felony;

79 (c) Sworn falsely under oath or affirmation;

80 (d) Obtained a license or certificate by fraud, deceit
81 or other misrepresentation;

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

84 (f) Intentionally violated any provision of this
85 chapter;

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

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

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

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

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

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

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

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

121 73-30-25. It is not the intent of this chapter to regulate
122 against members of other duly regulated professions in this state
123 who do counseling in the normal course of the practice of their
124 own profession. This chapter does not apply to:

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

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

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

134 (d) Counselors in postsecondary institutions when they
135 are practicing within the scope of their employment;

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

142 (f) Professionals employed by regionally or nationally
143 accredited postsecondary institutions as counselor educators when
144 they are practicing counseling within the scope of their
145 employment;

146 * * *

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

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

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

160 (j) Private employment counselors;

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

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

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