

By: Representatives Touchstone, Sykes

To: Public Health and Human Services

HOUSE BILL NO. 708

1 AN ACT RELATING TO THE REGULATION OF LICENSED PROFESSIONAL
 2 COUNSELORS (LPC); TO AMEND SECTIONS 73-30-1 AND 73-30-3,
 3 MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTHORITY OF THE STATE
 4 BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS TO THE USE
 5 OF THE TITLE "PROVISIONAL LICENSED PROFESSIONAL COUNSELOR"; TO
 6 AMEND SECTION 73-30-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 7 THE TERM OF OFFICE OF BOARD MEMBERS; TO AMEND SECTION 73-30-9,
 8 MISSISSIPPI CODE OF 1972, TO PRESCRIBE QUALIFICATIONS FOR
 9 LICENSURE AS A PROVISIONAL LICENSED PROFESSIONAL COUNSELOR AND AS
 10 A LICENSED PROFESSIONAL COUNSELOR; TO PRESCRIBE FEES AND TO
 11 REQUIRE FINGERPRINT CRIMINAL HISTORY RECORDS BACKGROUND CHECKS FOR
 12 LICENSEES; TO AMEND SECTION 73-30-11, MISSISSIPPI CODE OF 1972, TO
 13 PROVIDE VENUE FOR AN APPEAL OF DISCIPLINARY ACTION BY THE BOARD;
 14 TO AMEND SECTION 73-30-21, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
 15 THE BOARD TO ASSESS INVESTIGATION AND PROSECUTION COSTS AGAINST
 16 ANY LICENSEE; TO AMEND SECTION 73-30-25, MISSISSIPPI CODE OF 1972,
 17 TO DELETE CERTAIN COUNSELORS FROM THE SCOPE OF PRACTICE EXEMPTION
 18 FROM REGULATION CATEGORIES; TO AMEND SECTION 73-30-29, MISSISSIPPI
 19 CODE OF 1972, TO REMOVE THE JULY 1, 2020 REPEAL DATE; TO AMEND
 20 SECTIONS 73-30-7, 73-30-17 AND 73-30-19, MISSISSIPPI CODE OF 1972,
 21 TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

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

25 73-30-1. It is declared to be the policy of this state that
 26 the activities of those persons who render services to the public
 27 as licensed professional counselors and use the title "Provisional



28 Licensed Professional Counselor" (P-LPC) or "Licensed Professional
29 Counselor" be regulated to ensure the protection of the public
30 health, safety and welfare.

31 It is the intent of the Legislature to provide for the
32 regulation of the practice of counseling as well as the use of the
33 title "Provisional Licensed Professional Counselor" or "Licensed
34 Professional Counselor" for those who offer services to the public
35 for a fee, monetary or otherwise.

36 **SECTION 2.** Section 73-30-3, Mississippi Code of 1972, is
37 amended as follows:

38 73-30-3. The following terms shall have the meaning ascribed
39 herein unless the context shall otherwise require:

40 (a) "Licensed professional counselor" shall mean and is
41 restricted to any person who holds himself or herself out to the
42 public by any title or description of services incorporating the
43 words licensed professional counselor or psychotherapist, and who
44 offers to render professional counseling or psychotherapy services
45 to individuals, groups, organizations, corporations, institutions,
46 government agencies or the general public for a fee, monetary or
47 otherwise, implying that he or she is licensed.

48 (b) "Provisional licensed professional counselor"
49 (P-LPC) shall mean and is restricted to any person who holds
50 himself or herself out to the public by any title or description
51 of services incorporating the words provisional licensed
52 professional counselor or psychotherapist, and who offers to



53 render professional counseling or psychotherapy services, under
54 the supervision of a board qualified supervisor, to individuals,
55 groups, organizations, corporations, institutions, government
56 agencies or the general public for a fee, monetary or otherwise,
57 implying that he or she is licensed.

58 (* * *c) "Practice of counseling/psychotherapy" shall
59 mean rendering, offering to render or supervising those who render
60 to individuals, groups, organizations, corporations, institutions,
61 government agencies or the general public any service involving
62 the applications of counseling procedures and other related areas
63 of the behavioral sciences to help in learning how to solve
64 problems or make decisions related to personal growth, marriage,
65 family or other interpersonal or intrapersonal concerns.

66 (* * *d) "Counseling/Psychotherapy procedures" shall
67 mean the application of mental health, psychological or human
68 development principles, through cognitive, affective, behavioral
69 or systematic intervention strategies that address wellness,
70 personal growth or career development, as well as pathology.
71 Counseling/Psychotherapy involves diagnosis, assessment and
72 treatment by use of the following:

73 (i) Counseling/psychotherapy methods and
74 techniques, both verbal and nonverbal, which require the
75 application of principles, methods or procedures of understanding,
76 predicting and/or influencing behavior, and motivation;



77 (ii) Informational and community resources for
78 personal or social development;

79 (iii) Group and/or placement methods and
80 techniques which serve to further the goals of counseling;

81 (iv) Designing, conducting and interpreting
82 research on human subjects or any consultation on any item above;
83 and

84 (v) Appraisal techniques including, but not
85 limited to, testing of achievement, abilities, interests,
86 aptitudes and personality.

87 (* * * e) "Fees for licensed counseling services" shall
88 mean any form of compensation received for the practice of
89 counseling.

90 (* * * f) "Board" shall mean the Mississippi State
91 Board of Examiners for Licensed Professional Counselors.

92 **SECTION 3.** Section 73-30-5, Mississippi Code of 1972, is
93 amended as follows:

94 73-30-5. (1) There is hereby established the Mississippi
95 State Board of Examiners for Licensed Professional Counselors
96 which shall consist of five (5) members. The initial appointments
97 to the board shall consist of one (1) member from each of the five
98 (5) congressional districts of Mississippi, who shall be appointed
99 by the Governor with the advice and consent of the Senate. From
100 and after January 1, 2004, the board shall be reconstituted to
101 consist of five (5) members, one (1) member from each of the four



102 (4) congressional districts, as such districts existed on January
103 1, 2002, and one (1) member to be selected from the state at
104 large, who shall be appointed by the Governor with the advice and
105 consent of the Senate. A list shall be provided to the Governor
106 by the Mississippi Counseling Association from which the Governor
107 may choose board members. At least two (2) names shall be
108 included from each congressional district. Such appointments
109 shall be made initially within sixty (60) days of the submission
110 of the list of qualified counselors by the Mississippi Counseling
111 Association. Thereafter, all vacancies occurring on the board
112 shall be filled by the Governor within sixty (60) days after the
113 vacancy occurs. The Mississippi Counseling Association shall
114 provide a list of suggested board members for each vacancy.

115 (2) The board shall consist of five (5) licensed counselors,
116 three (3) of whom are primarily engaged as licensed counselors in
117 private or institutional practice and two (2) who are primarily
118 engaged in teaching, training or research in counseling at the
119 corporate or university level. All members shall be qualified
120 electors of the State of Mississippi.

121 (3) The initial appointments to the board shall be for
122 staggered terms, to be designated by the Governor at the time of
123 appointment as follows: two (2) members to serve for three (3)
124 years, two (2) members to serve for two (2) years, and one (1)
125 member to serve for one (1) year. When the board is reconstituted
126 on January 1, 2004, all members serving on the board on that date



127 shall continue to serve for a term of five (5) years from the
128 beginning of the term to which he or she was appointed. From and
129 after January 1, 2004, all subsequent appointments shall be for
130 five-year terms. No board member shall succeed himself or herself
131 without waiting a period of at least five (5) years after having
132 served one (1) full five-year term. Members may hold office until
133 their successors have been appointed and qualified, or a maximum
134 of twelve (12) months after their term ends.

135 (4) There shall be appointed to the board no more than one
136 (1) person who is employed by, or receives compensation from, any
137 one (1) institution, organization or partnership at the time of
138 appointment.

139 (5) Board members shall be reimbursed for necessary and
140 ordinary expenses and mileage incurred while performing their
141 duties as members of the board, at the rate authorized for public
142 employees, from fees collected for license applications and
143 renewals.

144 **SECTION 4.** Section 73-30-9, Mississippi Code of 1972, is
145 amended as follows:

146 73-30-9. (1) The board shall issue a license as a
147 Provisional Licensed Professional Counselor, without regard to
148 race, religion, sex or national origin, to each applicant who
149 furnishes satisfactory evidence of the following:



150 (a) The applicant has completed an application on a
151 form prescribed by the board accompanied by a nonrefundable
152 licensing fee of Fifty Dollars (\$50.00).

153 (b) The applicant is at least twenty-one (21) years of
154 age.

155 (c) The applicant is of good moral character.

156 (d) The applicant is a citizen of the United States, or
157 has an immigration document to verify legal alien work status in
158 the United States. The immigration document must be current and
159 issued by the United States Immigration Bureau.

160 (e) The applicant is not in violation of any of the
161 provisions of this chapter and the rules and regulations adopted
162 hereunder.

163 (f) The applicant shall have a minimum acceptable
164 graduate semester hour or acceptable quarter-hour master's degree
165 as determined by Section 73-30-5 primarily in counseling or
166 related counseling field from a regionally or nationally
167 accredited college or university program in counselor education or
168 a related counseling program subject to Mississippi State Board of
169 Examiners for Licensed Professional Counselors' approval. All
170 applicants shall provide official transcripts of all graduate
171 work.

172 (g) The applicant must pass the examination approved by
173 the board, as set forth in Section 73-30-7(5).



174 (h) A provisional license issued under this section
175 shall require that the individual confine one's practice to a
176 board-approved site and accrue counseling experience under the
177 supervision of a board-qualified supervisor.

178 (i) The limited license shall be renewable for not more
179 than four (4) years, with a nonrefundable license fee of Fifty
180 Dollars (\$50.00) per year. Licensees may appeal to the board for
181 an extension of the renewal period.

182 (j) Each applicant for licensure and renewal shall
183 apply to undergo a fingerprint-based criminal history records
184 check of the Mississippi central criminal database and the Federal
185 Bureau of Investigation criminal history database. Each applicant
186 shall submit a full set of the applicant's fingerprints in a form
187 and manner prescribed by the board, which shall be forwarded to
188 the Mississippi Department of Public Safety and the Federal Bureau
189 of Investigation Identification Division for this purpose.

190 (2) The board shall issue a license as a licensed
191 professional counselor, without regard to race, religion, sex or
192 national origin, to each applicant who furnishes satisfactory
193 evidence of the following:

194 (a) The applicant has completed an application on a
195 form prescribed by the board accompanied by a nonrefundable * * *
196 full application licensing fee of * * * Fifty Dollars (\$50.00).

197 (b) The applicant is at least twenty-one (21) years of
198 age.



199 (c) The applicant is of good moral character.

200 (d) The applicant is a * * * citizen of the United
201 States, or has an immigration document to verify legal alien work
202 status in the United States. The immigration document must be
203 current and issued by the United States Immigration Bureau.

204 (e) The applicant is not in violation of any of the
205 provisions of this chapter and the rules and regulations adopted
206 hereunder.

207 (f) The applicant shall have * * * a minimum acceptable
208 graduate semester hour or acceptable quarter-hour master's degree
209 as determined by the Mississippi State Board of Examiners for
210 Licensed Professional Counselors in Section 73-30-5 primarily in
211 counseling * * * or a related counseling field * * * from a
212 regionally or nationally accredited college or university program
213 in counselor education or a related counseling program subject to
214 board approval. * * * All applicants shall provide official
215 transcripts of all graduate work.

216 (g) The applicant must pass the examination approved by
217 the board, as set forth in Section 73-30-7(5).

218 (h) The applicant has had * * * post graduate
219 supervised experience in professional counseling * * * acceptable
220 to the board * * *. Applicant shall submit verification of * * *
221 supervised experience.



222 Each application or filing made under this section shall
223 include the social security number(s) of the applicant in
224 accordance with Section 93-11-64 * * *.

225 (i) * * * The board shall require each first-time
226 applicant for licensure and may require applicants for license
227 renewal to * * * undergo a fingerprint-based criminal history
228 records check of the Mississippi central criminal database and the
229 Federal Bureau of Investigation criminal history database. Each
230 applicant for licensure and renewal shall apply to undergo a
231 fingerprint-based criminal history records check of the
232 Mississippi central criminal database and the Federal Bureau of
233 Investigation criminal history database. Each applicant shall
234 submit a full set of the applicant's fingerprints in a form and
235 manner prescribed by the board, which shall be forwarded to the
236 Mississippi Department of Public Safety and the Federal Bureau of
237 Investigation Identification Division for this purpose.

238 **SECTION 5.** Section 73-30-11, Mississippi Code of 1972, is
239 amended as follows:

240 73-30-11. Following a decision by the board not to license,
241 the applicant may request a hearing at the next regularly
242 scheduled meeting of the board. The applicant will be notified of
243 the decision of the majority of the board members within sixty
244 (60) days of the hearing. Upon a final decision by the board not
245 to license, the applicant may (after waiting a period of at least
246 one (1) year) resubmit the application accompanied by new evidence



247 and a nonrefundable application fee of One Hundred Dollars
248 (\$100.00) for reconsideration for licensure.

249 The applicant may appeal the decision of the board to the
250 circuit court of the county of the applicant's residence. If an
251 applicant does not reside in Mississippi, the applicant may appeal
252 the decision of the board to the Hinds County Circuit Court. Any
253 appeal to the circuit court must be taken within * * * thirty (30)
254 days of the date of the board's decision. An appeal of the
255 decision of the circuit court may be taken to the Mississippi
256 Supreme Court not later than sixty (60) days from the date of the
257 decision by the circuit court.

258 **SECTION 6.** Section 73-30-21, Mississippi Code of 1972, is
259 amended as follows:

260 73-30-21. (1) The board may, after notice and opportunity
261 for a hearing, suspend, revoke or refuse to issue or renew a
262 license or may reprimand the license holder, upon a determination
263 by the board that such license holder or applicant for licensure
264 has:

- 265 (a) Been adjudged by any court to be mentally
266 incompetent or have had a guardian of person appointed;
267 (b) Been convicted of a felony;
268 (c) Sworn falsely under oath or affirmation;
269 (d) Obtained a license or certificate by fraud, deceit
270 or other misrepresentation;



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

273 (f) Intentionally violated any provision of this
274 chapter;

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

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

278 (2) Appeals from disciplinary action are to be brought in
279 the circuit court in the county of residence of the practitioner.
280 In the event the practitioner resides out of state the appeal
281 should be brought in Hinds County Circuit Court.

282 (3) The board may assess and levy upon any licensee,
283 practitioner or applicant for licensure the costs incurred or
284 expended by the board in the investigation and prosecution of any
285 licensure or disciplinary action, including, but not limited to,
286 the costs of process service, court reporters, expert witnesses,
287 investigators and attorney's fees.

288 (* * *4) No revoked license may be reinstated within twelve
289 (12) months after such revocation. Reinstatement thereafter shall
290 be upon such conditions as the board may prescribe, which may
291 include, without being limited to, successful passing of the
292 examination required by this chapter.

293 (* * *5) A license certificate issued by the board is the
294 property of the board and must be surrendered on demand.



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

300 (* * *7) In addition to the reasons specified in subsection
301 (1) of this section, the board shall be authorized to suspend the
302 license of any licensee for being out of compliance with an order
303 for support, as defined in Section 93-11-153. The procedure for
304 suspension of a license for being out of compliance with an order
305 for support, and the procedure for the reissuance or reinstatement
306 of a license suspended for that purpose, and the payment of any
307 fees for the reissuance or reinstatement of a license suspended
308 for that purpose, shall be governed by Section 93-11-157 or
309 93-11-163, as the case may be. If there is any conflict between
310 any provision of Section 93-11-157 or 93-11-163 and any provision
311 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
312 as the case may be, shall control.

313 **SECTION 7.** Section 73-30-25, Mississippi Code of 1972, is
314 amended as follows:

315 73-30-25. It is not the intent of this chapter to regulate
316 against members of other duly regulated professions in this state
317 who do counseling in the normal course of the practice of their
318 own profession. This chapter does not apply to:



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

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

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

329 (d) * * * [Deleted]

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

336 (f) * * * [Deleted]

337 (g) [Deleted]

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

341 (i) Professional employees of regional mental health
342 centers, state mental hospitals, vocational rehabilitation
343 institutions, youth court counselors and employees of the



344 Mississippi Department of Employment Security or other
345 governmental agency so long as they practice within the scope of
346 their employment;

347 (j) Professional employees of alcohol or drug abuse
348 centers or treatment facilities, whether privately or publicly
349 funded, so long as they practice within the scope of their
350 employment;

351 (k) Private employment counselors;

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

358 (m) * * * [Deleted]

359 **SECTION 8.** Section 73-30-29, Mississippi Code of 1972, is
360 amended as follows:

361 73-30-29. (1) Except as provided in Section 33-1-39, the
362 renewal of license fee under this chapter shall be Two Hundred
363 Dollars (\$200.00) per biennial licensing renewal period. License
364 renewal fees may be increased by the board as deemed necessary,
365 but may not be increased by more than ten percent (10%) of the
366 previous year's fee.

367 (2) From and after January 1, 2004, a licensed professional
368 counselor and provisional licensed professional counselor must



369 complete twelve (12) hours of continuing education before a
370 license may be renewed. Continuing education courses must be in
371 the field in which the counselor practices. A minimum of three
372 (3) hours of continuing education must be in the field of
373 professional ethics. The board may determine which continuing
374 education courses are admissible, and the decisions of the board
375 are final. Courses submitted for other certification processes
376 will be admissible. The board must adhere to the guidelines as
377 provided by the National Board of Certified Counselors with regard
378 to credit for teaching courses, workshops and serving on boards.

379 (3) All licenses will be renewed biennially on or before
380 June 30 of the applicable year. The evidence of the following
381 must be received in the Office of the State Board of Examiners for
382 Licensed Professional Counselors on or before June 30 of the year
383 of renewal by every license holder who intends to continue to
384 practice: Each active Licensed Professional Counselor and
385 Provisional Licensed Professional Counselor licensee must accrue
386 twenty-four (24) Continuing Education Hours during the preceding
387 license period, six (6) of which must involve topics in
388 professional ethics or legal issues in the delivery of counseling
389 services.

390 * * *

391 **SECTION 9.** Section 73-30-7, Mississippi Code of 1972, is
392 amended as follows:



393 73-30-7. (1) The members of the board shall take an oath to
394 perform faithfully the duties of their office. The oath shall be
395 administered by a person qualified by law to administer oaths.
396 Upon taking the oath as board members, the initial members shall
397 be deemed licensed counselors for all purposes under this chapter.
398 Within thirty (30) days after taking the oath of office, the first
399 board appointed under this chapter shall meet for an
400 organizational meeting on call by the Governor. At such meeting
401 and at an organizational meeting in January every odd-numbered
402 year thereafter, the board shall elect from its members a * * *
403 chair, vice * * * chair and secretary-treasurer to serve for terms
404 of two (2) years.

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

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

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



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

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

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

435 (a) Compel the attendance of witnesses;

436 (b) Request the production of books, documents and
437 other papers;

438 (c) Administer oaths to witnesses; and

439 (d) Hear testimony and receive evidence concerning all
440 matters within its jurisdiction.



441 (8) The members of the board are hereby individually exempt
442 from any civil liability as a result of any action taken by the
443 board.

444 **SECTION 10.** Section 73-30-17, Mississippi Code of 1972, is
445 amended as follows:

446 73-30-17. No licensed professional counselor or provisional
447 licensed professional counselor may disclose any information
448 acquired during professional consultation with clients except:

449 (a) With the written consent of the client or, in the
450 case of death or disability or in the case of a minor, with the
451 written consent of his parent, legal guardian or conservator, or
452 other person authorized by the court to file suit;

453 (b) When a communication reveals the contemplation of a
454 crime or harmful act, or intent to commit suicide; or

455 (c) When a person waives the privilege by bringing
456 charges against a licensed professional counselor or provisional
457 licensed professional counselor for breach of privileged
458 communication, or any other charges.

459 **SECTION 11.** Section 73-30-19, Mississippi Code of 1972, is
460 amended as follows:

461 73-30-19. Any person who represents himself or herself by
462 the title "Licensed Professional Counselor" or "Provisional
463 Licensed Professional Counselor" without having first complied
464 with the provisions of this chapter shall be guilty of a
465 misdemeanor and, upon conviction thereof, shall be punished by a



466 fine of not less than Five Hundred Dollars (\$500.00) nor more than
467 One Thousand Dollars (\$1,000.00) for each offense.

468 **SECTION 12.** This act shall take effect and be in force from
469 and after July 1, 2018.

