

House Bill 1025

AN ACT TO REENACT SECTIONS 73-53-3, 73-53-8, 73-53-10, 73-53-11 AND 73-53-13, AND SECTIONS 73-54-1 THROUGH 73-54-39, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSING AND REGULATION OF SOCIAL WORKERS AND MARRIAGE AND FAMILY THERAPISTS; TO AMEND SECTION 73-53-7, MISSISSIPPI CODE OF 1972, TO PROVIDE A CRIMINAL PENALTY FOR PRACTICING SOCIAL WORK WITHOUT A LICENSE; TO AMEND REENACTED SECTION 73-53-8, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF EXAMINERS FOR SOCIAL WORKERS AND MARRIAGE AND FAMILY THERAPISTS TO SET THE SALARY FOR THE EXECUTIVE DIRECTOR, SUBJECT TO THE APPROVAL OF THE STATE PERSONNEL BOARD; TO AMEND SECTION 73-53-15, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR BIENNIAL LICENSE FEES FOR SOCIAL WORKERS; TO AMEND SECTION 73-53-27, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR RECORDING OF TESTIMONY IN DISCIPLINARY PROCEEDINGS AGAINST SOCIAL WORKERS AND REQUIRE THE PUBLICATION OF SUSPENDED LICENSES; TO AMEND REENACTED SECTION 73-54-5, MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN DEFINITIONS; TO AMEND REENACTED SECTION 73-54-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MARRIAGE AND FAMILY THERAPISTS TO PROVIDE TESTING; TO AMEND REENACTED SECTION 73-54-17, MISSISSIPPI CODE OF 1972, TO CLARIFY CERTAIN EDUCATIONAL QUALIFICATIONS AND SUPERVISORY EXPERIENCE FOR MARRIAGE AND FAMILY THERAPISTS; TO AMEND REENACTED SECTION 73-54-27, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR INACTIVE STATUS FOR MARRIAGE AND FAMILY THERAPIST LICENSEES; TO AMEND REENACTED SECTION 73-54-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE USE OF EXPERT WITNESSES IN MARRIAGE AND FAMILY THERAPIST DISCIPLINARY PROCEEDINGS BEFORE THE BOARD; TO AMEND REENACTED SECTION 73-54-37, MISSISSIPPI CODE OF 1972, TO EXPAND AND CLARIFY PRIVILEGED COMMUNICATIONS BY MARRIAGE AND FAMILY THERAPIST LICENSEES; TO AMEND SECTION 73-54-41, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC REPEALER ON THE STATUTES PROVIDING FOR THE LICENSING AND REGULATION OF

SOCIAL WORKERS AND MARRIAGE AND FAMILY THERAPISTS; TO REPEAL SECTION 73-54-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR WAITING PERIODS BEFORE REEXAMINATIONS BY MARRIAGE AND FAMILY THERAPIST APPLICANTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-53-3, Mississippi Code of 1972, is reenacted as follows:

73-53-3. As used in this chapter:

(a) "Board" means the Board of Examiners for Social Workers and Marriage and Family Therapists created under Section 73-53-8.

(b) "Social work practice" means the professional activity directed at enhancing, protecting or restoring people's capacity for social functioning, whether impaired by physical, environmental or emotional factors.

(c) "Clinical social work practice" means the application of social work methods and values in diagnosis and treatment directed at enhancing, protecting or restoring people's capacity for social functioning, whether impaired by physical, environmental or emotional factors.

(d) "Examination(s)" means that test or exam which is endorsed and prescribed by the American Association of State Social Work Boards.

SECTION 2. Section 73-53-7, Mississippi Code of 1972, is amended as follows:

73-53-7. (1) Except as hereinafter provided, all individuals not exempt from licensure who are not licensed under this chapter are prohibited from performing services for compensation for which licensure is required by this chapter, and are also prohibited from holding themselves out to the public by any title or description of services set out in this chapter or by any title or description of services likely to cause public confusion with any title or description of services set out in this chapter.

(2) Any person not licensed under this chapter on July 1, 1993, who is actively engaged in the practice of social work before July 1, 1994, as an employee of the State of Mississippi or any agency, political subdivision or municipality thereof or any community action agency or Head Start agency, and who is not eligible to be issued a license under subsection (3) of this section, shall be issued a provisional license as a licensed social worker by the board, if the person applies for such provisional license before July 1, 1994, and, at the time that the application is made, the person is so actively engaged. The license shall be issued by the board upon application therefor, the submission of proof satisfactory to the board of the applicant's employment in the practice of social work as provided in this subsection, and the payment of the appropriate fee. Such license shall be valid for a maximum period of two (2) years, but not to extend past June 30, 1995, during which time the provisional licensee must pass the AASSWB social work examination at the basic level.

(3) Any person not licensed under this chapter on July 1, 1993, who has been actively engaged in the practice of social work for not less than five (5) years before July 1, 1993, as an employee of the State of Mississippi or any agency, political subdivision or municipality thereof or any community action agency or Head Start agency, shall be

issued a license as a social worker by the board, if the person applies for such license before September 1, 1994, and at the time that the application is made, the person is so actively engaged. Any person born on May 24, 1949, who has eight (8) years of social work practice as an employee of any of the specified entities before July 1, 1993, who is an employee of any of the specified entities on July 1, 2000, regardless of whether the current employment position is designated as a social worker, shall be issued a license as a social worker by the board if the person applies for the license before September 1, 2000. The license shall be issued by the board upon application therefor, the submission of proof satisfactory to the board of the applicant's employment in the practice of social work as provided in this subsection, and the payment of the appropriate fee.

(4) From and after July 1, 2001, any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Hundred Dollars (\$500.00) for his first offense, nor more than One Thousand Dollars (\$1,000.00) for each subsequent offense.

SECTION 3. Section 73-53-8, Mississippi Code of 1972, is reenacted and amended as follows:

73-53-8. (1) There is created the Board of Examiners for Social Workers and Marriage and Family Therapists to license and regulate social workers and marriage and family therapists. The board shall be composed of ten (10) members, six (6) of which shall be social workers and four (4) of which shall be marriage and family therapists.

(2) Of the social worker members of the board, two (2) must be licensed social workers, and four (4) must be licensed master social workers or licensed certified social workers or a combination thereof. The marriage and family therapist members of the board must be licensed marriage and family therapists. For at least five (5) years immediately preceding his or her appointment, each marriage and family therapist appointee must have been actively engaged as a marriage and family therapist in rendering professional services in marriage and family therapy, or in the education and training of master's, doctoral or post-doctoral students of marriage and family therapy, or in marriage and family therapy research, and during the two (2) years preceding his or her appointment, must have spent the majority of the time devoted to that activity in this state. The initial marriage and family therapist appointees shall be deemed to be and shall become licensed practicing marriage and family therapists immediately upon their appointment and qualification as members of the board. All subsequent marriage and family therapist appointees to the board must be licensed marriage and family therapists before their appointment.

(3) The Governor shall appoint six (6) members of the board, four (4) of which shall be social workers and two (2) of which shall be marriage and family therapists, and the Lieutenant Governor shall appoint four (4) members of the board, two (2) of which shall be social workers and two (2) of which shall be marriage and family therapists. Social worker members of the board shall be appointed from nominations submitted by the Mississippi Chapter of the National Association of Social Workers, and marriage and family therapist members of the board shall be appointed from nominations submitted by the Mississippi Marriage and Family Therapy Association. All appointments shall be made with the advice and consent of the Senate.

(4) The initial appointments to the board shall be made as follows: The Governor shall appoint one (1) social worker member for a term that expires on June 30, 1999, one (1) social worker member for a term that expires on June 30, 2001, two (2) social worker members for terms that expire on June 30, 2002, one (1) marriage and family therapist member for a term that expires on June 30, 1998, and one (1) marriage and family therapist member for a term that expires on June 30, 2000. The Lieutenant Governor

shall appoint one (1) social worker member for a term that expires on June 30, 1998, one (1) social worker member for a term that expires on June 30, 2000, one (1) marriage and family therapist member for a term that expires on June 30, 1999, and one (1) marriage and family therapist member of the board for a term that expires on June 30, 2001. After the expiration of the initial terms, all subsequent appointments shall be made by the original appointing authorities for terms of four (4) years from the expiration date of the previous term. Upon the expiration of his or her term of office, a board member shall continue to serve until his or her successor has been appointed and has qualified. No person may be appointed more than once to fill an unexpired term or more than two (2) consecutive full terms.

(5) Any vacancy on the board before the expiration of a term shall be filled by appointment of the original appointing authority for the remainder of the unexpired term. Appointments to fill vacancies shall be made from nominations submitted by the appropriate organization as specified in subsection (2) of this section for the position being filled.

(6) The appointing authorities shall give due regard to geographic distribution, race and sex in making all appointments to the board.

(7) The board shall select one (1) of its members to serve as chairman during the term of his or her appointment to the board. No person may serve as chairman for more than four (4) years. The board may remove any member of the board or the chairman from his or her position as chairman for (a) malfeasance in office, or (b) conviction of a felony or a crime of moral turpitude while in office, or (c) failure to attend three (3) consecutive board meetings. However, no member may be removed until after a public hearing of the charges against him or her, and at least thirty (30) days' prior written notice to the accused member of the charges against him or her and of the date fixed for such hearing. No board member shall participate in any matter before the board in which he has a pecuniary interest, personal bias or other similar conflict of interest.

(8) Board members shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of official board business as provided in Section 25-3-41.

(9) Four (4) social worker members and three (3) marriage and family therapist members of the board shall constitute a quorum of the board. In making its decisions and taking actions affecting the members of one (1) of the professions regulated by the board, the board shall consider the recommendations of the board members who are members of that profession.

(10) The principal office of the board shall be in the City of Jackson, but the board may act and exercise all of its powers at any other place. The board shall adopt an official seal, which shall be judicially noticed and which shall be affixed to all licenses issued by the board.

(11) The board is authorized to employ, subject to the approval of the State Personnel Board, an executive director and such attorneys, experts and other employees as it may from time to time find necessary for the proper performance of its duties and for which the necessary funds are available, and to set the salary of the executive director, subject to the approval of the State Personnel Board. The board is strongly encouraged to employ any employees of the State Department of Health who may be displaced as a result of the enactment of Laws, 1997, Chapter 516.

(12) The board, by a majority vote, from time to time may make such provisions as it deems appropriate to authorize the performance by any board member or members,

employee or other agent of the board of any function given the board in this chapter or Sections 73-54-1 through 73-54-39.

SECTION 4. Section 73-53-10, Mississippi Code of 1972, is reenacted as follows:

73-53-10. (1) No appropriations from the State General Fund shall be used to operate the board. The board shall be supported by fees collected for license application and renewal and/or other monies raised by the board.

(2) All fees and any other monies received by the board, except for monetary penalties imposed under Section 75-53-23, shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of this chapter and Sections 73-54-1 through 73-54-39 when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and shall be disbursed by the State Treasurer only upon warrants issued by the State Fiscal Officer upon requisitions signed by the chairman of the board or another board member designated by the chairman, and countersigned by the secretary of the board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund. Monetary penalties imposed by the board under Section 73-53-23 shall be deposited in the State General Fund.

SECTION 5. Section 73-53-11, Mississippi Code of 1972, is reenacted as follows:

73-53-11. (1) In addition to the duties set forth elsewhere in this chapter and in Sections 73-54-1 through 73-54-39, the board shall:

- (a) At least once every two (2) years recommend modifications or amendments to this chapter to the Governor;
 - (b) Review the quality and availability of social work services provided in this state and make recommendations for change to the Legislature; and
 - (c) Recommend to the appropriate law enforcement official the bringing of civil actions to seek injunctions and other relief against unlicensed individuals for violations of this chapter.
- (2) The board shall approve, oversee and be responsible for all examinations for licensure under this chapter. The board shall pass on all applicants who apply to be licensed.
- (3) The board shall be responsible for all disciplinary functions carried out in this state regarding all licensees under this chapter.
- (4) The board shall be responsible for all disputed matters involving whether an applicant shall be licensed.
- (5) The board shall have such other powers as may be required to carry out the provisions of this chapter.

SECTION 6. Section 73-53-13, Mississippi Code of 1972, is reenacted as follows:

73-53-13. The board shall issue the appropriate license to applicants who meet the qualifications of this section.

(a) Prerequisites - "social worker": A license as a "social worker" shall be issued to an applicant who meets the following qualifications:

(i) Has a baccalaureate degree in social work from a college or university accredited by the Council on Social Work Education or Southern Association of Colleges and Schools and has satisfactorily completed an examination for this license; or

(ii) Has a comparable license or registration from another state or territory of the United States that imposes qualifications substantially similar to those of this chapter.

(b) Prerequisites - "master social worker": A license as a "master social worker" shall be issued to an applicant who meets the following qualifications:

(i) Has a doctorate or master's degree from a school of social work accredited by the Council on Social Work Education; and

(ii) Has satisfactorily completed an examination for his license; or

(iii) Has a comparable license or registration from another state or territory of the United States that imposes qualifications substantially similar to those of this chapter.

(c) Prerequisites - "certified social worker": A license as a "certified social worker" shall be issued to an applicant who meets the following qualifications:

(i) Is licensed under this section as a "master social worker"; and

(ii) Has twenty-four (24) months of experience acceptable to the board, under appropriate supervision; and

(iii) Has satisfactorily completed a state examination for this license; or

(iv) Has a comparable license or registration from another state or territory of the United States that imposes qualifications substantially similar to those of this chapter.

(d) In addition to the above qualifications, an applicant for any of the above licenses must prove to the board's satisfaction:

(i) Age of at least twenty-one (21) years, and

(ii) Good moral character, which is a continuing requirement for licensure, and

(iii) United States citizenship or status as a legal resident alien, and

(iv) Absence of conviction of a felony related to the practice of social work for the last ten (10) years, and

(v) That the applicant has not been declared mentally incompetent by any court, and if any such decree has ever been rendered, that the decree has since been changed, and

(vi) Freedom from dependency on alcohol or drugs.

(e) Only individuals licensed as "certified social workers" shall be permitted to call themselves "clinical social workers."

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 7. Section 73-53-15, Mississippi Code of 1972, is amended as follows:

73-53-15. All original licenses shall be valid for one (1) year, unless earlier suspended or revoked by the board, and each person to whom a license is issued shall pay a fee of not more than Fifty Dollars (\$50.00) therefor to the board. Licenses shall be renewed biennially after initial licensure upon payment of a fee of not more than One Hundred Fifty Dollars (\$150.00) for licensed social workers, Two Hundred Dollars (\$200.00) for licensed master social workers and Two Hundred Dollars (\$200.00) for licensed certified social workers, and being in compliance with such additional requirements as the board shall promulgate.

SECTION 8. Section 73-53-27, Mississippi Code of 1972, is amended as follows:

73-53-27. (1) Any circuit court, upon the application of the licensee or of the board, may order the attendance of witnesses and the production of relevant books and papers before the board in any hearing pursuant to this chapter. The court may compel obedience to its order by proceedings for contempt.

(2) The board has the power to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as is prescribed by law for judicial proceedings in civil cases. Any member of the board or its designee has the power to administer oaths at any hearing which the board is authorized by law to conduct.

(3) The board, at its expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case in which a license may be revoked, suspended, placed on probationary status, or other disciplinary action taken with regard thereto. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the recording of testimony, the report of the board, and the orders of the board constitute the record of such proceedings. The board shall furnish a transcript of such record to any person interested in such hearing upon payment of the cost of each original transcript or for each copy.

(4) Upon the suspension or revocation of a license issued under Section 73-53-13, a licensee shall be required to surrender the license to the board, and upon failure to do so the board shall have the right to seize the same.

(5) The board shall publish an annual list of the names and addresses of all licensees under the provisions of this chapter, and of all persons whose licenses have been revoked or suspended within the preceding twelve (12) months.

SECTION 9. Section 73-54-1, Mississippi Code of 1972, is reenacted as follows:

73-54-1. This chapter shall be known and may be cited as the "Marriage and Family Therapy Licensure Act of 1997."

SECTION 10. Section 73-54-3, Mississippi Code of 1972, is reenacted as follows:

73-54-3. Marriage and family therapy in the State of Mississippi is declared to be a professional practice that affects the public safety and welfare and requires appropriate regulation and control in the public interest.

It is the purpose of this chapter to establish a regulatory agency, a structure, and procedures that will ensure that the public is protected from unprofessional, improper, unauthorized and unqualified practice of marriage and family therapy. This chapter shall be liberally construed to carry out these policies and purposes.

SECTION 11. Section 73-54-5, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-5. As used in this chapter and in Section 73-53-8, unless the context clearly requires a different meaning:

(a) "Licensed marriage and family therapist" means a person to whom a license has been issued under this chapter and Section 73-53-8, which license is in force and not suspended or revoked as of the particular time in question.

(b) "Marriage and family therapy" means the rendering of professional therapy services to individuals, families or couples, singly or in groups, and involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of therapy services to those persons.

(c) "Practice of marriage and family therapy" means the rendering of professional marriage and family therapy services to individuals, couples and families, singly or in groups, whether those services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

(d) "Advertise" means, but is not limited to, issuing or causing to be distributed any card, sign or device to any person; causing, permitting or allowing any sign or marking on or in any building; broadcasting by radio or television; or advertising by any other means designed to secure public attention.

(e) "Use a title or description of" means to hold oneself out to the public as having a particular status by means of stating it on signs, mailboxes, address plates, stationery, announcements, calling cards or other instruments of professional identification.

(f) "Board" means the Board of Examiners for Social Workers and Marriage and Family Therapists created by Section 73-53-8.

(g) "Institution of higher education" means any regionally accredited institution of higher learning in the United States that offers a master's or doctoral degree; for foreign universities, this term means an institution of higher education accredited by a legal agency of that country that is satisfactory to the board.

* * *

(h) "Person" means any individual, firm, corporation, partnership, organization or body politic.

SECTION 12. Section 73-54-7, Mississippi Code of 1972, is reenacted as follows:

73-54-7. Except as specifically exempted in Section 73-54-9, beginning September 1, 1997, any person who represents himself or herself by the title or description "marital or marriage therapist," "licensed marital or marriage and family therapist," or any other name, style or description denoting that the person is a marriage and family therapist or marriage and family counselor without having first complied with the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each offense.

SECTION 13. Section 73-54-9, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-9. (1) A person shall be exempt from the requirements of this chapter if the person is a marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or supervisory arrangement recognized and approved by the board, provided he or she is designated by such titles as "marriage and family therapy intern," "marriage therapy intern," "family therapy intern," or others, clearly indicating such training status.

(2) Nothing in this chapter shall prevent licensed or certified members of other professional groups as defined by their board, including, but not limited to, physicians, psychologists, clinical nurse specialists, clinical social workers, licensed professional counselors, or duly ordained ministers or clergy while functioning in their ministerial capacity, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions.

(3) Nothing in this chapter shall be construed as permitting licensed marriage and family therapists to * * * engage in the practice of psychology. Marriage and family therapists may provide testing consistent with the scope of their education, training and experience. Testing shall occur within the context of a therapeutic relationship.

SECTION 14. Section 73-54-11, Mississippi Code of 1972, is reenacted as follows:

73-54-11. (1) The board shall administer and enforce the provisions of this chapter. The board shall from time to time adopt such rules and regulations and such amendments thereof and supplements thereto as it may deem necessary to enable it to perform its duties under, and to carry into effect the provisions of, this chapter. Such rules and regulations shall be adopted in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1 et seq.).

(2) The board shall examine and pass on the qualifications of all applicants under this chapter, and shall issue a license to each successful applicant therefor, attesting to his or her professional qualifications to be a marriage and family therapist.

SECTION 15. Section 73-54-13, Mississippi Code of 1972, is reenacted as follows:

73-54-13. Each person desiring to obtain a license as a practicing marriage and family therapist shall make application thereof to the board in such manner as the board prescribes and with required application fees and shall furnish evidence satisfactory to the board that he or she:

(a) Is of good moral character;

(b) Has not engaged or is not engaged in any practice or conduct which would be a ground for refusing to issue a license under Section 73-54-29 or Section 73-53-17;

(c) Is qualified for licensure pursuant to the requirements of this chapter; and

(d) Is at least twenty-one (21) years of age.

SECTION 16. Section 73-54-15, Mississippi Code of 1972, is reenacted as follows:

73-54-15. Any person who applies for a license on or before September 1, 2000, shall be issued a license by the board if he or she meets the qualifications set forth in Section 73-54-13, with required application fees, and provides evidence to the board that he or she meets educational and experience qualifications as follows:

(a) Holds a master's degree or doctoral degree in a mental health field, as defined by the board. Applicants must have completed their degree from a college or university

accredited by the Southern Association of Colleges and Schools or a regional accrediting body; and

(b) Has had at least two (2) years of clinical experience in the practice of marriage and family therapy.

SECTION 17. Section 73-54-17, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-17. Any person who applies for a license after September 1, 2000, shall be issued a license by the board if he or she meets the qualifications set forth in Section 73-54-13, and submits the required application fees, and provides satisfactory evidence to the board that he or she:

(a) Meets educational and experience qualifications as follows:

(i) Holds a master's degree or doctoral degree in marriage and family therapy from an institution of higher education in a program that is accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE), or that was in COAMFTE candidacy status at the time of graduation and subsequently received COAMFTE accreditation;

(ii) Following the receipt of the first qualifying degree, has at least two (2) years of supervised experience in marriage and family therapy, or its equivalent, acceptable to the board, provided it meets, at a minimum, the requirements for clinical membership in the American Association for Marriage and Family Therapy;

(iii) Has completed at least one hundred (100) hours of supervision of marriage and family therapy, as defined by the board; and

(b) Passes an examination administered by the board.

SECTION 18. Section 73-54-19, Mississippi Code of 1972, is reenacted as follows:

73-54-19. (1) The board shall conduct an examination at least once a year at a time and place designated by the board.

(2) An applicant shall be required to pass the Examination of Marriage and Family Therapy written for the marriage and family regulatory boards.

SECTION 19. Section 73-54-23, Mississippi Code of 1972, is reenacted as follows:

73-54-23. The board shall issue a license by examination of credentials to any applicant licensed or certified as a marriage and family therapist in another state that has such requirements for the license or certificate that the board is of the opinion that the applicant is competent to engage in the practice of marriage and family therapy in this state, provided that the applicant submits an application on forms prescribed by the board and pays the original licensure fee prescribed by Section 73-54-25.

SECTION 20. Section 73-54-25, Mississippi Code of 1972, is reenacted as follows:

73-54-25. The board shall charge an application fee to be determined by the board, but not to exceed Three Hundred Dollars (\$300.00), to applicants for licensing, and shall charge the applicant for the expenses incurred by the board for examination of the applicants.

SECTION 21. Section 73-54-27, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-27. (1) Licenses issued under this chapter shall be valid for two (2) years and must be renewed biennially, in September, with the renewal fee being determined by the board but not to exceed Two Hundred Dollars (\$200.00).

(2) The license of any marriage and family therapist who fails to renew biennially during the month of September shall lapse; the failure to renew the license shall not deprive the marriage and family therapist of the right of renewal thereafter. Such lapsed license may be renewed within a period of two (2) years after such lapse upon payment of all fees in arrears.

(3) A marriage and family therapist wishing to renew a license that has been lapsed for more than two (2) years shall be required to reapply for licensure.

(4) The board shall notify each license holder in writing of the pending license expiration no later than the thirtieth day before the date on which the license expires.

(5) The board shall require each license holder to participate in approved continuing education activities in order to renew a license issued under this chapter.

(6) Any person who notifies the board, in writing on forms prescribed by the board, may place his license on inactive status and shall be excused from the payment of renewal fees until the person notifies the board in writing of the intention to resume active practice. Any person requesting his license to be changed from inactive to active status shall be required to pay the current fee and shall also demonstrate compliance with continuing education requirements as defined by the board.

SECTION 22. Section 73-54-29, Mississippi Code of 1972, is reenacted as follows:

73-54-29. Licensees subject to this chapter shall conduct their activities, services and practice in accordance with this chapter and any rules promulgated pursuant under this chapter. Licensees may be subject to the exercise of the disciplinary sanctions enumerated in Section 73-53-23 if the board finds that a licensee is guilty of any of the actions listed in Section 73-53-17(1) or is guilty of any of the following:

(a) Violation of any provision of this chapter or any rules or regulations of the board adopted under the provisions of this chapter.

(b) Other just and sufficient cause which renders a person unfit to practice marriage and family therapy as determined by the board but not limited to:

(i) Habitual use of alcohol or drugs to an extent that affects professional competence;

(ii) Adjudication as being mentally incompetent by a court of competent jurisdiction;

(iii) Practicing in a manner detrimental to the public health and welfare;

(iv) Revocation of a license or certification by a licensing agency or by a certifying professional organization; or

(v) Any other violation of this chapter or the code of ethical standards of the American Association of Marriage and Family Therapy or other ethical standards adopted by the board under the provisions of this chapter.

SECTION 23. Section 73-54-31, Mississippi Code of 1972, is reenacted as follows:

73-54-31. (1) The board shall conduct its hearings and disciplinary proceedings in accordance with the provisions of Sections 73-53-17 through 73-53-27, this section and rules and regulations adopted by the board. Any person may be heard by the board in person or by attorney. Every vote and official act of the board shall be entered of record. Executive sessions may be used when discussing individual applicants or for any other purposes allowed by Section 25-41-7. All other hearings and rule-making proceedings shall be open to the public as provided in the Open Meetings Act (Section 25-41-1 et seq.). A record shall be made of every hearing before the board.

(2) For the purposes of Sections 73-53-17 through 73-53-27 and this section, the board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers and documents relating to any matter under investigation. Subpoenas shall be issued by the board upon application by any party to a proceeding before the board and a showing of general relevance and reasonable scope. For noncompliance with a subpoena, the board may apply to the circuit court for an order requiring the person subpoenaed to appear before the board and testify and produce books, papers or documents if so ordered. Failure to obey such order of the court may be punished by the court as contempt.

SECTION 24. Section 73-54-33, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-33. In any proceeding before the board involving the granting, suspension or revocation of a license or in other proceedings in which expert testimony relating to the practice of marriage and family therapy is necessary, the board may hear evidence from a qualified expert witness or witnesses selected by parties.

SECTION 25. Section 73-54-35, Mississippi Code of 1972, is reenacted as follows:

73-54-35. As an additional remedy to those authorized in Section 73-53-23, the board may proceed in the circuit court to enjoin and restrain any unlicensed person from violating any provision of this chapter. The board shall not be required to post bond to such proceeding.

SECTION 26. Section 73-54-37, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-37. No person licensed under this chapter as a marriage and family therapist, in the course of formally reporting, conferring or consulting with administrative superiors, colleagues, consultants, employees, associates or supervisors, who share professional responsibility, shall be required to disclose any information which he may have acquired in rendering marriage and family therapy services, except:

(a) In the course of formally reporting, conferring or consulting with administrative superiors, colleagues, consultants, or supervisors, who share professional responsibility, in which instance all receipts of the information are similarly bound to regard the communications as privileged; or

(b) With written consent from the client or, in the case of death or disability, or in case of the minor, with the written consent of his or her parent, legal guardian or conservator, or other person authorized by the court to file suit; or

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

(d) When a person waives the privilege by bringing charges against a licensed marriage and family therapist for breach of privileged communication, or any other charge.

SECTION 27. Section 73-54-39, Mississippi Code of 1972, is reenacted as follows:

73-54-39. If both parties to a marriage have obtained marriage and family therapy by a licensed marriage and family therapist, the therapist shall not be competent to testify in an alimony, custody or divorce action concerning information acquired in the course of the therapeutic relationship.

SECTION 28. Section 73-54-41, Mississippi Code of 1972, is amended as follows:

73-54-41. Sections 73-54-1 through 73-54-39, and Sections 73-53-3, 73-53-8, 73-53-10, 73-53-11 and 73-53-13, shall stand repealed on July 1, 2011.

SECTION 29. Section 73-54-21, Mississippi Code of 1972, which provides for waiting periods before reexaminations by marriage and family therapists applicants, is repealed.

SECTION 30. This act shall take effect and be in force from and after June 30, 2001.

Passed State Senate
March 1, 2001

Passed House of Representatives
February 1, 2001

APPROVED BY THE GOVERNOR

GOVERNOR