

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H2/6/97

A Bill

ACT 244 OF 1997
SENATE BILL 123

4 By: Senators Brown and Bradford

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 17-27-101 ET SEQ. TO
9 PROVIDE FOR THE LICENSURE AND REGULATION OF MARRIAGE AND
10 FAMILY THERAPISTS; AND FOR OTHER PURPOSES."

11

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Subtitle

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 17-27-101 through 104 are amended to read as
20 follows:

21 "17-27-101. Policy -- Purpose.

22 (a) It is declared to be the policy of this state that activities of
23 those persons who render service to the public in the counseling area and use
24 the title licensed professional counselor, ~~or~~ licensed associate counselor,
25 licensed marriage and family therapists, or licensed associate marriage and
26 family therapist should be regulated for the protection of public health,
27 safety, and welfare.

28 (b) It is the purpose and intent of this chapter to:

29 (1) Provide for the regulation of the practice of counseling in
30 the State of Arkansas;

31 (2) Create a board of examiners in counseling, and prescribe the
32 duties and powers of the board;

33 (3) Provide for the examination and licensure of counselors;

34 (4) Fix penalties for the violation of this chapter;

35 (5) Impose license fees and provide for the use of funds derived
36 therefrom; and

1 (6) Provide for the regulation of the use of the titles licensed
2 professional counselor ~~and~~, licensed associate counselor, licensed marriage
3 and family therapist and licensed associate marriage and family therapist
4 for those who offer counseling services to the public.

5 17-27-102. Definitions.

6 As used in this chapter, unless the context otherwise requires:

7 (1) Licensed professional counselor means any person who:

8 (A) Holds himself or herself out to the public by any title or
9 description of services incorporating the words licensed professional
10 counselor ;

11 (B) Offers to render counseling services to individuals, groups,
12 organizations, corporations, institutions, government agencies, or the general
13 public for monetary remuneration or otherwise, implying that he or she is
14 licensed, trained, experienced, or expert in counseling; and

15 (C) Holds a current, valid license to practice counseling, with
16 the exception of those professions listed in § 17-27-103;

17 (2) Licensed associate counselor means any person who:

18 (A) Holds himself or herself out to the public by any title or
19 description of services incorporating the words licensed associate counselor ;

20 (B) Offers to render counseling services to individuals, groups,
21 organizations, corporations, institutions, government agencies, or the general
22 public for monetary remuneration or otherwise implying that he or she is
23 licensed, trained, experienced, or expert in counseling; and

24 (C) Holds a current, valid license to practice counseling under
25 the supervision of a licensed professional counselor. Nothing in this
26 definition shall be construed to include those professions excluded by § 17-
27 27-103;

28 (3) Licensed marriage and family therapist means any person who:

29 (A) Holds himself or herself out to the public by any title or
30 description of services incorporating the words licensed marriage and family
31 therapist ;

32 (B) Offers to render marriage and family therapy services to
33 individuals, groups, couples, families, organizations, corporations,
34 institutions, government agencies, or the general public for monetary
35 remuneration or otherwise implying that he or she is licensed, trained,
36 experienced, or expert in marriage and family therapy; and

1 (C) Holds a current, valid license to practice marriage and
2 family therapy, with the exception of those professions listed in § 17-27-103.

3 (4) Licensed associate marriage and family therapist means any person
4 who:

5 (A) Holds himself or herself out to the public by any title or
6 description of services incorporating the words licensed associate marriage
7 and family therapist ;

8 (B) Offers to render marriage and family therapy services to
9 individuals, couples and families, singularly or in groups for monetary
10 remuneration;

11 (C) Holds a current, valid license to practice marriage and
12 family therapy services under the supervision of a licensed marriage and
13 family therapist. Nothing in this definition shall be construed to include
14 those professions excluded by § 17-27-103.

15 ~~(3)~~(5) Board means the Arkansas Board of Examiners in Counseling;

16 ~~(4)~~(6) Counseling services means those acts and behaviors coming
17 within the practice of counseling, as defined in this section; and

18 ~~(5)~~(7) Practice of counseling means rendering or offering to render to
19 individuals, groups, organizations, or the general public any service
20 involving the application of principles, methods, or procedures of the
21 counseling profession which include, but are not restricted to:

22 (A) Counseling , which means assisting an individual or groups,
23 through the counseling relationship, to develop understandings of personal
24 problems, to define goals, and to plan action reflecting his or her interests,
25 abilities, aptitudes, and needs as these are related to personal social
26 concerns, educational progress, and occupations and careers;

27 (B) Appraisal activities , which means selecting, administering,
28 scoring, and interpreting instruments designed to assess an individual's
29 aptitudes, attitudes, abilities, achievements, interests, and personal
30 characteristics, but shall not include the use of projective techniques in the
31 assessment of personality;

32 (C) Consulting which means interpreting or reporting scientific
33 fact or theory to provide assistance in solving current or potential problems
34 of individuals, groups, or organizations;

35 (D) Referral activities , which means the evaluating of data to
36 identify problems and to determine the advisability of referral to other

1 specialists; and

2 (E) Research activities, which means reporting, designing,
3 conducting, or consulting on research in counseling with human subjects.

4 (8) Marriage and family therapy means the use of scientific and
5 applied marriage and family theories, methods and procedures for the purpose
6 of describing, evaluating and modifying marital, family and individual
7 behavior within the context of marital and family systems, including the
8 context of marital formation and dissolution. Marriage and family therapy is
9 based on systems theories, marriage and family development, normal and
10 dysfunctional behavior, human sexuality and psychotherapeutic, marital and
11 family therapy theories and techniques and includes the use of marriage and
12 family therapy theories and techniques in the evaluation, assessment and
13 treatment of intrapersonal or interpersonal dysfunctions within the context of
14 marriage and family systems. Marriage and family therapy may also include
15 clinical research into more effective methods for the treatment and prevention
16 of the above-named conditions. Nothing in this definition or in this chapter
17 shall be construed as precluding licensed professional counselors or licensed
18 associate counselors from rendering these services.

19 17-27-103. Exemptions.

20 (a) This chapter shall not be applicable to persons engaged in
21 counseling individuals or groups concerning weight loss, weight control, or
22 nutrition education, nor to persons whose counseling activities are confined
23 to the area of alcohol and drug abuse.

24 (b) Nothing in § 17-27-104 shall be construed to preclude the
25 advertising of services or to limit:

26 (1) The professional pursuits of administrators, teachers, and
27 school counselors certified by the Department of Education within the scope of
28 their duties in recognized public and private schools;

29 (2) Nonresident persons engaged in consulting or research
30 activities in counseling for a period not greater than thirty (30) days in a
31 calendar year;

32 (3) Clergymen in so far as their activities and services are a
33 part of the official duties in salaried positions;

34 (4) Practitioners of medicine;

35 (5) Psychologists;

36 (6) Social workers;

1 (7) Listed Christian Science practitioners in so far as their
2 activities and services are a part of the official duties;

3 (8) Individuals offering volunteer services who are approved by
4 the organization or agency for whom the service is rendered;

5 (9) Persons in the employ of the federal, state, or local
6 government or accredited institutions of higher education, insofar as their
7 activities and services are a part of the official duties in salaried
8 positions; or

9 (10) Other professionals, provided that:

10 (A) Such persons hold valid licenses, certificates, or
11 registrations in the State of Arkansas and are operating within the scope of
12 their professional duties; and

13 (B) The title licensed professional counselor, ~~or~~
14 licensed associate counselor, licensed marriage and family therapist or
15 licensed associate marriage and family therapist is not used.

16 (c) Students engaged in counselor training programs and other persons
17 preparing for the profession of licensed counselor may perform as part of
18 their training the functions specified in § 17-27-102, provided that such
19 functions are performed under supervision of a licensed professional
20 counselor.

21 17-27-104. Prohibitions -- Penalties.

22 Any person who shall hold himself or herself out to the public as being
23 engaged in the practice of counseling or marriage and family therapy as
24 defined in § 17-27-102 or represents himself or herself by the title licensed
25 professional counselor~~or~~, licensed associate counselor, licensed marriage
26 and family therapist or licensed associate marriage and family therapist and
27 shall not then possess in full force and virtue a valid license to practice
28 counseling as provided in this chapter shall be deemed guilty of a Class A
29 misdemeanor. Upon conviction that person shall be punished by a fine of not
30 less than five hundred dollars (\$500) nor more than one thousand dollars
31 (\$1,000) and may be imprisoned for a term not exceeding one (1) year. Each
32 violation and conviction shall be deemed a separate offense. Notwithstanding
33 the limits imposed for a Class A misdemeanor, if the defendant has derived
34 pecuniary gain in the form of client fees received for services in violation
35 of this chapter, the fees will be refunded. No firm, partnership, or
36 corporation may offer to the public or other firms, partnerships, or

1 corporations any counseling services as specified in § 17-27-102 unless those
2 services are performed or supervised by individuals fully and validly licensed
3 under this chapter."

4

5 SECTION 2. Arkansas Code 17-27-201 is amended to read as follows:

6 "17-27-201. Creation -- Members.

7 (a) There is created a board to be known as the Arkansas Board of
8 Examiners in Counseling consisting of ~~eight (8)~~ nine (9) members who shall be
9 appointed by the Governor.

10 (b) Appointments shall ensure that the board consists of citizens of
11 the United States, residents of Arkansas, at least one (1) member of each sex,
12 and at least one (1) member of an ethnic minority.

13 (c) (1) The composition of the board shall include:

14 (A) Six (6) licensed or licensable counselors, three (3) who are
15 practicing counselors and three (3) who are counselor educators or
16 supervisors, one of which shall also be a licensed marriage and family
17 therapist, if available. These members shall be appointed from a list
18 submitted to the Governor, not later than November 1 of each year, by the
19 Executive Committee of the Arkansas ~~Personnel and Guidance Association~~
20 Counseling Association;

21 (B) One licensed marriage and family therapist. This member
22 shall be appointed from a list submitted to the Governor, not later than
23 November 1 of each year, by the Board of Directors of the Arkansas Association
24 for Marriage and Family Therapists.

25 ~~—————(B)(C)~~ One (1) member from the general public, who is not
26 licensed or licensable, who shall represent consumers. This member shall be
27 appointed from a list submitted to the Governor, not later than November 1 of
28 each year, by the Executive Committee of the Arkansas ~~Personnel and Guidance~~
29 Counseling Association; and

30 ~~—————(C)(D)~~ One (1) member who shall represent the elderly. This
31 member shall be sixty (60) years of age or older and not actively engaged in
32 or retired from the profession of counseling. He or she shall be appointed
33 from the state at large subject to confirmation by the Senate and shall be a
34 full voting member, but shall not participate in the grading of examinations.

35 (2) The same person may not be both the consumer representative
36 and representative of the elderly.

1 (d) Board members shall be appointed for a three-year term.

2 (e) Vacancies for the unexpired terms of the professional members and
3 the consumer member shall be filled by the Governor from candidates submitted
4 within thirty (30) days of the vacancy by the Executive Committee of the
5 Arkansas ~~Personnel and Guidance~~ Counseling Association and the Board of
6 Directors of the Arkansas Association for Marriage and Family Therapists. The
7 appointments shall be made within thirty (30) days after the candidate's
8 names have been submitted.

9 (f) Any board member may be removed by the Governor, after written
10 notice and hearing, for incapacity, incompetence, neglect of duty, or
11 ~~misfeasance or~~ malfeasance in office.

12 (g) Board members shall be ineligible for reappointment for a period of
13 three (3) years following completion of their terms.

14 (h) The members shall immediately and before performing public duties
15 take the constitutional oath of office. They shall file the oath in the
16 office of the Governor who, upon receiving it, shall issue to each member a
17 certificate of appointment.

18 (i) Each member shall receive all necessary expenses incident to
19 holding meetings; provided, that the expenses shall in no case exceed funds
20 available to the board."
21

22 SECTION 3. Arkansas Code 17-27-203 is amended to read as follows:

23 "17-27-203. Duties and powers.

24 (a) The board shall perform such duties and have such powers as this
25 chapter prescribes and confers upon it.

26 (b) The board shall adopt such rules, regulations, and procedures as it
27 deems necessary for the performance of its duties.

28 (c) The board shall adopt the Code of Ethics of the American ~~Personnel~~
29 ~~and Guidance~~ Counseling Association and any revisions or additions deemed
30 appropriate by this board to govern appropriate practice or behavior referred
31 to in this chapter.

32 (d) The board shall adopt the code of ethics of the American
33 Association of Marriage and Family Therapy to govern licensed marriage and
34 family therapists and licensed associate marriage and family therapists.

35 ~~—(d)~~(e) The board is required to charge an application fee determined by
36 the board.

1 ———(e)(f) The board shall be empowered to accept grants from foundations
2 and institutions to carry on its functions and to hire such assistants as are
3 necessary to perform its activities."

4

5 SECTION 4. Arkansas Code 17-27-301 et seq. is amended to read as
6 follows:

7 "17-27-301. Licensed professional counselor -- Qualifications.

8 The board shall issue a license as a licensed professional counselor to each
9 applicant who files an application upon a form and in such manner as the board
10 prescribes, accompanied by a fee as set by the board, and who furnishes
11 satisfactory evidence of the following to the board:

12 (1) The applicant is not a minor under the laws of Arkansas;

13 (2) The applicant is highly regarded in personal character and
14 professional ethics;

15 (3) The applicant is not in violation of any of the provisions of this
16 chapter and the rules and regulations adopted hereunder;

17 (4) The applicant has received a graduate degree from a regionally
18 accredited institution of higher education which is primarily professional
19 counseling in content and has accumulated at least ~~thirty-six (36)~~ forty-eight
20 (48) graduate semester hours and which meets the academic and training content
21 standard established by the board. The board shall use the standards for the
22 preparation of counselors prepared by that special professional association
23 nationally as a guide in establishing the standards for counseling;

24 (5) The applicant has three (3) years of supervised full-time
25 experience in professional counseling acceptable to the board. One (1) year
26 of experience may be gained for each thirty (30) graduate semester hours
27 earned beyond the master's degree, provided that the hours are clearly
28 related to the field of counseling and are acceptable to the board. In no
29 case may the applicant have less than one (1) year of professional experience;
30 and

31 (6) The applicant will declare special competencies and demonstrate
32 professional competence in specialty areas by passing a written or oral or
33 situational examination, or any combination thereof, as the board will
34 prescribe. Upon examination of credentials the board, by a majority of the
35 board members present and voting, may consider such credentials adequate
36 evidence of professional competence and recommend to the chairman of the board

1 that a license be approved in that specialty.

2 17-27-302. Licensed associate counselor -- Qualifications.

3 (a) The board shall issue a license of licensed associate counselor to
4 each applicant who meets the requirements established in § 17-27-301, with the
5 exception of 17-27-301(5).

6 (b) The licensed associate counselor may practice only under direct
7 supervision of a licensed professional counselor.

8 (c) The plan for supervision of the licensed associate counselor must
9 be approved by the board prior to any actual performance of counseling on the
10 part of the licensed associate counselor.

11 (d) Any licensed associate counselor may petition the board for
12 licensure review for the licensed professional counselor provided that
13 requirements of § 17-27-301(5) have been completed.

14 17-27-303. Licensed marriage and family therapist - Qualifications -
15 Application before January 1, 1998.

16 The board shall issue a license as a licensed marriage and family therapist to
17 each applicant who files an application upon a form and in such manner as the
18 board prescribes, accompanied by a fee as set by the board, and who furnishes
19 satisfactory evidence of the following to the board:

20 (1) The applicant is not a minor under the laws of Arkansas;

21 (2) The applicant is highly regarded in personal character and
22 professional ethics;

23 (3) The applicant is not in violation of any of the provisions of this
24 chapter and the rules and regulations adopted hereunder;

25 (4) The applicant has received a graduate degree in either marriage and
26 family therapy, or a related field with specific course work in marriage and
27 family therapy as approved by the board; and

28 (5) The applicant has at least five (5) years of clinical experience in
29 the practice of marriage and family therapy or clinical membership in the
30 American Association of Marriage and Family Therapy or the National Academy of
31 Certified Family Counselors or certification by an appropriate professional
32 organization, as defined by the board.

33 17-27-304. Licensed marriage and family therapists - Qualifications -
34 Application after January 1, 1998.

35 The board shall issue a license as a marriage and family therapist to
36 each applicant who files an application after January 1, 1998 upon a form and

1 in such manner as the board prescribes, accompanied by a fee as set by the
2 board if he or she meets the qualifications set forth in (1),(2)and(3) of §
3 17-27-303 and provides satisfactory evidence to the board that he or she:

4 (A) Meets educational experience qualifications as follow:

5 (1) Educational requirements: a masters degree or a doctoral
6 degree in marriage and family therapy from a regionally accredited educational
7 institution or a graduate degree in the allied fields referred to in § 17-27-
8 303(4) from a regionally accredited educational institution and graduate level
9 course work which is equivalent to a masters degree in marriage and family
10 therapy as determined by the board.

11 (2) Experience requirements: the applicant has three (3) years of
12 supervised full-time experience in marriage and family therapy acceptable to
13 the board. One (1) year of experience may be gained for each thirty (30)
14 graduate semester hours earned beyond the masters degree, provided that the
15 hours are clearly related to the field of marriage and family therapy and are
16 acceptable to the board. In no case may the applicant have less than one (1)
17 year of professional supervised experience.

18 (B) Passes an examination or examinations administered by the board.

19 17-27-305. Licensed Associate marriage and family therapist -

20 Qualifications

21 (a) The board shall issue a license as a licensed associate marriage
22 and family therapist to each applicant who meets the requirements of § 17-27-
23 304 with the exception of (A)(2), thereof.

24 (b) The licensed associate marriage and family therapist may practice
25 only under direct supervision of a licensed marriage and family therapist.

26 (c) The plan for supervision of the licensed associate marriage and
27 family therapist must be approved by the board prior to any actual performance
28 of marriage and family therapy by the licensed associate marriage and family
29 therapist.

30 (d) Any licensed associate marriage and family therapist may petition
31 the board for licensure review for licensed marriage and family therapist
32 provided the requirements of § 17-27-304A(2) have been met.

33 17-27-~~303~~ 306. Examination.

34 (a) The place of examination shall be designated in advance by the
35 board. The examination shall be given annually at such time and place and
36 under such supervision as the board may determine, and specifically at other

1 times as in the opinion of the board the number of applicants warrants.

2 (b) The examination shall require that the applicant demonstrate his or
3 her knowledge and application thereof in those areas deemed relevant to his or
4 her specialty and identify those services he or she intends to offer to the
5 public.

6 (c) To ensure impartiality, written examination documents shall be
7 identified by number. No paper shall be marked in the name of any applicant.

8 (d) The board will report the results of the examination and recommend
9 to the chairman action to be taken.

10 (e) The board is required to preserve examination materials, an
11 accurate transcript of the questions and answers to any examination, and the
12 applicant's performance on each section as part of its records for a period
13 of two (2) years following the date of the examination.

14 (f) In the event an applicant fails to pass the entire examination, he
15 or she may reapply and shall be allowed to take a subsequent examination. An
16 applicant who has failed two (2) successive examinations may not reapply for
17 two (2) years from the date of the last examination.

18 17-27-~~304~~ 307. Renewal.

19 (a) (1) Biannually at the time of renewal, counselors and licensed
20 marriage and family therapists licensed under this chapter shall be required
21 to submit a license renewal fee to be established by the board.

22 (2) Failure to pay the biannual renewal fee within the time
23 stated shall automatically suspend the right of any licensee to practice while
24 delinquent. The lapsed license may be renewed within a period of one (1) year
25 after payment of all fees in arrears.

26 (b) No license shall be renewed unless the renewal request is
27 accompanied by evidence satisfactory to the board of the completion during the
28 previous twenty-four (24) months of relevant professional or continued
29 educational experience.

30 (c) If any licensed professional counselor, ~~or~~ licensed associate
31 counselor, licensed marriage and family therapist or licensed associate
32 marriage and family therapist duly licensed under this chapter, by virtue of
33 additional training and experience, is qualified to practice in a specialty
34 other than that for which he or she was deemed competent at the time of
35 initial licensing and wishes to offer service under the provisions of this
36 chapter, he or she is required to submit additional credentials and he or she

1 is to be given the opportunity to demonstrate his or her knowledge and
2 application thereof in areas deemed relevant to his or her specialty.

3 17-27-~~305~~ 308. Reciprocity.

4 (a) At its discretion, the board may waive formal examination
5 requirements of a candidate who is licensed or certified to practice
6 counseling or marriage and family therapy by a similar board in another state
7 if, in the opinion of the board, the standards and qualifications required for
8 the practice of counseling in the candidate's licensing state are at least
9 equal to those required by this chapter.

10 (b) The board has the power to waive formal examination requirements
11 only and does not have the power to waive any required period of supervision
12 as provided in this chapter.

13 17-27-~~306~~ 309. Suspension or revocation.

14 The board shall have the power to suspend or revoke the license of any
15 person found guilty of violating any ethical or professional standard. ~~The~~
16 ~~sanction of suspension upon order of the board shall not be for a period~~
17 ~~greater than six (6) months.~~ Any licensee thereby sanctioned shall not be
18 allowed to practice counseling in this state until the termination of the
19 suspension period and subsequent timely review by the board.

20 17-27-~~307~~ 310. Fees -- Disposition of funds.

21 (a) All fees from applicants seeking licensure under this chapter and
22 all license or renewal fees received shall be paid to the board.

23 (b) No part of any fee shall be returnable under any condition other
24 than failure of the board to hold examinations at the time originally
25 announced, whereupon the entire fee may be returned at the option of the
26 applicant.

27 (c) All fees collected or gifts or grants shall be deposited in the
28 State Treasury to the credit of the board. Expenses shall be paid under
29 written direction of the chairman and secretary of the board in accordance
30 with usual state procedures.

31 17-27-~~308~~ 311. Privileged communication.

32 For the purposes of this chapter, the confidential relations and
33 communications between a licensed counselor and client or licensed associate
34 counselor and client or between a licensed marriage and family therapist and
35 client or between an licensed associate marriage and family therapist and
36 client are placed upon the same basis as those ~~provided by statute~~ between an

1 attorney and client. Nothing in this chapter shall be construed to require
2 that any such privileged communication be disclosed.

3 17-27-312. Application of laws pertaining to licensed professional
4 counselors.

5 All laws of this state that pertain to licensed professional counselors
6 shall likewise pertain to and include licensed marriage and family
7 therapists."

8
9 SECTION 5. All provisions of this act of a general and permanent nature
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
11 Revision Commission shall incorporate the same in the Code.

12
13 SECTION 6. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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19 SECTION 7. All laws and parts of laws in conflict with this act are
20 hereby repealed.

21 */s/Senator Brown, et al*

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23 APPROVED: 2-24-97

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