

SECOND REGULAR SESSION

# SENATE BILL NO. 1226

91ST GENERAL ASSEMBLY

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INTRODUCED BY SENATOR KENNEDY.

Read 1st time February 26, 2002, and 1,000 copies ordered printed.

4908S.011

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 337, RSMo, by adding thereto eleven new sections relating to the regulation and licensing of professional addiction counselors, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 337, RSMo, is amended by adding thereto eleven new sections, to be known as sections 337.800, 337.803, 337.806, 337.809, 337.812, 337.815, 337.818, 337.821, 337.824, 337.827 and 337.830, to read as follows:

**337.800. 1. As used in sections 337.800 to 337.830, the following terms mean:**

**(1) "Addiction counseling therapy", the use of applied science and addiction theories in the observation, description, evaluation, interpretation and modification of human behavior as it relates to the harmful or pathological use of, abuse of, dependency on or addiction to alcohol, drugs, other psychoactive substances, psychoactive technology or technological products, or addictive behaviors such as gambling, by the application of the core functions as defined in subdivision (3) of this section. Addiction counseling therapy does not include diagnosing mental diseases. The practice of addiction counseling therapy includes, but is not limited to, the following activities, regardless of whether the addiction counselor receives compensation for the activities:**

**(a) Assisting individuals or groups who use or abuse alcohol or drugs or engage in addictive behaviors, evaluating the substance use, abuse, dependency or addictive behaviors and recognizing if a developed or developing addiction exists;**

**(b) Assisting individuals or groups with substance use, abuse, dependency or**

**addiction problems to gain insight and motivation aimed at resolving such problems;**

**(c) Providing experienced professional guidance, assistance and support for the individuals' efforts to develop and maintain a responsible and functional lifestyle;**

**(d) Development of individualized treatment planning to help insure long-term recovery and support relapse prevention efforts;**

**(e) Providing addiction prevention, intervention and awareness information and other education for individuals and groups;**

**(f) Consultation with other professions;**

**(g) Recognition of addiction problems or other problems outside the scope of the addiction counselor's specialized training, skills or competence and referring the client to other appropriate professional care; and**

**(h) Providing services pursuant to this section to family members or others affected by someone who abuses or is dependent on alcohol or drugs or is addicted;**

**(2) "Board", the board of licensed addiction counselors, established in section 337.827;**

**(3) "Core functions", the following services provided in the treatment of addiction:**

**(a) Screening, defined as the process by which the client is determined appropriate and eligible for admission to a particular program;**

**(b) Intake, defined as the administrative and initial procedures for admission to a program;**

**(c) Orientation, defined as describing to the client the general nature and goals of the program, rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program, the hours during which services in a nonresidential program are available, treatment costs, if any, to be borne by the client and client rights;**

**(d) Assessment, defined as those procedures by which a licensed addiction counselor identifies and evaluates an individual's strengths, weaknesses, problems and needs for the development of a treatment plan;**

**(e) Treatment planning, defined as those procedures by which the licensed addiction counselor and the client identify and rank problems needing resolution, establish agreed upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized;**

**(f) Case management, defined as coordinating activities such as services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;**

**(g) Counseling, defined as the utilization of special skills in addiction**

**counseling therapy to assist individuals, families or groups in achieving objectives through exploration of a problem and its ramifications; examination of thought patterns, attitudes, behaviors and feelings; consideration of alternative solutions and decision making;**

**(h) Client education, defined as the provision of information to individuals and groups concerning alcohol or drug use, abuse, dependency, and addiction and the available services and resources;**

**(i) Consultation with other professions, defined as communicating with other professions in regard to client treatment and services to assure comprehensive, quality care for the client, especially as multiple disorders may be evident;**

**(j) Crisis intervention, defined as those services that respond to an addict's needs during acute emotional or physical distress;**

**(k) Referral, defined as identifying the needs of the client that cannot be met by the licensed addiction counselor or agency and assisting the client to utilize the support systems and available community resources;**

**(l) Reports and record keeping, defined as charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data;**

**(4) "Department", the department of economic development;**

**(5) "Director", the director of the division of professional registration in the department of economic development;**

**(6) "Division", the division of professional registration in the department of economic development;**

**(7) "Fund", the board of licensed addiction counselors fund created in section 337.830;**

**(8) "Licensed addiction counselor", a person to whom a valid license has been issued pursuant to sections 337.800 to 337.830, whose license is active and not suspended or revoked.**

**337.803. 1. No person shall use the title of substance abuse counselor, addiction counselor, alcoholism or alcohol counselor, drug or drug abuse counselor, or any similar terminology related to the practice of addiction counseling or engage in the practice of addiction counseling in this state unless the person is licensed as required by the provisions of sections 337.800 to 337.830.**

**2. The provisions of sections 337.800 to 337.830 shall not apply to the following:**

**(1) A physician who has ASAM certification or other specialty education and training in addiction counseling, and who is currently licensed pursuant to chapter 334, RSMo;**

**(2) A professional counselor or provisional licensed professional counselor who has specialty education and training in addiction counseling, and who is currently licensed pursuant to sections 337.500 to 337.540;**

**(3) A psychologist, temporary licensed psychologist or provisional licensed psychologist who has specialty education and training in addiction counseling, and who is currently licensed pursuant to sections 337.010 to 337.093;**

**(4) A clinical social worker or provisional licensed clinical social worker who has specialty education and training in addiction counseling, and who is currently licensed pursuant to sections 337.600 to 337.639;**

**(5) A marital and family therapist who has specialty education and training in addiction counseling, and who is currently licensed pursuant to sections 337.700 to 337.739;**

**(6) An ordained minister, rabbi or religious worker who has specialty education and training in addiction counseling, and who is providing addiction counseling, prevention or intervention efforts within the scope of his or her duties within an organized church, synagogue or setting affiliated with an established and recognized religious organization;**

**(7) A school counselor certified by the department of elementary and secondary education if the school counselor has specialty education and training in addiction counseling and is performing assigned duties within the scope of employment of the school as defined by a board of education or private school;**

**(8) Any activity or service of a student, intern or resident in counseling, psychology, social work or marital and family therapy seeking to fulfill the licensure requirements of those professions, or an addiction counselor seeking to fulfill educational requirements to qualify for a license or certification pursuant to sections 337.800 to 337.830, or an individual seeking to fulfill the postdegree experience requirements to qualify for licensing pursuant to sections 337.800 to 337.830, if the activities and services are supervised by a qualified addiction professional as defined by board rule. Such student, intern or resident in addiction counseling shall be designated as an addiction counseling intern or addiction counseling resident, or other designation of training status as defined by board rule. Nothing in this section shall be construed to permit any student, intern or resident to offer his or her services as an addiction counselor to any other individual or accept remuneration for addiction counseling services other than as specifically exempted by sections 337.800 to 337.830, unless such person has a license issued pursuant to sections 337.800 to 337.830;**

**(9) An individual not licensed pursuant to sections 337.800 to 337.830 who is**

participating in an established and recognized self-help group so long as such individual does not hold himself or herself out to the general public to be an addiction counselor;

(10) A registered professional nurse or licensed practical nurse who has specialty education and training in addiction counseling, who is currently performing assigned duties within the scope of his or her employment in a hospital, clinic, addiction treatment center or similar medical facility, and who is licensed pursuant to sections 335.011 to 335.096, RSMo;

(11) An educator, researcher or consultant providing addiction related education, information or consultation to individuals or groups within the course of his or her regular occupational duties; or

(12) A certified employee assistance program counselor who has specialty education and training in addiction counseling, and who is working in an employee assistance program and performing within the normal scope of duties of the program as defined by the company or organization EAP policy and procedure manual.

3. Beginning August 28, 2004, no person shall hold himself or herself out as a licensed addiction counselor or practice addiction counseling unless such person complies with all educational, training and examination requirements, and is licensed in accordance with sections 337.800 to 337.830.

4. A licensed addiction counselor shall practice within the scope of addiction counseling therapy as defined in section 337.800.

5. A licensed addiction counselor shall maintain professional liability insurance coverage as defined by board rule.

337.806. Nothing in sections 337.800 to 337.860 shall be construed as requiring any agency, corporation or organization, not otherwise required by law, to employ licensed addiction counselors; except for licensed addiction counselors in private practice who shall be considered qualified providers of addiction counseling therapy and education in all cases required by law.

337.809. 1. An applicant for licensure as an addiction counselor shall complete and submit to the board a written application form prescribed by the board. The application shall contain the applicant's education, experience and such other information that the board requires by rule. Each application shall be made under oath or affirmation and include a statement that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the board as defined by rule.

2. Each license issued pursuant to the provisions of sections 337.800 to 337.830

shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; except that, the director may establish a shorter term for the first licenses issued pursuant to sections 337.800 to 337.830. The board shall renew any license upon proper application for renewal and payment of the appropriate license renewal fee established by the board, and upon submission of documentation showing completion of the required minimum continuing education credits. The number of hours and the method for completing, reporting and documenting the required continuing education hours, including carry-over credits from prior renewal periods, shall be defined by board rule.

3. The division shall mail a renewal notice to the last known address of each licensee at least forty-five days prior to the renewal date. Notwithstanding such notice requirement, any licensee who fails to receive a license renewal notification from the division shall not be excused from renewing his or her license as required by law.

4. Failure to provide the board with the information required for a license renewal or to pay the license renewal fee shall cause the license to expire. The license may be restored if, within two years of the license renewal date, the applicant submits written application to the board, meets the licensure requirements in effect at the time application is made and pays the applicable fees as defined by board rule.

5. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the board.

6. The board shall set the amount of fees authorized by sections 337.800 to 337.830. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering the provisions of sections 337.800 to 337.830. All fees provided for in sections 337.800 to 337.830 shall be collected by the director and deposited with the state treasurer to the credit of the board of licensed addiction counselors fund created in section 337.830.

337.812. 1. An applicant for licensure as an addiction counselor shall furnish evidence to the board that:

(1) The applicant meets the state licensure requirements as defined by board rule; and

(2) The applicant has completed acceptable experience in addiction counseling as defined by board rule; and

(3) The applicant has a bachelor's degree in addiction studies or closely related behavioral health education from an accredited college or university and has completed a practicum in addiction counseling as defined by board rule; or

(4) The applicant has a master's degree in addiction studies or closely related

**behavioral health education from an accredited college or university and has completed a practicum in addiction counseling as defined by board rule; or**

**(5) The applicant is currently a level II certified substance abuse counselor, as certified by the Missouri substance abuse counselors certification board or a board approved equal certifying body, or is currently certified as a level II national certified addiction counselor or master addiction counselor, as certified by the National Association of Alcohol and Drug Abuse Counselors Certification Commission or a board approved equal certifying body; and**

**(a) Has completed six years full-time (twelve thousand hours) experience working in the addiction field as an addiction counselor, of which three years shall have been supervised by a qualified addiction professional; and**

**(b) Has completed a minimum total of three hundred ninety contact hours in formal addiction studies and closely related behavioral health education as defined by board rule; and**

**(6) The applicant is at least twenty-one years of age and is of good moral character; and**

**(7) The applicant has taken and passed an examination, as defined by board rule, demonstrating that the applicant is possessed of the requisite knowledge of the profession; except that, for a period of twenty-four months from the effective date of sections 337.800 to 337.830, all qualified applicants for licensure shall be exempt from examination.**

**2. As defined by board rule and with the advice of the director of the department of mental health or a designated representative of the director of the department of mental health, the board shall adopt an examination for licensure as an addiction counselor. The purpose of the examination is to verify the applicant possesses the requisite knowledge of the profession, including techniques and applications, research and its interpretation, and ethics. The examination may be developed and administered by other organizations acceptable to the board and offered on a regional or national basis.**

**3. Any person holding a current unrevoked license, certificate or registration in addiction counseling that has been issued by another state or territory of the United States having substantially the same or higher requirements as this state for addiction counseling may be granted a license by reciprocity to engage in the practice of addiction counseling in this state upon submitting an application to the board accompanied by the appropriate fee as established by board rule. The board shall review the licensure requirements for the relevant state or territory to determine the equivalency to Missouri law.**

**4. The board may issue a temporary license to practice addiction counseling, as defined by rule. A temporary license may be issued for no more than twelve months and may be extended for an additional six months at the discretion of the board and as defined by board rule. Any person granted a temporary license to practice addiction counseling shall comply with all applicable laws and rules related to addiction counseling.**

**5. Any person that does not meet the experience and/or educational requirements set forth in subsection 3, 4 or 5 of this section may submit an application to obtain a limited license to practice addiction counseling under the supervision of a qualified licensed addiction counselor. The board shall promulgate rules defining the requirements of limited licensure, including the requirements of supervision and the practice limitations imposed by this limited license.**

**6. Any applicant for licensure or limited licensure as an addiction counselor shall authorize the board to conduct a criminal background check. The applicant shall pay the cost of the background check.**

**337.815. 1. The board shall promulgate rules and regulations pertaining to:**

**(1) The form and content of license applications required by the provisions of sections 337.800 to 337.830, and the procedures for filing an application for an initial or renewal license in this state;**

**(2) The fees required by sections 337.800 to 337.830;**

**(3) The content, conduct and administration of the licensing examination required by section 337.812;**

**(4) The educational and experience requirements set forth in section 337.812;**

**(5) The establishment of practitioner levels of addiction counselor licensure. Practitioner levels may be based upon education, experience and examination;**

**(6) The establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.800 to 337.830;**

**(7) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;**

**(8) Establishment of a policy and procedure for licensure by reciprocity with other states, including states that do not have addiction counselor licensing laws or states whose addiction counselor licensing laws are not substantially the same as those of this state;**

**(9) The form and content of ethical standards for addiction counselors, as that term is used in subdivision (15) of subsection 2 of section 337.818; and**



**(10) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.800 to 337.830.**

**2. No rule or portion of a rule promulgated pursuant to the authority of sections 337.800 to 337.830 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**

**337.818. 1. The board may refuse to issue or renew a license pursuant to sections 337.800 to 337.830 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

**2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license issued pursuant to sections 337.800 to 337.830, or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:**

**(1) Use of any controlled substance, as defined in chapter 195, RSMo, or any alcoholic beverage to the extent that such use impairs a person's ability to engage in the practice of addiction counseling; except the fact that a person has undergone treatment for past addiction or has participated in a recovery or 12-Step program, shall not by itself be cause for refusal to issue or renew a license;**

**(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a licensed addiction counselor, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, regardless of whether sentence is imposed;**

**(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to sections 337.800 to 337.830, or in obtaining permission to take any examination given or required pursuant to sections 337.800 to 337.830;**

**(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;**

**(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a licensed substance abuse counselor;**

**(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.800 to 337.830, or of any rule promulgated pursuant to sections 337.800 to 337.830;**

**(7) Impersonation of any person holding a license or allowing any person to use their license or diploma from any school;**

**(8) Disciplinary action against the holder of a license or other right to practice addiction counseling granted by another state, territory, federal agency or country upon grounds for which discipline is authorized in this state;**

**(9) Final adjudication as incapacitated by a court of competent jurisdiction;**

**(10) Assisting or enabling any person to practice or offer to practice addiction counseling who is not licensed and is not currently eligible to practice pursuant to sections 337.800 to 337.830;**

**(11) Obtaining a license based upon a material mistake of fact;**

**(12) Failure to display a valid license if so required by sections 337.800 to 337.830, or any rule promulgated thereunder;**

**(13) Violation of any professional trust or confidence;**

**(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;**

**(15) Violation of the ethical standards for addiction counselors as defined by board rule.**

**3. Any person, organization, association or corporation reporting or providing information to the board pursuant to sections 337.800 to 337.830, showing just cause and acting in good faith without malice, shall not be subject to an action for civil damages as a result.**

**4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years or revoke the person's license.**

**337.821. 1. Any person who violates the provisions of sections 337.800 to 337.830 is guilty of a class B misdemeanor.**

**2. Upon conviction, all fees or other compensation received for services that were rendered in violation of sections 337.800 to 337.830 shall be refunded.**

**3. The division, on behalf of the board, may sue in its own name in any court in this state. The division shall inquire as to any violation of sections 337.800 to 337.830, and may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.800 to 337.830.**

**4. Upon application by the board, the attorney general may, on behalf of the board, request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:**

**(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or**

**(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.800 to 337.830, upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state, or client or patient of the licensee.**

**5. Any action brought pursuant to this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.**

**6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty provided by sections 337.800 to 337.830, and may be brought concurrently with other actions to enforce the provisions of sections 337.800 to 337.830.**

**337.824. Any person licensed pursuant to sections 337.800 to 337.830 shall not disclose any information acquired from individuals consulting such person in his or her professional capacity or be compelled to disclose such information except:**

**(1) With the written consent of the client, or in the case of the client's death or incapacity, the client's personal representative or other person authorized to sue or the beneficiary of any insurance policy on the client's life, health or physical condition;**

**(2) When the person waives the privilege by bringing charges against the licensee;**

**(3) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.**

**337.827. 1. There is hereby established the "State Board of Licensed Addiction Counselors" which shall guide, advise and make recommendations to the division and fulfill all other responsibilities designated in sections 337.800 to 337.830 that pertain to addiction counselors. The duties and responsibilities of the board of licensed addiction counselors shall not take full force and effect until January 1, 2002.**

**2. The state board of licensed addiction counselors shall be appointed by the governor with the advice and consent of the senate and shall consist of eleven**

members that are United States citizens and residents of Missouri. Of these eleven members, four shall be public members and seven shall be licensed addiction counselors who shall constitute the credentials subcommittee for licensed addiction counselors; except that, the licensure requirement shall not apply to the addiction counselor members eligible to be licensed who are initially appointed to the board. The addiction counselor members initially appointed must be eligible for licensure within twelve months following appointment to the board to maintain eligibility as a member of the board and shall not be licensed in any other behavioral health profession. All licensed addiction counselor members of the board shall have only singular licensure as an addiction counselor.

3. Four members of the credentials subcommittee and three public members of the initial board shall be appointed by the governor with the advice and consent of the senate to serve a term of four years and the remaining members of the initial board shall be appointed for a term of two years. Thereafter, all members shall be appointed by the governor with the advice and consent of the senate to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the board for a total of eight years. The membership of the board shall reflect the differences in levels of education and work experience with consideration being given to race, gender and ethnic origins. No more than one counselor educator shall be a member of the board at the same time.

4. Each public member, at the time of such member's appointment, shall be a citizen of the United States; a resident of this state for a period of at least one year and a registered voter; a person who is not and never has been a member of any profession licensed or regulated by this chapter or any closely related behavioral health profession, or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the provision of the professional services regulated by this chapter or any closely related behavioral health profession, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter or closely related behavioral health profession, or the spouse of such person.

5. Each member of the board shall receive as compensation an amount set by the division not to exceed one hundred fifty dollars for each day devoted to the affairs of the board including meeting and conference attendance, meeting preparation and travel, and activities relating to the board and subject to approval by the director of the division. The division shall provide a meeting facility and all staff for the board.

337.830. 1. There is hereby created the "State Board of Licensed Addiction Counselors Fund" in the state treasury. All moneys collected by the board shall be

**deposited in the fund.**

**2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriations from the state board of licensed addiction counselors fund for the preceding fiscal year. The amount, if any, in the fund that shall lapse is that amount in the fund that exceeds the appropriate multiple of the appropriations from the state board of licensed addiction counselors fund for the preceding fiscal year.**

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