

SECOND REGULAR SESSION

SENATE BILL NO. 826

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JACOB.

Read 1st time January 27, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L3664.011

AN ACT

Relating to the regulation and licensing of professional addictions counselors, with penalty provisions.

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

Section 1. As used in sections 1 to 11 of this act, the following terms mean:

(1) "Addictions counseling", the observation, description, evaluation, interpretation and modification of human behavior as it relates to the harmful or pathological use or abuse of alcohol and other drugs or related behaviors by the application of the core functions as defined in subdivision (3) of this section; except that, the provisions of this subdivision shall not be construed to include diagnosing mental diseases. The practice of addictions counseling includes the following activities, regardless of whether the counselor receives compensation for the activities:

(a) Assisting individuals or groups who use alcohol or other drugs or engage in addictive behaviors, evaluating the same and recognizing addiction of the above if it exists;

(b) Assisting individuals or groups with addiction problems to gain insight and motivation aimed at resolving such problems;

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

(d) Individual treatment planning to prevent relapse;

(e) Addiction prevention and other education for individuals and groups;

(f) Consultation with other professions;

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

(h) Providing the above services, as needed, to family members or others

affected by someone who is addicted; and

(i) Any other services that are not limited by another scope of practice as defined by the International Counselors Reciprocity Consortium;

(2) "Board", the state board for professional addictions counselors, established in section 11 of this act;

(3) "Core functions", the following services provided in addictions treatment:

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

(b) "Case management", activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;

(c) "Client education", the provision of information to clients who are receiving or seeking counseling concerning addiction problems and the available services and resources;

(d) "Consultation with other professions", communicating with other professions in regard to client treatment and services to assure comprehensive, quality care for the client;

(e) "Counseling", the utilization of special skills to assist individuals, families or groups in achieving objectives through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making;

(f) "Intake", the administrative and initial assessment procedures for admission to a program;

(g) "Orientation", 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; in a nonresidential program, the hours during which services are available; treatment costs to be borne by the client, if any; and client's rights;

(h) "Referral", identifying the needs of the client which cannot be met by the counselor or agency and assisting the client to utilize the support systems and available community resources;

(i) "Reports and recordkeeping", charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data;

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

(k) "Treatment planning", those procedures by which the 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 sources to be utilized;

(4) "Department", the Missouri 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;

(7) "Fund", the professional addictions counselors' fund created in section 5 of this act;

(8) "Licensed professional addictions counselor", a person to whom a license has been issued pursuant to the provisions of sections 1 to 11 of this act, whose license is in force and not suspended or revoked.

Section 2. No person shall engage in the professional practice of addictions counseling unless the person is licensed as a professional addictions counselor pursuant to sections 1 to 11 of this act or certified as a substance abuse counselor. Sections 1 to 11 of this act shall not apply to:

(1) Any person who does not represent to the public, or health care financing agencies, directly or indirectly, that the person is licensed or certified pursuant to sections 1 to 11 of this act and does not use any name, title or designation indicating that the person is licensed pursuant to sections 1 to 11 of this act;

(2) Activities or services of:

(a) A licensed physician;

(b) A licensed psychologist;

(c) A licensed social worker;

(d) A licensed professional counselor;

(e) A religious leader of a congregation providing pastoral alcohol and drug counseling within the scope of his or her duties; or

(f) A school counselor certified by the department of elementary and secondary education;

(3) Activities and services of students, interns or residents in professional addictions counseling seeking to fulfill educational requirements in order to qualify for a license or certification pursuant to sections 1 to 11 of this act, or an individual seeking to fulfill the post-degree experience requirements in order to qualify for licensing pursuant to sections 1 to 11 of this act, if the activities and services are supervised by a qualified addictions professional or a professional addictions counselor licensed pursuant to sections 1 to 11 of this act, and the student, intern or resident is designated by a title "intern" or "resident" or other designation of trainee status. Nothing in this section shall be construed to permit students, interns or residents to offer their services as professional addictions counselors to any other

person and to accept remuneration for such professional counseling services other than as specifically exempted by the provisions of sections 1 to 11 of this act, unless such person has a license issued pursuant to sections 1 to 11 of this act;

(4) Individuals not licensed pursuant to sections 1 to 11 of this act who work in self-help groups or programs or not for profit organizations who provide services in those groups, programs, organizations or health care financing agencies, as long as such persons are not in any manner held out to the public as practicing professional addictions counseling, or do not hold themselves out to the public by any title or designation stating or implying that such persons are professional addictions counselors.

Section 3. 1. For a period of six months from September 1, 1998, a person may apply for licensure without examination and shall be exempt from the academic requirements of sections 1 to 11 of this act if the division is satisfied that the applicant:

(1) Has been a resident of the state of Missouri for at least the last six months; and

(2) Holds a valid license as a professional addictions counselor from another state.

2. The board shall determine by administrative rule the types of documentation needed to verify that an applicant meets the qualifications provided in subsection 1 of this section.

3. After March 1, 1999, no person may hold himself or herself out as a licensed professional addictions counselor unless the person complies with all educational and examination requirements or is licensed in accordance with the provisions of sections 1 to 11 of this act.

Section 4. No provision of sections 1 to 11 of this act shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed professional addictions counselors; except licensed counselors in private practice who are qualified to provide substance abuse service or except licensed counselors in private practice who are qualified to provide addictions counseling services shall be considered qualified providers in all cases required by law.

Section 5. 1. Applications for licensure as a professional addictions counselor shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information the division requires by rule. Each application shall contain a statement that it is made under oath or affirmation and 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 division.

2. The division shall mail a renewal notice to the last known address of each licensee within forty-five days before the licensure renewal date. Failure to provide the division with the information required for a license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the division upon payment of a fee.

4. The division shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 1 to 11 of this act. All fees provided for in sections 1 to 11 of this act shall be collected by the director who shall deposit the same with the state treasurer to a fund which is hereby created and shall be known as the "Professional Addictions Counselors' Fund".

5. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this 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 two times the amount of the appropriations from the professional addictions counselors' fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the professional addictions counselors' fund for the preceding fiscal year.

Section 6. 1. Each applicant for licensure as a professional addictions counselor shall furnish evidence to the division that:

(1) The applicant meets the state certification requirements as currently established by the Missouri Substance Abuse Counselors Certification Board, Inc., as a certified substance abuse counselor; and

(2) The applicant has a total of five years full-time or ten thousand hours documented experience as an addictions counselor plus a total of five hundred forty contact hours of education and training in addictions and related counseling subjects; or

(3) The applicant has a bachelor's degree in addiction studies from an accredited college or university plus two years or four thousand hours of supervised experience in the addictions field; or

(4) The applicant has a master's degree in addiction studies or related behavioral health education and two years or four thousand hours supervised experience in the addictions field by an addictions qualified professional or licensed

professional addictions counselor; and

(5) The applicant is at least eighteen years of age, has been a resident of this state for at least six months, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure; and

(6) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same or higher requirements as this state for professional addictions counselors may be granted a license to engage in the person's occupation in this state upon application to the division accompanied by the appropriate fee as established by the division pursuant to section 5 of this act.

3. The division shall issue a license to each person who files an application and fee as required by the provisions of sections 1 to 11 of this act, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subsection 1 of this section and with the provisions of subsection 2 of this section.

Section 7. 1. Each license issued pursuant to the provisions of sections 1 to 11 of this act shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 1 to 11 of this act. The division shall renew any license upon application for renewal and upon payment of the fee established by the division pursuant to the provisions of section 5 of this act and upon presentation of documentation of a minimum of sixty contact hours of continuing education in the addictions field as defined by rule.

2. The division may issue temporary permits to practice under extenuating circumstances as determined by the division and defined by rule.

Section 8. 1. The division shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 1 to 11 of this act and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 1 to 11 of this act;

(3) The content, conduct and administration of the licensing examination required by section 6 of this act;

(4) The equivalent of the basic educational requirements set forth in section 6 of this act;

(5) The standards and methods to be used in assessing competency as a licensed professional addictions counselor;

(6) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 1 to 11 of this act;

(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 reciprocity with other states; and

(9) Any other policy or procedure necessary to the fulfillment of the requirements of sections 1 to 11 of this act.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 1 to 11 of this act shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Section 9. 1. The division may refuse to issue or renew any license required by the provisions of sections 1 to 11 of this act for one or any combination of causes stated in subsection 2 of this section. The division 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 division may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 1 to 11 of this act 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 alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of addictions counselor; except the fact that a person has undergone treatment for past substance or alcohol abuse or has participated in a recovery 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 in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a professional addictions counselor; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 1 to 11 of this act or in obtaining

permission to take any examination given or required pursuant to the provisions of sections 1 to 11 of this act;

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

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional addictions counselor;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 1 to 11 of this act or of any lawful rule or regulation adopted pursuant to sections 1 to 11 of this act;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice addictions counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension 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 addictions counseling who is not licensed and is not currently eligible to practice pursuant to the provisions of sections 1 to 11 of this act;

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

(12) Failure to display a valid license if so required by sections 1 to 11 of this act or any rule promulgated hereunder;

(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) Being guilty of unethical conduct as defined in the ethical standards for professional addictions counselors adopted by the board by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the division pursuant to the provisions of sections 1 to 11 of this act and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After 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 provided in subsection 2 of this section for disciplinary action are met, the division may censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend the person's

license for a period not to exceed three years, or revoke the license.

Section 10. 1. Violation of any provision of sections 1 to 11 of this act is a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 1 to 11 of this act shall be refunded.

3. The department on behalf of the division may sue in its own name in any court in this state. The department shall inquire as to any violation of sections 1 to 11 of this act, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 1 to 11 of this act.

4. Upon application by the division, the attorney general may on behalf of the division 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;

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 1 to 11 of this act, 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 the provisions of 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 1 to 11 of this act and may be brought concurrently with other actions to enforce the provisions of sections 1 to 11 of this act.

Section 11. 1. There is hereby created and established the "State Board of Professional Addictions Counselors" which shall consist of five public members, seven licensed professional addictions counselors or persons who are eligible to be licensed, and one person who is a director or coordinator of an accredited addictions dependency training or college degree program. Any nationally recognized association representing professional addictions counselors may submit recommendations for members of the board. The board shall be appointed by the governor with the advice and consent of the senate. Board members shall serve for a term of five years, except for the members first appointed, two public members and two professional members shall be appointed for five years, two public members and two professional members shall be appointed for four years, two professional members and the member who is a director or

coordinator of an addictions dependency program and the other public member shall be appointed for three years and one professional member shall be appointed for two years. No person shall be eligible for appointment to the board who has served as a member of the board for a total of ten years. Members shall be appointed to represent a diversity in gender, race and ethnicity. No more than seven members shall be from the same political party.

2. Each nonpublic board member shall be a resident of the state of Missouri for one year, shall be a United States citizen, and shall meet all the requirements for licensing enumerated in sections 1 to 11 of this act, shall be licensed pursuant to sections 1 to 11 of this act, except the members of the first board, who shall be licensed within six months of their appointment, and are actively engaged in the practice of addictions counseling. If a member of the board shall, during the member's term as a board member, remove the member's domicile from the state of Missouri, then the board shall immediately notify the governor, and the seat of that board member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the first appointment, and the member so appointed shall serve for the unexpired term of the member whose seat has been declared vacant. The public members shall be at the time of each member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; 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 an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.

3. The board shall hold a regular annual meeting at which it shall select from among its members a chairman and a secretary. A quorum of the board shall consist of a majority of its members. In the absence of the chairman, the secretary shall conduct the office of the chairman.

4. No member of the board shall receive any compensation for the performance of the member's official duties but shall be entitled to reimbursement for necessary and actual expenses incurred in the performance of the member's duties. The board shall share resources and facilities with the office for the committee for professional counselors provided for in sections 337.500 to 337.540, RSMo. All staff for the board shall be provided by the director of the department of economic development through the director of the division of professional registration.

5. The governor may remove any member of the board for misconduct, inefficiency, incompetency or neglect of office.

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