

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

SENATE BILL 123

4 By: Senators Brown and Bradford

5

6

7

### 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

12

### Subtitle

13 "TO PROVIDE FOR THE LICENSURE AND  
14 REGULATION OF MARRIAGE AND FAMILY  
15 THERAPISTS."

16

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

18

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.

18  
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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