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Chapter No. 462
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CT / EW

# *HOUSE BILL NO. 607*

Originated in House Don Richardson Clerk

HOUSE BILL NO. 607

AN ACT TO REENACT SECTIONS 73-53-3, 73-53-8, 73-53-10, 73-53-11 AND 73-53-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDE DEFINITIONS FOR THE SOCIAL WORKER LICENSURE LAW, CREATE THE BOARD OF EXAMINERS FOR SOCIAL WORKERS AND MARRIAGE AND FAMILY THERAPISTS, SET OUT THE POWERS OF THE BOARD, AND PRESCRIBE THE LICENSURE REQUIREMENTS FOR SOCIAL WORKERS, AND 73-54-1 THROUGH 73-54-39, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS; TO AMEND SECTION 73-53-1, MISSISSIPPI CODE OF 1972, TO REVISE THE STATEMENT OF PURPOSE OF THE SOCIAL WORKER LICENSURE LAW; TO AMEND REENACTED SECTION 73-53-3, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS FOR ADDITIONAL TERMS FOR THE PURPOSE OF THE SOCIAL WORKER LICENSURE LAW; TO AMEND SECTION 73-53-5, MISSISSIPPI CODE OF 1972, TO CLARIFY A REFERENCE; TO AMEND SECTION 73-53-7, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE USE OF CERTAIN TITLES OR LETTERS INDICATING OR IMPLYING THAT A PERSON IS A SOCIAL WORKER UNLESS THE PERSON HOLDS A VALID SOCIAL WORKER LICENSE; TO DELETE CERTAIN GRANDFATHER PROVISIONS FOR LICENSURE; TO INCREASE THE PENALTIES FOR VIOLATIONS OF THE SOCIAL WORKER LICENSURE LAW; TO AMEND REENACTED SECTION 73-53-8, MISSISSIPPI CODE OF 1972, TO REDUCE THE PERIOD DURING WHICH MARRIAGE AND FAMILY THERAPISTS APPOINTED TO THE BOARD MUST HAVE BEEN ACTIVELY ENGAGED IN PRACTICE IMMEDIATELY BEFORE APPOINTMENT TO THE BOARD; TO AMEND REENACTED SECTION 73-53-10, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MONETARY PENALTIES IMPOSED BY THE BOARD SHALL BE DEPOSITED INTO THE BOARD'S SPECIAL FUND INSTEAD OF INTO THE STATE GENERAL FUND; TO REVISE WHO IS AUTHORIZED TO SIGN REQUISITIONS FOR EXPENDITURES OF MONIES IN THE BOARD'S SPECIAL FUND; TO AMEND REENACTED SECTION 73-53-11, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL POWERS TO THE BOARD; TO AMEND SECTION 73-53-13, MISSISSIPPI CODE OF 1972, TO CLARIFY THE TYPE OF EXAMINATION THAT APPLICANTS MUST PASS FOR SOCIAL WORKER LICENSURE; TO REQUIRE APPLICANTS FOR SOCIAL WORKER LICENSURE TO COMPLETE CRIMINAL HISTORY RECORDS CHECKS; TO AMEND SECTION 73-53-15, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE PROCEDURE FOR APPLICATION FOR LICENSURE AS A SOCIAL WORKER OR MARRIAGE AND FAMILY THERAPIST; TO AUTHORIZE THE BOARD TO CHANGE THE AMOUNT OF FEES THROUGH ITS RULEMAKING AUTHORITY; TO AUTHORIZE THE BOARD TO CHARGE EXAMINATION FEES TO APPLICANTS; TO AUTHORIZE THE BOARD TO ISSUE TEMPORARY LICENSES DURING A DECLARED DISASTER OR EMERGENCY; TO AMEND SECTION 73-53-17, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION AGAINST LICENSEES AND APPLICANTS; TO AMEND SECTION 73-53-19, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT COMPLAINTS FILED WITH THE BOARD AGAINST A LICENSEE MUST CONTAIN THE NAME OF THE COMPLAINING PARTY; TO AMEND SECTION 73-53-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PERSON WHOSE APPLICATION FOR A LICENSE IS DENIED IS

ENTITLED TO A HEARING BEFORE THE BOARD UPON WRITTEN REQUEST; TO AMEND SECTION 73-53-23, MISSISSIPPI CODE OF 1972, TO EXPAND THE TYPES OF SANCTIONS AVAILABLE TO THE BOARD FOR DISCIPLINARY ACTION AGAINST LICENSEES OR APPLICANTS; TO AMEND SECTION 73-53-27, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION THAT A CIRCUIT COURT MAY ORDER THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS IN ANY HEARING BEFORE THE BOARD; TO AMEND REENACTED SECTION 73-54-5, MISSISSIPPI CODE OF 1972, TO DEFINE "MARRIAGE AND FAMILY THERAPY ASSOCIATE" FOR THE PURPOSES OF THE MARRIAGE AND FAMILY THERAPY LICENSURE LAW; TO AMEND REENACTED SECTION 73-54-7, MISSISSIPPI CODE OF 1972, TO PROHIBIT PERSONS WHO DO NOT HOLD A VALID AND CURRENT LICENSE ISSUED BY THE BOARD FROM PRACTICING MARRIAGE AND FAMILY THERAPY; TO AMEND REENACTED SECTION 73-54-9, MISSISSIPPI CODE OF 1972, TO DELETE A TERM THAT MARRIAGE AND FAMILY THERAPY INTERNS WERE AUTHORIZED TO USE; TO AMEND REENACTED SECTIONS 73-54-11, 73-54-13, 73-54-37 AND 73-54-39, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE LICENSURE OF MARRIAGE AND FAMILY THERAPY ASSOCIATES; TO REPEAL SECTION 73-54-15, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES THE QUALIFICATIONS FOR MARRIAGE AND FAMILY THERAPIST LICENSE APPLICANTS ON OR BEFORE SEPTEMBER 1, 2000; TO AMEND REENACTED SECTION 73-54-17, MISSISSIPPI CODE OF 1972, TO CLARIFY THE EDUCATIONAL AND EXPERIENCE QUALIFICATIONS FOR LICENSURE AS A MARRIAGE AND FAMILY THERAPIST; TO PRESCRIBE THE QUALIFICATIONS FOR LICENSURE AS A MARRIAGE AND FAMILY THERAPY ASSOCIATE; TO REQUIRE APPLICANTS FOR EITHER LICENSE TO COMPLETE CRIMINAL HISTORY RECORDS CHECKS; TO AMEND REENACTED SECTION 73-54-19, MISSISSIPPI CODE OF 1972, TO CLARIFY PROVISIONS RELATING TO ADMINISTRATION OF THE LICENSURE EXAMINATION; TO PROVIDE THAT THE COST OF THE EXAMINATION SHALL BE PAID BY THE APPLICANT; TO AMEND REENACTED SECTION 73-54-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MARRIAGE AND FAMILY THERAPISTS LICENSED IN OTHER STATES WHO APPLY FOR LICENSURE BY RECIPROCITY MUST HAVE PASSED THE NATIONAL EXAMINATION IN MARITAL AND FAMILY THERAPY; TO REPEAL SECTION 73-54-25, MISSISSIPPI CODE OF 1972, WHICH DIRECTS THE BOARD TO CHARGE AN APPLICATION FEE AND EXAMINATION FEE TO APPLICANTS FOR LICENSURE AS A MARRIAGE AND FAMILY THERAPIST; TO AMEND REENACTED SECTION 73-54-27, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM AMOUNT OF THE LICENSE RENEWAL FEE; TO AMEND REENACTED SECTION 73-54-29, MISSISSIPPI CODE OF 1972, TO ADD CONTINUED PRACTICE WITH A LAPSED LICENSE AS A GROUND FOR DISCIPLINARY ACTION AGAINST A LICENSEE; TO AMEND SECTION 73-54-41, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE REENACTED SECTIONS; AND FOR RELATED PURPOSES.

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

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

73-53-1. <u>It is declared to be the policy of the State of Mississippi that the profession of social work affects the public health, safety and welfare and requires appropriate regulation and control in the public interest. It is the intent of this chapter to protect the people of Mississippi by promoting high standards</u>

of professional performance for those engaged in the profession of social work by regulating the title and by setting standards of qualification, education, training and experience for those who engage, or seek to engage, in the practice of social work.

**SECTION 2.** Section 73-53-3, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

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

(c) "Master's social work practice" means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's social work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities. Under supervision as provided in this chapter, the practice of master's social work may include the practices reserved to clinical social workers.

(d) "Macro social work practice" focuses on changing larger systems, such as communities and organizations. It encompasses a broad spectrum of practice, including planning, program development, community organizing, policy analysis,

legislative advocacy, program evaluation, task-oriented group work, community education, and human services management.

(e) "Clinical social work practice" means the application of social work methods, knowledge, theory, and ethics in the application of specialized clinical knowledge and advanced clinical skill in areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. This involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of therapy services to those persons. Licensed clinical social workers may provide evaluations consistent with the scope of their education, training and experience, which shall occur within the context of a therapeutic relationship.

(f) "Clinical supervision" means an interactional professional relationship between a supervisor and a social worker that provides evaluation and direction over the supervisee's practice of clinical social work and promotes continued development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner. "Approved clinical supervisor" means a licensed clinical social worker who has met the qualifications to be a clinical supervisor as determined by the board.

(g) "Supervision" means the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills and abilities to provide social work services in an ethical and competent manner.

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

(i) "ASWB" means Association of Social Work Boards.

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

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

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

(m) "Continuing education" means education and training that are oriented to maintain, improve or enhance social work practice knowledge and skills at the post-baccalaureate level. "Continuing education hour" means a sixty-minute clock hour of instruction, not including breaks or meals.

**SECTION 3.** Section 73-53-5, Mississippi Code of 1972, is amended as follows:

73-53-5. (1) No provision in this chapter shall be construed to prevent individuals licensed or certified by this state, whose activities overlap with the practice of social work, from carrying out the functions covered by their respective licenses or certificates, or to prevent ministers or individuals engaged in professional counseling who have recognized professional degrees in counseling, guidance or a related counseling field, whose activities overlap with the practice of social work, from carrying out the functions for which they have been trained, provided that such ministers or individuals shall not hold themselves out to the public by any title set out in this chapter.

(2) No provision in this chapter shall be construed to apply to or in any way interfere with any office, officer, agency or employee of the United States of America, while such office, officer, agency or employee is engaging in the performance of official duties within the course and scope of such employment or duties.

(3) No provision of this chapter shall be construed to apply to or in any way interfere with an individual who performs services described by this chapter solely for the benefit of a member of that individual's family without compensation.

(4) No provision of this chapter shall be construed to apply to or in any way interfere with the activities and services of a student while pursuing a course of professional education qualifying as education under this chapter if these activities or services constitute a part of such student's supervised course of study and such activities are supervised by a licensee under this chapter.

**SECTION 4.** Section 73-53-7, Mississippi Code of 1972, is amended as follows:

73-53-7. (1) A person, corporation, association or business entity shall not use, cause to be used or advertise in connection with that person's or party's name or the name or activity of the business the words, "social worker," "licensed social worker," "licensed master's social worker," "licensed certified social worker," "licensed clinical social worker," the letters "SW," "LSW," "LMSW," "LCSW" and/or any words, combination of words, abbreviations, or insignia indicating or implying directly or indirectly that social work services is provided or supplied unless those services are provided by a person holding a valid and current license issued under this chapter or under the supervision (as provided by board rule) of a licensed certified social worker with a valid and current license issued under this chapter.

A person who does not hold a valid and current license issued by the board shall not practice social work, nor advertise the performance of that practice.

A person or party who engages in or attempts to engage in the conduct described by this section is considered to be engaged in the practice of social work.

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

* * *

(3) From and after July 1, 2001, any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed Five Hundred Dollars ($500.00) for his first violation, * * * One Thousand Dollars ($1,000.00) for the second violation, and Five Thousand Dollars ($5,000.00) for the third and each subsequent violation.

**SECTION 5.** Section 73-53-8, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

(3) The Governor shall appoint six (6) members of the board, four (4) of which shall be social workers and two (2) of which shall be marriage and family therapists, and the Lieutenant Governor shall appoint four (4) members of the board, two (2) of which shall be social workers and two (2) of which shall be

marriage and family therapists. Social worker members of the board shall be appointed from nominations submitted by the Mississippi Chapter of the National Association of Social Workers, and marriage and family therapist members of the board shall be appointed from nominations submitted by the Mississippi Association for Marriage and Family Therapy * * *. All appointments shall be made with the advice and consent of the Senate.

(4) The initial appointments to the board shall be made as follows: The Governor shall appoint one (1) social worker member for a term that expires on June 30, 1999, one (1) social worker member for a term that expires on June 30, 2001, two (2) social worker members for terms that expire on June 30, 2002, one (1) marriage and family therapist member for a term that expires on June 30, 1998, and one (1) marriage and family therapist member for a term that expires on June 30, 2000. The Lieutenant Governor shall appoint one (1) social worker member for a term that expires on June 30, 1998, one (1) social worker member for a term that expires on June 30, 2000, one (1) marriage and family therapist member for a term that expires on June 30, 1999, and one (1) marriage and family therapist member of the board for a term that expires on June 30, 2001. After the expiration of the initial terms, all subsequent appointments shall be made by the original appointing authorities for terms of four (4) years from the expiration date of the previous term. Upon the expiration of his or her term of office, a board member shall continue to serve until his or her successor has been appointed and has qualified. No person may be appointed more than once to fill an unexpired term or more than two (2) consecutive full terms.

(5) Any vacancy on the board before the expiration of a term shall be filled by appointment of the original appointing authority for the remainder of the unexpired term. Appointments to fill vacancies shall be made from nominations submitted by the

appropriate organization as specified in subsection (2) of this section for the position being filled.

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

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

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

(9) Four (4) social worker members and three (3) marriage and family therapist members of the board shall constitute a quorum of the board. In making its decisions and taking actions affecting the members of one (1) of the professions regulated by the board, the board shall consider the recommendations of the board members who are members of that profession. <u>If the board is unable to have a quorum present at a regularly scheduled meeting location, the board may allow other members to participate in the meeting by telephone or other electronic means. In the case of an administrative hearing, when recusals from the process are</u>

necessary, a quorum may consist of a simple majority of six (6) members.

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

(11) The board is authorized to employ, subject to the approval of the State Personnel Board, an executive director and such attorneys, experts and other employees as it may, from time to time, find necessary for the proper performance of its duties and for which the necessary funds are available, and to set the salary of the executive director, subject to the approval of the State Personnel Board. * * *

(12) The board, by a majority vote, from time to time may make such provisions as it deems appropriate to authorize the performance by any board member or members, employee or other agent of the board of any function given the board in this chapter or Sections 73-54-1 through 73-54-39.

**SECTION 6.** Section 73-53-10, Mississippi Code of 1972, is reenacted and amended as follows:

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

(2) All fees and any other monies received by the board, * * * shall be deposited in a special fund that is created in the State Treasury and shall be used for the implementation and administration of this chapter and Sections 73-54-1 through 73-54-39 when appropriated by the Legislature for such purpose. The monies in the special fund shall be subject to all provisions of the state budget laws that are applicable to special fund agencies, and shall be disbursed by the State Treasurer only upon

warrants issued by the State Fiscal Officer upon requisitions signed by a designated board member and staff member designated by the * * * board. Any interest earned on this special fund shall be credited by the State Treasurer to the fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund. * * *

**SECTION 7.** Section 73-53-11, Mississippi Code of 1972, is reenacted and amended as follows:

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

* * *

(a) Review the quality and availability of social work services provided in this state and make recommendations for change to the Legislature; * * *

(b) Recommend to the appropriate law enforcement official the bringing of civil actions to seek injunctions and other relief against * * * individuals engaged in the unlicensed practice of social work or marriage and family therapy for violations of this chapter or Sections 73-54-1 through 73-54-39;

(c) Adopt, amend or repeal any rules or regulations necessary to carry out the purposes of this chapter and Sections 73-54-1 through 73-54-39 and the duties and responsibilities of the board;

(d) Examine and determine the qualifications and fitness of applicants for licenses to practice social work and marriage and family therapy in this state and prepare or approve and conduct all examinations of applicants for licensure;

(e) Issue, renew, deny, suspend or revoke licenses to practice social work and marriage and family therapy in this state or otherwise discipline individuals licensed by the board;

(f) Investigate alleged or suspected violations of the provisions of this chapter and Sections 73-54-1 through 73-54-39 or other laws of this state pertaining to social work and marriage and family therapy and any rules and regulations adopted by the board;

(g) Establish reasonable fees for application for examination, certificates of licensure and renewal, and other services provided by the board, not to exceed the amounts specified in Section 73-53-15;

(h) Issue subpoenas for the attendance and testimony of witnesses and the production of papers, records or other documentary evidence. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If in any proceeding before the board any witness fails or refuses to attend upon subpoena issued by the board, refuses to testify, or refuses to produce any books and papers the production of which is called for by the subpoena, the attendance of that witness and the giving of his testimony and the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state;

(i) Maintain an office and employ or retain appropriate personnel to carry out the powers and duties of the board;

(j) Adopt a code of ethics for licensed social workers that includes the current National Association of Social Workers Code of Ethics, and a code of ethics for licensed marriage and family therapists that includes the American Association for Marriage and Family Therapy Code of Ethics.

(k) Regulate the practice of social work and marriage and family therapy by interpreting and enforcing this chapter and Sections 73-54-1 through 73-54-39;

(l) Provide for the examination and supervision requirements for social workers and marriage and family therapists;

(m) Establish mechanisms for assessing the continuing professional competence of social workers and marriage and family therapists;

(n) Set criteria for continuing education;

(o) Establish and collect fees for sustaining the necessary operation and expenses of the board;

(p) Publish, at least annually, final disciplinary actions against licensees;

(q) Report final disciplinary action taken against a licensee to other state or federal regulatory agencies and to a national disciplinary database recognized by the board or as required by law;

(r) Share documents, materials, or other information, including confidential and privileged documents, materials, or information, received or maintained by the board with other state or federal agencies and with a national disciplinary database recognized by the board or as required by law, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(s) Participate in or conduct performance audits;

(t) Through its employees and/or representatives, enter and make inspections of any workplace or practice of a social worker or marriage and family therapist who is subject to investigation by the board in order to inspect and/or copy any record pertaining to clients or the practice of social work or marriage and family therapy under this chapter and/or Sections 73-54-1 through 73-54-39; and

(u) Conduct a criminal history records check on licensees whose licensure is subject to investigation by the board and on applicants for licensure. In order to determine the

applicant's or licensee's suitability for licensing, the applicant or licensee shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant or licensee, as applicable, shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose. The department shall disseminate the results of the state check and the national check to the board for a suitability determination. The board shall be authorized to charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, any amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant or licensee.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's or licensee's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, without the written consent of the applicant or licensee or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

* * *

(2) The board shall have such other powers as may be required to carry out the provisions of this chapter.

(3) The powers and duties enumerated in this section are granted for the purpose of enabling the board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of social work or marriage and family therapy, and are to be liberally construed to accomplish this objective.

**SECTION 8.** Section 73-53-13, Mississippi Code of 1972, is amended as follows:

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

(a) * * * A license as a "licensed social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

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

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

(b) * * * A license as a "licensed master's social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

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

(ii) Has satisfactorily completed the ASWB examination for this license; or

(iii) Has a comparable license or registration from another state or territory of the United States of America

that imposes qualifications substantially similar to those of this chapter.

(c) * * * A license as a "licensed certified social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

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

(ii) Has twenty-four (24) months of professional supervision and clinical or macro social work practice experience acceptable to the board, under appropriate supervision; and

(iii) Has satisfactorily completed the ASWB examination for this license; or

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

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

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

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

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

(iv) Absence of conviction of a felony related to the practice of social work for the last ten (10) years. Conviction, as used in this subparagraph, includes a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilty, or a plea of nolo contendere, and

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

(vi) Freedom from dependency on alcohol or drugs, and

(vii) Complete criminal history records check, including a fingerprint and an acceptable sex offender check, by appropriate governmental authorities as prescribed by the board.

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

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

**SECTION 9.** Section 73-53-15, Mississippi Code of 1972, is amended as follows:

73-53-15. (1) Upon passing the examination and meeting the requirements prescribed for licensure and upon paying the initial licensure fee, an applicant shall be issued the appropriate license by the board. Except as provided in Section 33-1-39, licenses shall be renewed biennially after initial licensure in the manner prescribed by the rules and regulations of the board and upon the payment of the fees for renewal prescribed by the board. However, the fee for an initial license may be prorated in proportion to the period of time from the date of issuance.

(2) Any person who desires to be licensed as a social worker or marriage and family therapist shall apply to the board in writing on a form furnished by the board. The applicant shall provide any documents as required by the application forms provided by the board. The applicant shall pay the board at the time of filing an application fee to the board, no part of which shall be refunded. Additionally, the board shall adopt a fee schedule by rule and regulation, which shall include late fees.

(3) The initial and renewal license fees shall not exceed Two Hundred Dollars ($200.00) for a licensed social worker, Two Hundred Fifty Dollars ($250.00) for a licensed master's social worker, and Three Hundred Fifty Dollars ($350.00) for a licensed certified social worker. When increased by the board, fees may not be increased by more than ten percent (10%) of the amount of the previous year's fee.

(4) Notwithstanding subsections (1) and (2) of this section, in all instances where the board uses the services of a national testing service for preparation, administration, or grading of examinations, the applicant shall pay the required fees to the national testing service, in addition to other board fees.

(5) During a lawfully declared local, state or national disaster or emergency, the board may issue a temporary license to any otherwise qualified social worker or marriage and family therapist licensed and in good standing in another state or territory of the United States of America and who meets any other requirements as the board may prescribe by rule and regulation.

(6) Every person to whom a license is issued under the authority of the board shall, as a condition precedent to its issuance, pay the application and any other fee(s) prescribed by the board.

**SECTION 10.** Section 73-53-17, Mississippi Code of 1972, is amended as follows:

73-53-17. (1) Individuals licensed by the board shall conduct their activities, services and practice in accordance with the laws governing their professional practice and any rules promulgated by the board. Licensees and applicants may be subject to the exercise of the * * * sanctions enumerated in Section 73-53-23 if the board finds that a licensee or applicant has committed any of the following:

(a) Negligence in the practice or performance of professional services or activities;

(b) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public in the course of professional services or activities;

(c) Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same;

(d) Violating the rules and regulations established by the board;

(e) Violating the National Association of Social Workers Code of Ethics or the American Association for Marriage and Family Therapy Code of Ethics;

(f) Being convicted of any crime which has a substantial relationship to the licensee's activities and services or an essential element of which is misstatement, fraud or dishonesty;

(g) Being convicted of any crime which is a felony under the laws of this state or of the United States of America;

(h) Engaging in or permitting the performance of unacceptable services personally * * * due to the licensee's deliberate or grossly negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established, or assuming responsibility for another's work by signing documents without personal knowledge of the work as established by board rule;

(i) Continued practice although the licensee has become unfit to practice social work due to: (i) failure to keep abreast of current professional theory or practice; or (ii) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or (iii) addiction or severe dependency upon alcohol or other drugs

which may endanger the public by impairing the licensee's ability to practice;

(j) Continued practice although the individual failed to renew and has a lapsed license;

(k) Having disciplinary action taken against the licensee's license in another state;

(l) Making differential, detrimental treatment against any person because of race, color, creed, sex, religion or national origin;

(m) Engaging in lewd conduct in connection with professional services or activities;

(n) Engaging in false or misleading advertising;

(o) Contracting, assisting or permitting unlicensed persons to perform services for which a license is required under this chapter;

(p) Violation of any probation requirements placed on a licensee by the board;

(q) Revealing confidential information except as may be required by law;

(r) Failing to inform clients of the fact that the client no longer needs the services or professional assistance of the licensee;

(s) Charging excessive or unreasonable fees or engaging in unreasonable collection practices.

(2) The board may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(3) Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Section 73-53-23.

(4) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the

license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 11.** Section 73-53-19, Mississippi Code of 1972, is amended as follows:

73-53-19. All complaints concerning a licensee's business or professional practice shall be received by the board. Each complaint received shall be logged, recording at a minimum the following information: (a) licensee's name; (b) name of the complaining party * * *; (c) date of complaint; (d) brief statement of complaint; and (e) disposition.

**SECTION 12.** Section 73-53-21, Mississippi Code of 1972, is amended as follows:

73-53-21. (1) Any person whose application for a license is denied shall be entitled to a hearing before the board if he or she submits a written request for a hearing to the board. The board shall fix a time and place for the hearing and shall cause a written copy of the reason for denial of the license, together with a notice of the time and place fixed for the hearing to be served on the applicant requesting the hearing.

(2) Following the investigative process, the board may file formal charges against the licensee. Such formal complaint shall, at a minimum, inform the licensee of the facts which are the basis of the charge and which are specific enough to enable the licensee to defend against the charges.

(3) Each licensee whose conduct is the subject of a formal charge which seeks to impose disciplinary action against the licensee shall be served notice of the formal charge at least thirty (30) days before the date of the hearing, which hearing shall be presided over by the board or the board's designee.

(4) Service shall be considered to have been given if the notice was personally served on the licensee or applicant or if the notice was sent by certified United States mail to the licensee or applicant to the licensee's or applicant's last known address as listed of record with the board.

* * *

(5) The board or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the board shall issue an order.

(6) All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.

**SECTION 13.** Section 73-53-23, Mississippi Code of 1972, is amended as follows:

73-53-23. (1) The board may impose any of the following sanctions, singly or in combination, when it finds that a licensee or applicant has committed any * * * offense listed in Section 73-53-17:

(a) Revocation of the license;

(b) Suspension of the license, for any period of time;

(c) Censure the licensee;

(d) Issue a letter of reprimand to the licensee;

(e) Impose a monetary penalty in an amount not to exceed Five Hundred Dollars ($500.00) for the first violation, One Thousand Dollars ($1,000.00) for the second violation, and Five Thousand Dollars ($5,000.00) for the third and each subsequent violation;

(f) Place a licensee on probationary status and require the licensee to submit to any of the following: (i) report regularly to the board upon matters which are the basis of probation; (ii) continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are basis of probation; or (iii) such other reasonable requirement or restrictions as are proper;

(g) Refuse to issue or renew a license; * * *

(h) Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated;

(i) Restrict a license; and/or

(j) Accept a voluntary surrendering of a license based on an order of consent from the board.

(2) The board may summarily suspend a license issued by the board without a hearing simultaneously with the filing of a formal complaint and notice for a hearing provided by this chapter and Section 73-54-1 through 73-54-39 pending proceedings before the board. If the board suspends summarily a license under the provisions of this subsection, a hearing must begin within twenty (20) days after such suspension begins, unless continued at the request of the licensee.

(3) Disposition of any formal complaint may be made by consent order or stipulation between the board and the licensee.

(4) The board may reinstate any licensee to good standing under this chapter if * * * the board is satisfied that the applicant's renewed practice is in the public interest. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(5) The board shall seek to achieve consistency in the application of the foregoing sanctions, and significant departure from prior decisions involving similar conduct shall be explained by the board.

(6) In addition to any other power that it has, the board may issue an advisory letter to a licensee if it finds that the information received in a complaint for an investigation does not merit disciplinary action against the licensee.

(7) The board may also assess and levy upon any licensee or applicant for licensure the costs incurred or expended by the board in the investigation and prosecution of any licensure or disciplinary action, including but not limited to, the cost of process service, court reports, expert witness, investigators, and attorney fees.

**SECTION 14.** Section 73-53-27, Mississippi Code of 1972, is amended as follows:

73-53-27. * * *

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

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

record to any person interested in such hearing upon payment of the cost of each original transcript or for each copy.

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

* * *

**SECTION 15.** Section 73-54-1, Mississippi Code of 1972, is reenacted as follows:

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

**SECTION 16.** Section 73-54-3, Mississippi Code of 1972, is reenacted as follows:

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

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

**SECTION 17.** Section 73-54-5, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

(b) "Licensed marriage and family therapy associate" means a person to whom a marriage and family therapy associate

license has been issued under this chapter and Section 73-53-8, which license is in force and not suspended or revoked as of the particular time in question.

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

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

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

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

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

(h) "Institution of higher education" means any regionally accredited institution of higher learning in the United States that offers a master's or doctoral degree; for foreign universities, this term means an institution of higher education

accredited by a legal agency of that country that is satisfactory to the board.

(i) "Examination" means the test or exam endorsed or prescribed by the Association for Marital and Family Therapy Regulatory Boards.

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

**SECTION 18.** Section 73-54-7, Mississippi Code of 1972, is reenacted and amended as follows:

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

**SECTION 19.** Section 73-54-9, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

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

**SECTION 20.** Section 73-54-11, Mississippi Code of 1972, is reenacted and amended as follows:

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

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

**SECTION 21.** Section 73-54-13, Mississippi Code of 1972, is reenacted and amended as follows:

73-54-13. Each person desiring to obtain a license as

a * * * marriage and family therapist or marriage and family therapy associate shall make application thereof to the board in such manner as the board prescribes and with required application fees and shall furnish evidence satisfactory to the board that he or she:

(a) Is of good moral character;

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

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

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

**SECTION 22.** Section 73-54-15, Mississippi Code of 1972, which prescribes the qualifications for marriage and family therapist license applicants on or before September 1, 2000, is repealed.

**SECTION 23.** Section 73-54-17, Mississippi Code of 1972, is reenacted and amended as follows:

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

(a) Meets educational and experience qualifications as follows:

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

(ii) Following the receipt of the first qualifying degree, has at least two (2) years of supervised experience in marriage and family therapy, or its equivalent, acceptable to the board * * *; and

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

(b) Passes the national Examination in Marital and Family Therapy prescribed by the Association for Marital and Family Therapy Regulatory Boards; and

(c) Has been successfully cleared through a criminal history records check, including a fingerprint and an acceptable sex offender check, by appropriate governmental authorities as prescribed by the board.

(2) Any person who applies for a marriage and family therapy associate license after September 1, 2011, shall be issued that license by the board for a period of twenty-four (24) months, which may be renewed biennially for a period not to exceed a total of forty-eight (48) months, if the applicant meets the qualifications set forth in Section 73-54-13, submits the required application fees, and provides satisfactory evidence to the board that he or she:

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

(b) Completed a clinical practicum that consisted of a minimum of five hundred (500) client contact hours and one hundred (100) hours of clinical supervision before receipt of the qualifying degree;

(c) Passes the national Examination in Marital and Family Therapy prescribed by the Association for Marital and Family Therapy Regulatory Boards;

(d) Provides all professional services under the supervision of a qualified supervisor in accordance with a supervision contract approved by the board; and

(e) Has been successfully cleared through a criminal history records check, including a fingerprint and an acceptable sex offender check, by appropriate governmental authorities as prescribed by the board.

**SECTION 24.** Section 73-54-19, Mississippi Code of 1972, is reenacted and amended as follows:

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

(2) An applicant shall be required to pass the national Examination of Marital and Family Therapy prescribed by the Association of Marital and Family Therapy Regulatory Boards.

(3) The cost of the examination and the cost of administering the examination, in addition to all other fees associated with the examination, shall be paid by the applicant at the time of application.

**SECTION 25.** Section 73-54-23, Mississippi Code of 1972, is reenacted and amended as follows:

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