

IN SENATE

REGULAR SESSION 1994

SENATE BILL NO. 283

FRIDAY, FEBRUARY 25, 1994

Senator Susan D. Johns introduced the following bill which was ordered to be printed.

*amended bill
worked out
between KPA, KAS,
& council group.*

AD

AN ACT relating to counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
2 READ AS FOLLOWS:

3 *It is hereby declared to be a policy of the Commonwealth of Kentucky that the activities*
4 *of those persons who render services to the public in the counseling area and use the*
5 *title of "licensed professional counselor" or "licensed associate counselor" be*
6 *regulated to ensure the protection of the public health, safety, and welfare of the*
7 *citizens of the Commonwealth.*

8 SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
9 READ AS FOLLOWS:

10 *As used in Sections 1 to 19 of this Act, unless the context requires otherwise:*

11 *(1) "Licensed professional counselor" means a person licensed pursuant to Section*
12 *6 of this Act who is prepared and experienced in applying a combination of*
13 *human development and mental health principles, procedures, and services*
14 *which integrate a wellness, pathology, and multicultural model of human*
15 *behavior. This model is designed to assist individuals, couples, families, groups,*
16 *organizations, corporations, institutions, government agencies, or the general*
17 *public. Licensed professional counselors help persons and groups achieve*
18 *mental, emotional, physical, social, moral, educational, or career development*
19 *and adjustment over the life span.*

20 *(2) "Licensed associate counselor" means any person who has been granted an*
21 *associate license by the board to offer counseling services defined in Section 7 of*
22 *this Act while under the supervision of a licensed professional counselor who is*
23 *also an approved supervisor.*

24 *(3) "Approved supervisor" means any licensed professional counselor with five (5)*
25 *years of counseling experience, including two (2) years of supervisory experience.*

1 who documents to the board the completion of a graduate level supervision
2 course, or the equivalent, that included content and experiences relevant to the
3 supervision of counselors, and provides the board with a statement detailing the
4 person's supervision philosophy, orientation, and experience.

5 (4) "Professional counseling" involves the rendering to individuals, couples,
6 families, groups, organizations, corporations, institutions, government agencies,
7 or the general public a service that integrates a wellness, pathology, and
8 multicultural model of human behavior. This model applies a combination of
9 mental health and human development principles and procedures to help clients
10 achieve effective mental, emotional, physical, social, moral, educational, or
11 career development and adjustment over the life span.

12 (5) "Counseling procedures" means engaging in methods and techniques that
13 include, but are not restricted to:

14 (a) "Counseling," which means the application of cognitive, affective, and
15 behavioral counseling strategies that integrate a wellness, pathology, and
16 multicultural model of human behavior. This model applies a combination
17 of mental health, counseling, and human development principles and
18 procedures to help clients achieve effective mental, emotional, physical,
19 social, moral, education, or career development and adjustment throughout
20 the life span, and are specifically implemented in the context of a
21 counseling relationship. This model includes: counseling; appraisal;
22 guidance and consulting to facilitate normal growth and development,
23 including educational and career development; utilization of functional
24 assessment and vocational planning and guidance for persons requesting
25 assistance in adjustment to a disability or handicapping condition.

26 (b) "Appraisal," which means selecting, administering, scoring, and
27 interpreting instruments designed to assess an individual's aptitudes,

1 abilities, achievements, interests, and personal characteristics, and the use
 2 of methods and techniques for understanding human behavior in relation
 3 to coping with, adapting to, or changing life situations. "Appraisal" does
 4 not include psychological testing for the purpose of diagnosis of mental and
 5 emotional disorders and disabilities.

6 (c) "Consulting," which means the application of scientific principles and
 7 procedures in counseling and human development to provide assistance in
 8 understanding and solving current or potential problems that the person
 9 seeking consultation may have in relation to a third party, whether an
 10 individual, group, or organization.

11 (d) "Referral," which means evaluating and identifying needs of a person
 12 seeking counseling to determine the advisability of referral to other
 13 specialists, informing that person of this judgment, and communicating as
 14 requested or deemed appropriate to referral sources.

15 (e) "Research," which means a systematic effort to collect, analyze, and
 16 interpret quantitative or qualitative data that describes the interaction of
 17 social characteristics and behavior, emotion, cognition, or interpersonal
 18 transactions among individuals and organizations.

19 (6) "Board" means the Professional Counselor Licensure Board, created pursuant
 20 to Section 4 of this Act.

21 SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 22 READ AS FOLLOWS:

23 Except as otherwise provided in Sections 1 to 19 of this Act, no person shall:

24 (1) Practice counseling in the Commonwealth of Kentucky without first obtaining a
 25 license pursuant to Sections 1 to 19 of this Act;

26 (2) Represent himself by the title "licensed professional counselor," "licensed
 27 counselor," or "licensed associate counselor" without being duly licensed

1 pursuant to Sections 1 to 19 of this Act; or

2 (3) Materially refuse to furnish the board any information or records required or
 3 requested pursuant to Sections 1 to 19 of this Act.

4 SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 5 READ AS FOLLOWS:

6 (1) (a) There is hereby created the Professional Counselor Licensure Board. The
 7 board shall consist of seven (7) members, appointed by the Governor from
 8 a list submitted to the Governor and the board's secretary by the executive-
 9 committee of the largest state-based nationally recognized or affiliated
 10 association representing professional counselors. The board's secretary
 11 shall advise the Governor upon the choice of board members.

12 (b) The composition of the board shall reflect the demographic composition of
 13 the population of Kentucky at the time of appointment. All persons
 14 recommended for board membership shall have been residents of Kentucky
 15 for a minimum period of six (6) months. Of the seven (7) board members,
 16 two (2) shall be consumer members and five (5) shall be licensed
 17 professional counselors or persons who are eligible for licensure. Of the
 18 five (5) board members who are licensed professional counselors or eligible
 19 for licensure, one (1) shall be a counselor educator, one (1) shall be
 20 employed in the private sector, one (1) shall be employed in the public
 21 sector, and two (2) shall be professional counselors at large.

22 (2) Positions on the initial board shall be filled by appointment by the Governor from
 23 a list of qualified nominees submitted by the executive committee of the largest
 24 state-based nationally recognized or affiliated association representing
 25 professional counselors.

26 (3) On or before two (2) years after the effective date of this Act, all board members,
 27 with the exception of the consumer members, shall be licensed pursuant to

1 Sections 1 to 19 of this Act. Each of the two (2) consumer members of the board
2 shall be a member of the general public who:

3 (a) Shall be accessible to inquiries, comments, and suggestions from the
4 general public;

5 (b) Shall not be, or ever have been, a licensed professional counselor or in
6 training to be a licensed professional counselor;

7 (c) Shall not have a household member or immediate family member who is a
8 professional counselor or in training to become a licensed professional
9 counselor;

10 (d) Shall not participate or ever have participated in a commercial or
11 professional field related to professional counseling;

12 (e) Shall not have a household member or immediate family member who
13 participated in a commercial or professional field related to professional
14 counseling; and

15 (f) Shall not have had within two (2) years before appointment a substantial
16 financial interest in a person regulated by the board or any agency owned
17 by or employing a person regulated by the board.

18 (4) The term of a board member shall be three (3) years. The terms of the members
19 of the initial board shall be staggered to ensure continuity of experience. At the
20 end of a term, a member shall continue to serve until a qualified successor is
21 appointed.

22 (5) No person may serve more than two (2) three (3) year terms as a member of the
23 board.

24 (6) The Governor may remove a member for incompetence, misconduct, or neglect
25 of duty.

26 (7) Each member of the board shall be entitled to reimbursement for expenses
27 pursuant to 200 KAR Chapter 2 or its successor. Each board member shall be

1 compensated one hundred dollars (\$100) for each day spent in the discharge of
2 official duties.

3 SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
4 READ AS FOLLOWS:

5 The board shall:

- 6 (1) Annually elect a chairperson, a vice-chairperson, and a secretary. The manner of
7 election of officers, duties of officers, and terms of officers shall be in a manner
8 prescribed by the board.
- 9 (2) Promulgate administrative regulations pursuant to KRS Chapter 13A as
10 necessary for the orderly conduct of its affairs and for the administration of
11 Sections 1 to 19 of this Act.
- 12 (3) Meet at least twice each year, at the time and place designated by the board. The
13 attendance of five (5) or more board members at an official board meeting shall
14 constitute a quorum.
- 15 (4) Maintain a registry of all current licensed professional counselors and licensed
16 associate counselors. This registry shall be a public record, available upon
17 request to the licensed professional counselors, licensed associate counselors,
18 state agencies, and the general public.
- 19 (5) Adopt a code of ethics consistent with Sections 1 to 19 of this Act. This code of
20 ethics shall be based upon the current code of ethics of the national professional
21 counseling association for licensed professional counselors and licensed
22 associate counselors. The code of ethics may be supplemented as necessary as
23 determined by the board.
- 24 (6) Investigate complaints concerning the conduct of any person whose counseling
25 activities are regulated by the professional counselor licensing board.
- 26 (7) Revoke, suspend, or fail to renew a license that it has authority to issue, for just
27 cause as enumerated in rules and administrative regulations of the board.

1 through a graduated and consistently implemented hearing process.

2 (8) Submit an annual report to the Governor and the Legislative Research
 3 Commission that includes complete information regarding complaints filed
 4 against individuals and the disposition of the complaints.

5 (9) Establish or select an examination procedure that the board considers
 6 appropriate to determine the eligibility of an applicant to become a licensed
 7 professional counselor or licensed associate counselor. The board shall establish
 8 the additional criteria necessary to evaluate the qualifications of individuals
 9 applying for licensure, consistent with Sections 1 to 19 of this Act. The board
 10 shall make specific provisions for examination of applicants for licensure at least
 11 once each year.

12 (10) Assess fees for the issuance and renewal of licenses to cover administrative and
 13 operating expenses of the board. The fee for an application to obtain a license
 14 shall not exceed two hundred dollars (\$200). The license fee shall not exceed two
 15 hundred dollars (\$200). The license renewal fee shall not exceed two hundred
 16 dollars (\$200). The board may determine and assess other fees as may be
 17 appropriate for services it may render or the licensing process.

18 (11) Establish criteria for determining supervised experience.

19 (12) Pay all funds collected pursuant to Sections 1 to 19 of this Act into the general
 20 fund of the Commonwealth, with the funds designated specifically for the
 21 administration of Sections 1 to 19 of this Act.

22 SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) The board shall issue a license designating an applicant as a "licensed
 25 professional counselor" if the applicant files an application upon a form and in a
 26 manner prescribed by the board, accompanied by fees as determined by the
 27 board, and furnishes the following to the board:

- 1 (a) Proof that the applicant has reached the age of majority;
- 2 (b) If the applicant has never been convicted of a crime involving moral
- 3 turpitude, letters of recommendation from two (2) persons, unrelated to the
- 4 applicant, and a sworn statement from the applicant stating that the
- 5 applicant has never been convicted of a crime involving moral turpitude;
- 6 (c) If the applicant has been convicted of a crime involving moral turpitude:
- 7 1. Documentary evidence, including: a copy of the relevant release or
- 8 discharge order, establishing that the applicant has complied with all
- 9 conditions of probation or parole; records establishing that at least
- 10 three (3) years have elapsed since release or discharge, without
- 11 subsequent conviction; letters of reference from at least three (3)
- 12 persons who have been in contact with the applicant since the release
- 13 or discharge; and
- 14 2. Other collateral evidence, including testimony, as may be requested by
- 15 the board, that indicates the nature and seriousness of the crime, the
- 16 circumstances relative to the crime, and any mitigating circumstances
- 17 or social conditions surrounding the crime, to enable the board to
- 18 judge the applicant's present fitness for licensure, or whether
- 19 licensure will enhance the likelihood that the applicant will commit
- 20 the same or similar offenses.
- 21 (d) Proof that the applicant has completed a graduate program which includes
- 22 a minimum of sixty (60) semester hours in counseling from a regional
- 23 accredited institution of higher education. This degree must include a
- 24 practicum and internship in a counseling setting, and forty-eight (48)
- 25 graduate semester hours of study in at least eight (8) of the following areas:
- 26 1. Counseling theory and practice;
- 27 2. The helping relationship;

- 1 3. Human growth and development, and maladaptive behavior;
- 2 4. Lifestyle and career development;
- 3 5. Group dynamics, processes, counseling, and consulting;
- 4 6. Appraisal of individuals;
- 5 7. Social and cultural foundations;
- 6 8. Research and evaluation;
- 7 9. The counseling profession.
- 8 (e) Proof that the applicant has at least three (3) years of post master's degree
- 9 experience in a professional setting, including a minimum of three
- 10 thousand (3,000) hours in the professional practice of counseling as
- 11 defined in section 2 of this Act, of which one thousand two hundred (1,200)
- 12 hours involve counseling with individuals, couples, families, or groups, and
- 13 a minimum of three hundred (300) hours of supervised experience under
- 14 an approved supervisor;
- 15 (f) A statement to the board that the applicant agrees to continue to declare
- 16 areas of professional competence through a "statement of professional
- 17 intent," which describes the intended use of the license, the client
- 18 populations with whom the applicant will work, and the counseling
- 19 philosophy and procedures the applicant plans to use, including the
- 20 documentation of preparation; and
- 21 (g) A statement that the applicant has validated the competencies declared in
- 22 the "statement of professional intent" and has demonstrated knowledge of
- 23 the field of counseling by passing a written examination as prescribed by
- 24 the board.
- 25 (2) A majority of the board members present and voting, considering the credentials
- 26 and adequate evidence of professional competence, shall be required to
- 27 recommend to the chairperson of the board that a license be issued.

1 SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
2 READ AS FOLLOWS:

- 3 (1) The board shall issue a license designating an applicant as a "licensed associate
4 counselor" if the applicant files an application upon a form and in a manner
5 prescribed by the board, accompanied by fees as determined by the board, and
6 furnishes the following to the board:
- 7 (a) Proof that the applicant has completed a graduate program from a
8 regionally accredited institution of higher education which is primarily
9 consulting in content and which meets the academic and training content
10 standards established by the board, or the substantial equivalent in both
11 subject matter and extent of preparation. The licensed associate counselor
12 shall not practice without direct supervision provided by an approved
13 supervisor. The plan for supervision of the licensed associate counselor
14 shall be approved by the board prior to any actual performance of
15 counseling by the licensed associate counselor;
- 16 (b) Proof that the applicant has demonstrated knowledge of the field of
17 counseling by passing a written examination as prescribed by the board.
- 18 (c) Upon examination of credentials, the board may, by a majority of the board
19 members present and voting, consider the credentials as adequate evidence
20 of professional competence, and recommend to the chairperson of the
21 board that an associate license be approved;
- 22 (d) Documentation that the applicant has complied with the provisions of
23 paragraphs (a), (b), (c), and (e) of Section 6(1) of this Act.
- 24 (2) A majority of the board members present and voting, considering the credentials
25 and adequate evidence of professional competence, shall be required to
26 recommend to the chairperson of board that a license be issued.
- 27 (3) Any licensed associate counselor, after meeting the requirements specified in

1 paragraph (d) of Section 6(1) of this Act, shall be issued a license as a
 2 professional counselor upon application to the board.

3 SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 4 READ AS FOLLOWS:

5 A license shall be issued for a period of three (3) years. At the time of renewal, the
 6 licensee shall submit a license renewal fee, evidence of completion of relevant
 7 professional continuing education experience satisfactory to the board and not to
 8 exceed sixty (60) hours per renewal cycle, and an updated statement of professional
 9 intent. Each renewal license shall be valid for three (3) years.

10 SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 11 READ AS FOLLOWS:

- 12 (1) The board may enter into a reciprocal agreement with any state that licenses,
 13 certifies, or registers professional counselors if the board determines that the
 14 state has substantially the same or higher licensure requirements.
- 15 (2) The reciprocal agreement shall provide that the board shall license any applicant
 16 who is currently licensed, certified, or registered by the reciprocal state.
- 17 (3) The board shall review each application for licensure or registration under
 18 Sections 1 to 19 of this Act from individuals who earned a post-secondary degree
 19 from an educational institution outside the United States. The board shall
 20 determine whether the applicant's experience, command of the English
 21 language, and completed academic program meet the standards of a relevant
 22 academic program of an accredited educational institution within the United
 23 States. If these qualifications are met, the applicant shall be considered to have
 24 received sufficient education from an accredited educational institution as
 25 required pursuant to Sections 1 to 19 of this Act.
- 26 (4) The board shall not license by reciprocity any applicant who is under
 27 investigation in this or another state or country for an act that would constitute a

1 violation of the provisions of Sections 1 to 19 of this Act. When deciding a case of
2 this type, the board shall determine which, if any, rules of discipline cited in its
3 code of ethics are applicable.

4 SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) During the first twelve (12) months following the effective date of the
7 establishment of the board, the board shall issue to any person upon application
8 the license of licensed professional counselor, if the applicant has completed a
9 graduate program in counseling or a related professional field and meets the
10 requirements of subsections (1)(a) to (c) of Section 6 of this Act. The board shall
11 have the power to consider waiving all or part of the requirements of subsections
12 (1)(d) to (e) of Section 6 of this Act, based upon the professional relevant
13 academic and work experience of the applicant prior to application for licensure.
14 If the prior experience of the applicant does not reasonably meet the
15 requirements of subsection (1)(e) of Section 6 of this Act, then the applicant will
16 be issued the license of licensed associate counselor with acceptable experience
17 credited toward the experience requirements of subsection (1)(e) of Section 6 of
18 this Act.

19 (2) The board shall also require applicants to file a statement of professional intent
20 as described in subsection (1)(f) of Section 6 of this Act, and a statement of
21 professional disclosure as described in Section 19 of this Act. The board shall
22 waive written examination of the applicants, but require oral or situational
23 examinations, or both.

24 SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
25 READ AS FOLLOWS:

26 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities and
27 services of qualified members of other professions, including but not limited to

1 physicians, psychologists, registered nurses, or social workers performing counseling
 2 consistent with their training, code of ethics of their professions, and the laws of the
 3 Commonwealth, if they do not represent themselves by the titles of licensed
 4 professional counselor, licensed associate counselor, or licensed counselor.

5 SECTION 12. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 6 READ AS FOLLOWS:

7 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities,
 8 services, or use of an official title on the part of a person employed as a counselor by
 9 any federal, state, county, municipal agency, public institution, or accredited public or
 10 private school, if the person is performing counseling or counseling-related activities
 11 within the scope of that person's employment.

12 SECTION 13. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 13 READ AS FOLLOWS:

14 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities and
 15 services of a student, intern, or trainee pursuing a course of study in counseling in a
 16 regional accredited institution of higher education or training institution, if these
 17 activities are performed under supervision and constitute a part of the supervised
 18 course of study, provided that the person is appropriately designated as a "counselor
 19 intern," "counselor student," or "counselor trainee."

20 SECTION 14. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 21 READ AS FOLLOWS:

22 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities and
 23 services of a nonresident rendered not more than thirty (30) days during any calendar
 24 year, provided that the nonresident is authorized to perform the activities and services
 25 under the laws of another state or country.

26 SECTION 15. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 27 READ AS FOLLOWS:

1 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities or
 2 services of a rabbi, priest, minister, or other member of the clergy of any religious
 3 denomination or sect, provided that the activities and services are within the scope of
 4 the performance of regular or specialized ministerial duties.

5 SECTION 16. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 6 READ AS FOLLOWS:

7 Nothing in Sections 1 to 19 of this Act shall be construed to apply to the activities,
 8 services, titles, and descriptions of persons offering volunteer professional services for
 9 public and private nonprofit organizations, agencies, or charities, provided that these
 10 persons are approved by the nonprofit organizations, agencies, or charities for whom
 11 the services are rendered.

12 SECTION 17. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 13 READ AS FOLLOWS:

14 (1) The board shall have the power to suspend or revoke the license of any person
 15 licensed by the board who is found guilty of violating any ethical or professional
 16 standard as defined by the board in its code of ethics, or as set forth in Sections 1
 17 to 20 of this Act.

18 (2) Any sanction of suspension for violation of Sections 1 or 20 of this Act upon
 19 order of the board shall not be for a period of greater than six (6) months and
 20 any sanctioned licensee shall not be allowed to practice counseling in this
 21 Commonwealth until the termination of the suspension period and subsequent
 22 timely review by the board. The sanction of revocation by the board for violation
 23 of Sections 1 or 20 of this Act shall be for a period of at least one (1) year from
 24 the effective date of the revocation. The board may, upon favorable action by a
 25 majority of the board members, recommend reinstatement.

26 SECTION 18. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 27 READ AS FOLLOWS:

- 1 The board may deny, suspend, or revoke any license, issued pursuant to Sections 1 to
2 19 of this Act, for any of the following reasons:
- 3 (1) Use of drugs or alcohol, or both, to an extent that use impairs the individual's
4 ability to engage in the practice of professional counseling;
- 5 (2) Conviction by the licensee of a felony if, after investigation, the board finds that
6 the licensee has not been sufficiently rehabilitated to merit the public trust;
- 7 (3) Use of fraud, deception, misrepresentation, or bribery in securing any license
8 issued pursuant to the provisions of the Sections 1 to 19 of this Act, or in
9 obtaining permission to take any examination given or required pursuant to the
10 provisions of Sections 1 to 19 of this Act;
- 11 (4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation
12 by fraud, deception, or misrepresentation;
- 13 (5) Incompetence, misconduct, fraud, misrepresentation, or dishonesty in the
14 performance of the functions or duties of a licensed professional counselor or a
15 licensed associate counselor;
- 16 (6) Violation of, or assisting or enabling any individual to violate, any provision of
17 Sections 1 to 19 of this Act, or any administrative regulation promulgated
18 pursuant to Sections 1 to 19 of this Act;
- 19 (7) Impersonation of any person holding a license or allowing any individual to use
20 a license or diploma from any school to obtain licensure under Sections 1 to 19
21 of this Act;
- 22 (8) Revocation or suspension of license or other authorization to practice counseling
23 granted by another state, territory, federal agency, or country, upon grounds for
24 which revocation or suspension is authorized under Sections 1 to 19 of this Act;
- 25 (9) Mental or physical disability to the extent that the licensee's ability to engage in
26 the practice of professional counseling is impaired;
- 27 (10) Assisting or enabling any person who is not licensed pursuant to Sections 1 to 19

1 of this Act to hold himself out to the public as a licensed professional counselor
 2 or licensed associate counselor:

3 (11) Material mistake of fact in the issuance of the license;

4 (12) Violation of any professional trust or confidence; or

5 (13) Use of any advertisement or solicitation which is false, misleading, or deceptive to
 6 the general public or to a person to whom the advertisement is primarily directed.

7 SECTION 19. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) Any individual, or employer of an individual, who is licensed under Sections 1 to
 10 19 of this Act shall not charge a client or receive remuneration for professional
 11 counseling services unless, before the performance of those services, the client is
 12 furnished a copy of a professional disclosure statement. This professional
 13 disclosure statement shall be displayed in a conspicuous location at the place
 14 where the services are performed and a copy of the statement shall be provided to
 15 the client upon request.

16 (2) The professional disclosure statement shall contain:

17 (a) The name, title, business address, and business telephone number of the
 18 professional counselor performing the services;

19 (b) The formal professional education of the professional counselor, including
 20 the institutions attended and the degrees received;

21 (c) The areas of specialization, and the services provided;

22 (d) In the case of a person licensed under Sections 1 to 19 of this Act who is
 23 engaged in a private individual practice, partnership, or group practice, the
 24 person's fee schedule listed by service or hourly rate;

25 (e) At the bottom of the first page of the disclosure statement, the words "This
 26 information is required by The Professional Counselors Licensure Board,
 27 which regulates all Licensed Professional Counselors and Licensed

Associate Counselors."

(f) Immediately beneath the statement required by paragraph (e) of this subsection shall appear the name, address, and telephone number of the board office; and

(g) In the case of licensed associate counselors, the name, title, business address, and business telephone number of the supervisor shall appear on the professional disclosure statement.

Section 20. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A drug abuse counselor, who is a person employed by a drug abuse and education center licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 210; ~~and~~

(D) An alcohol abuse counselor, who is a person employed by a licensed hospital, or treatment facility licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 222; and

(E) A licensed professional counselor or a licensed associate counselor licensed pursuant to Sections 1 to 9 of this Act.

- 1 (2) A "client" is a person who consults or is interviewed by a counselor for the
2 purpose of obtaining professional services from the counselor.
- 3 (3) A communication is "confidential" if not intended to be disclosed to third
4 persons, except persons present to further the interest of the client in the
5 consultation or interview, persons reasonably necessary for the transmission of
6 the communication, or persons present during the communication at the
7 direction of the counselor, including members of the client's family.
- 8 (b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent
9 any other person from disclosing confidential communications made for the purpose
10 of counseling the client, between himself, his counselor, and persons present at the
11 direction of the counselor, including members of the client's family.
- 12 (c) Who may claim the privilege. The privilege may be claimed by the client, his
13 guardian or conservator, or the personal representative of a deceased client. The
14 person who was the counselor (or that person's employer) may claim the privilege in
15 the absence of the client, but only on behalf of the client.
- 16 (d) Exceptions. There is no privilege under this rule for any relevant communication:
- 17 (1) If the client is asserting his physical, mental, or emotional condition as an
18 element of a claim or defense; or, after the client's death, in any proceeding in
19 which any party relies upon the condition as an element of a claim or defense.
- 20 (2) If the judge finds:
- 21 (A) That the substance of the communication is relevant to an essential issue
22 in the case;
- 23 (B) That there are no available alternate means to obtain the substantial
24 equivalent of the communication; and
- 25 (C) That the need for the information outweighs the interest protected by the
26 privilege. The court may receive evidence in camera to make findings
27 under this rule.

1 (3) Additionally, with respect to a person within the provisions of subparagraph (E)
 2 of paragraph (1) of subdivision (a) of this rule:

3 (A) When there is clear and immediate probability of physical harm to the
 4 client, to other individuals, or to society, and the licensed professional
 5 counselor or licensed associate counselor communicates the
 6 information only to the potential victim, appropriate family member of
 7 the potential victim, or law enforcement or other appropriate
 8 authorities:

9 (B) With the written consent of the client; or, in the case of death, of legal
 10 incompetence, or minority, with the written consent of the parent,
 11 legal guardian, conservator, or other person authorized by a court of
 12 law;

13 (C) When the client waives the privilege by filing a lawsuit against the
 14 licensed professional counselor or licensed associate counselor; or

15 (D) When the licensed professional counselor or licensed associate
 16 counselor is rendering professional services in a court-appointed
 17 capacity.

18 Section 21. KRS 335.070 is amended to read as follows:

- 19 (1) The board shall administer and enforce the provisions of KRS 335.010 to 335.160
 20 ~~{Chapter 335}~~, and may promulgate, pursuant to the provisions of KRS Chapter
 21 13A, administrative regulations consistent with the provisions of KRS 335.010 to
 22 335.160 ~~{Chapter 335}~~, including a code of ethical practice for certified social
 23 workers, licensees certified for independent practice, and social workers.
- 24 (2) The board shall review and act upon applications for licensure at least twice each
 25 year, and shall regulate the renewal of licenses.
- 26 (3) The board may conduct hearings on charges calling for the denial, revocation, or
 27 suspension of a license, shall adopt administrative regulations for the conduct of the

1 hearings, and shall cause the prosecution of all persons who violate any provisions of
2 this chapter, or any administrative regulation promulgated pursuant to its provisions.

3 (4) The board may sue and be sued in its own name.

4 (5) The board may employ any other persons it deems necessary to carry on the work of
5 the board, and shall define their duties and fix their compensation.

6 (6) The board shall maintain a register of certified social workers, social workers, and
7 licensees certified for independent practice. The register shall be a public record.

8 (7) The board shall keep a complete record of all of its proceedings.

9 (8) The board shall set by administrative regulation a fee schedule for examinations. The
10 fees shall be sufficient to cover the cost of preparation, administration, and grading
11 of the examinations.

12 Section 22. KRS 335.140 is amended to read as follows:

13 All fees and other charges received by the board under KRS 335.010 to 335.160 ~~{this~~
14 ~~chapter}~~ shall be deposited in the State Treasury and credited to a separate trust and
15 agency account for the board. The moneys so deposited shall be used to finance the board,
16 and are hereby appropriated to the board. All salaries and expenses shall be paid as
17 budgeted after budgets have been approved by the State Budget Commission or within the
18 limitations of any appropriation for that purpose which may be included in the executive
19 branch budget bill.

20 Section 23. KRS 335.990 is amended to read as follows:

21 (1) Any person who violates any provision of KRS 335.010 to 335.160 shall be fined
22 not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or
23 imprisoned for not more than six (6) months, or both.

24 (2) (a) Any person who violates any provision of Section 3 of this Act shall for
25 each offense be fined not less than five hundred dollars (\$500) nor more
26 than one thousand dollars (\$1,000), or imprisoned for a term not to exceed
27 twelve (12) months, or both.

- 1 **(b) The third or subsequent conviction for violation of Section 3 of this Act**
2 **during a thirty-six (36) month period shall constitute a Class D felony.**
- 3 **(c) All client fees received for services rendered which are in violation of**
4 **Section 3 of this Act shall be refunded to the client by the guilty party.**