

By Senators Meadows and Childers

30-534-98

1 A bill to be entitled
2 An act relating to clinical, counseling, and
3 psychotherapy services; creating part II of
4 chapter 491, F.S., to provide regulatory
5 provisions applicable to social work practice
6 that are separate from those applicable to
7 marriage and family therapy and mental health
8 counseling; creating the Board of Social Work
9 Practice; providing for appointment and terms
10 of members and location of headquarters;
11 providing for rules; providing for different
12 levels of licensure and practice; amending ss.
13 491.002, 491.003, 491.004, 491.0045, 491.0046,
14 491.0047, 491.005, 491.0057, 491.006, 491.0065,
15 491.007, 491.009, 491.0111, 491.0112, 491.012,
16 491.014, 491.0141, 491.0143, 491.0147,
17 491.0148, and 491.0149, F.S.; providing
18 conforming changes; repealing s. 491.0145,
19 F.S., relating to certified master social
20 workers, to conform; repealing s. 491.015,
21 F.S., relating to duties of the Department of
22 Health as to certified master social workers,
23 to conform; creating part I of the remaining
24 provisions of chapter 491, F.S., as amended, to
25 conform; revising membership of and providing
26 for appointments to the Board of Marriage and
27 Family Therapy and Mental Health Counseling, to
28 conform; providing applicability to current
29 licensees and certificateholders; amending ss.
30 20.43, 61.20, 394.455, 397.311, 397.405,
31 400.609, 408.07, 408.904, 409.906, 455.501,

1 public in making informed choices of such services by
2 establishing minimum qualifications for entering into and
3 remaining in the social work profession.

4 491.102 Definitions.--As used in this part:

5 (1) "Department" means the Department of Health.

6 (2) "Board" means the Board of Social Work Practice.

7 (3) "Licensed clinical social worker" means a person
8 licensed under this part to practice clinical social work.

9 (4) "Licensed master social worker" means a person
10 licensed under this part to practice master-level social work.

11 (5) "Licensed bachelor social worker" means a person
12 licensed under this part to practice bachelor-level social
13 work.

14 (6) "Clinical social work experience" means a period
15 during which the applicant provides clinical social work
16 services, including assessment, diagnosis, treatment, and
17 evaluation of clients, provided that at least 50 percent of
18 the hours worked consist of providing psychotherapy and
19 counseling services directly to clients.

20 (7) The "practice of clinical social work" means the
21 use of scientific and applied knowledge, theories, and methods
22 for the purpose of describing, preventing, evaluating, and
23 treating individual, couple, marital, family, or group
24 behavior, based on the person-in-situation perspective of
25 psychosocial development, normal and abnormal behavior,
26 psychopathology, unconscious motivation, interpersonal
27 relationships, environmental stress, differential assessment,
28 differential planning, and data gathering. The purpose of such
29 services is the prevention and treatment of undesired behavior
30 and enhancement of mental health. The practice of clinical
31 social work includes methods of a psychological nature used to

1 evaluate, assess, diagnose, treat, and prevent emotional and
2 mental disorders and dysfunctions (whether cognitive,
3 affective, or behavioral), sexual dysfunction, behavioral
4 disorders, alcoholism, and substance abuse. The practice of
5 clinical social work includes, but is not limited to,
6 psychotherapy, hypnotherapy, and sex therapy. The practice of
7 clinical social work also includes counseling, behavior
8 modification, consultation, client-centered advocacy, crisis
9 intervention, and the provision of needed information and
10 education to clients, when using methods of a psychological
11 nature to evaluate, assess, diagnose, treat, and prevent
12 emotional and mental disorders and dysfunctions (whether
13 cognitive, affective, or behavioral), sexual dysfunction,
14 behavioral disorders, alcoholism, or substance abuse. The
15 practice of clinical social work may also include clinical
16 research into more effective psychotherapeutic modalities for
17 the treatment and prevention of such conditions.

18 (a) Clinical social work may be rendered to
19 individuals, including individuals affected by the termination
20 of marriage, and to marriages, couples, families, groups,
21 organizations, and communities.

22 (b) The use of specific methods, techniques, or
23 modalities within the practice of clinical social work is
24 restricted to clinical social workers appropriately trained in
25 the use of such methods, techniques, or modalities.

26 (c) The terms "diagnose" and "treat," as used in this
27 part, when considered in isolation or in conjunction with any
28 provision of the rules of the board, may not be construed to
29 permit the performance of any act which clinical social
30 workers are not educated and trained to perform, including,
31 but not limited to, admitting persons to hospitals for

1 treatment of the foregoing conditions, treating persons in
2 hospitals without medical supervision, prescribing medicinal
3 drugs as defined in chapter 465, and authorizing clinical
4 laboratory procedures under chapter 483, radiological
5 procedures, or electroconvulsive therapy. In addition, this
6 definition may not be construed to permit any person licensed,
7 provisionally licensed, or registered under this part to
8 describe or label any test, report, or procedure as
9 "psychological," except to relate specifically to the
10 definition of practice authorized in this subsection.

11 (d) The definition of "clinical social work" contained
12 in this subsection includes all services offered directly to
13 the general public or through organizations, whether public or
14 private, and applies whether or not payment is requested or
15 received for services rendered.

16 (8) The "scope of practice" for:

17 (a) "A licensed clinical social worker" means:

18 1. Use of scientific and applied knowledge, theories,
19 and methods for the purpose of describing, preventing,
20 evaluating, and treating individual, couple, marital, family,
21 or group behavior, based on the person-in-situation
22 perspective of psychosocial development, normal and abnormal
23 behavior, psychopathology, unconscious motivation,
24 interpersonal relationships, environmental stress,
25 differential assessment, differential planning, and data
26 gathering. The purpose of these services is the prevention and
27 treatment of undesired behavior and enhancement of mental
28 health.

29 2. Use, within a licensed clinical social worker's
30 practice, of methods of a psychological nature to evaluate,
31 assess, diagnose, treat, and prevent emotional and mental

1 disorders and dysfunctions (whether cognitive, affective, or
2 behavioral), sexual dysfunction, behavioral disorders,
3 alcoholism, and substance abuse. Such practice includes, but
4 is not limited to, psychotherapy, hypnotherapy, and sex
5 therapy.

6 3. Counseling, behavioral modification, consultation,
7 client-centered advocacy, crisis intervention, and provision
8 of needed information and education to clients.

9 4. Clinical research into more effective
10 psychotherapeutic modalities.

11 (b) "A licensed master social worker" means the
12 provision of advanced social work services, including the use
13 of scientific and applied knowledge, theories, and methods to
14 provide assessment and referral, casework management, and
15 supportive services to individuals, families, groups, and
16 communities; needed information and education to clients;
17 client-centered advocacy; planning; community organization;
18 supervision and consultation; management; social policy
19 formulation; program development and implementation;
20 problem-solving intervention; and research and program
21 evaluation.

22 (c) "A licensed bachelor social worker" means the
23 provision of social work services, including the use of
24 scientific and applied knowledge, theories, and methods to
25 provide assessment and referral, needed information and
26 education to clients; case management and supportive services
27 to individuals, families, groups, and communities;
28 problem-solving intervention; client-centered advocacy; and
29 research.

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1 (9) "Provisional clinical social worker licensee"
2 means a person provisionally licensed under this part to
3 provide clinical social work services under supervision.

4 (10) "Psychotherapist" means a marriage and family
5 therapist or mental health counselor licensed under part I or
6 a clinical social worker licensed under this part.

7 (11) "Registered clinical social worker intern" means
8 a person registered under this part who is completing the
9 postgraduate clinical social work experience requirement
10 specified in s. 491.107(1)(a)3.

11 491.103 Board of Social Work Practice.--

12 (1) There is created within the Department of Health a
13 Board of Social Work Practice composed of nine members
14 appointed by the Governor and confirmed by the Senate.

15 (2)(a) Six members of the board shall be persons
16 licensed under this part as follows:

17 1. Two members shall be licensed bachelor social
18 workers.

19 2. Two members shall be licensed master social
20 workers.

21 3. Two members shall be licensed clinical social
22 workers.

23
24 Initially, however, the two members seated as licensed
25 bachelor social workers and the two members seated as licensed
26 master social workers may be unlicensed bachelor social
27 workers and unlicensed master social workers who the Governor
28 has determined satisfy all of the requirements for licensure
29 set forth in s. 491.107(2) and (3).

30 (b) Three members of the board shall be citizens who
31 are not connected with the practice of social work.

1 (3)(a) No later than January 1, 1999, the Governor
2 shall appoint nine members of the board as follows:

3 1. Three members for terms of 2 years each.

4 2. Three members for terms of 3 years each.

5 3. Three members for terms of 4 years each.

6 (b) As the terms of the initial members expire, the
7 Governor shall appoint successors for terms of 4 years, and
8 those members shall serve until their successors are
9 appointed.

10 (4) The board shall adopt rules as necessary to
11 implement and enforce the provisions of this part.

12 (5) All applicable provisions of chapter 455 relating
13 to activities of regulatory boards shall apply to the board.

14 (6) The board shall maintain its official headquarters
15 in the City of Tallahassee.

16 491.104 Clinical social worker intern registration;
17 requirements.--

18 (1) An individual who intends to practice in Florida
19 to satisfy the postgraduate or post-master's level experience
20 requirements, as specified in s. 491.107(1)(a)3., must
21 register as an intern in clinical social work prior to
22 commencing the experience requirement.

23 (2) The department shall register as a clinical social
24 worker intern each applicant who the board certifies has:

25 (a) Completed the application form and remitted a
26 nonrefundable application fee not to exceed \$200, as set by
27 board rule;

28 (b) Completed the education requirements as specified
29 in s. 491.107(1) for clinical social work; and

30 (c) Identified a qualified supervisor.

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1 (3) An individual registered under this section must
2 remain under supervision until he or she is in receipt of a
3 license or a letter from the department stating that he or she
4 is licensed to practice clinical social work.

5 491.105 Provisional clinical social worker license;
6 requirements.--

7 (1) An individual who has satisfied the clinical
8 experience requirements of s. 491.107(1)(a)3. intending to
9 provide clinical social work services in Florida while
10 satisfying coursework or examination requirements for
11 licensure must be provisionally licensed in clinical social
12 work prior to beginning practice.

13 (2) The department shall issue a provisional clinical
14 social worker license to each applicant who the board
15 certifies has:

16 (a) Completed the application form and remitted a
17 nonrefundable application fee not to exceed \$100, as set by
18 board rule; and

19 (b)1. Earned a graduate degree in social work and
20 satisfied the clinical experience requirements for licensure
21 pursuant to s. 491.107(1)(a)3.; or

22 2. Been approved for examination under the provisions
23 for licensure by endorsement pursuant to s. 491.108.

24 (3) A provisional licensee must work under the
25 supervision of a licensed mental health professional, as
26 defined by the board, until the provisional licensee is in
27 receipt of a license or a letter from the department stating
28 that he or she is licensed as a clinical social worker.

29 (4) A provisional license expires 24 months after the
30 date it is issued and may not be renewed or reissued.

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1 491.106 Exemptions from public records and meetings
2 requirements.--The exemptions from s. 119.07(1) provided by
3 ss. 455.621(2) and (10) and 455.707(3)(e) and (5)(a) also
4 apply to information concerning a registered clinical social
5 worker intern or a provisional clinical social worker
6 regulated by the Agency for Health Care Administration and the
7 department under this part. The exemption from s. 286.011
8 provided by s. 455.621(4) also applies to the proceedings of a
9 probable cause panel with respect to an investigation
10 concerning a registered clinical social worker intern or a
11 provisional clinical social worker regulated by the agency and
12 department under this part. This section is subject to the
13 Open Government Sunset Review Act of 1995 in accordance with
14 s. 119.15 and shall stand repealed on October 2, 2002, unless
15 reviewed and saved from repeal through reenactment by the
16 Legislature.

17 491.107 Licensure by examination.--

18 (1) LICENSED CLINICAL SOCIAL WORKER.--

19 (a) Upon verification of documentation and payment of
20 a fee not to exceed \$200, as set by board rule, plus the
21 actual per applicant cost to the department for purchase of
22 the examination from the American Association of State Social
23 Worker's Boards or a similar national organization, the
24 department shall issue a license as a clinical social worker
25 to an applicant who the board certifies:

26 1. Has made application therefor and paid the
27 appropriate fee.

28 2.a. Has received a doctoral degree in social work
29 from a graduate school of social work which at the time the
30 applicant graduated was accredited by an accrediting agency
31 recognized by the United States Department of Education or has

1 received a master's degree in social work from a graduate
2 school of social work which at the time the applicant
3 graduated:
4 (I) Was accredited by the Council on Social Work
5 Education;
6 (II) Was accredited by the Canadian Association of
7 Schools of Social Work; or
8 (III) Has been determined to have been a program
9 equivalent to programs approved by the Council on Social Work
10 Education by the Foreign Equivalency Determination Service of
11 the Council on Social Work Education. An applicant who
12 graduated from a program at a university or college outside
13 the United States or Canada must present documentation of the
14 equivalency determination from the council in order to
15 qualify.
16 b. The applicant's college or university program must
17 have emphasized direct clinical patient or client health care
18 services, including, but not limited to, coursework in
19 clinical social work, psychiatric social work, medical social
20 work, social casework, psychotherapy, and group therapy. The
21 applicant's college or university program must have included
22 all of the following coursework:
23 (I) A supervised field placement which was part of the
24 applicant's advanced concentration in direct practice, during
25 which the applicant provided clinical services directly to
26 clients.
27 (II) Completion of 24 semester hours or 37 quarter
28 hours in theory of human behavior and practice methods as
29 courses in clinically oriented services, including a minimum
30 of one course in psychopathology taken in a school of social
31 work accredited or approved pursuant to sub-subparagraph a.

1 c. If the course title which appears on the
2 applicant's transcript does not clearly identify the content
3 of the coursework, the applicant shall be required to provide
4 additional documentation, including, but not limited to, a
5 syllabus or catalog description published for the course.

6 3. Has had not less than 2 years of clinical social
7 work experience, which took place subsequent to completion of
8 a graduate degree in social work at an institution meeting the
9 accreditation requirements of this subsection, under the
10 supervision of a licensed clinical social worker or the
11 equivalent who is a qualified supervisor as determined by the
12 board. An individual who intends to practice in Florida to
13 satisfy clinical experience requirements must register
14 pursuant to s. 491.104 prior to commencing practice. If the
15 applicant's graduate program was not a program which
16 emphasized direct clinical patient or client health care
17 services as described in s. 491.102, the supervised experience
18 requirement must take place after the applicant has completed
19 a minimum of 15 semester hours or 22 quarter hours of the
20 coursework required. A doctoral internship may be applied
21 toward the clinical social work experience requirement. The
22 experience requirement may be met by work performed on or off
23 the premises of the supervising clinical social worker or the
24 equivalent, provided the off-premises work is not the
25 independent private practice rendering of clinical social work
26 that does not have a licensed mental health professional, as
27 determined by the board, on the premises at the same time the
28 intern is providing services.

29 4. Has passed a theory and practice examination
30 provided by the department for this purpose.

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1 5. Has demonstrated, in a manner designated by rule of
2 the board, knowledge of the laws and rules governing the
3 practice of clinical social work.

4 (b)1. Notwithstanding the provisions of subparagraph
5 (a)2., coursework which was taken at a baccalaureate level
6 shall not be considered toward completion of education
7 requirements for licensure unless an official of the graduate
8 program certifies in writing on the graduate school's
9 stationery that a specific course, which students enrolled in
10 the same graduate program were ordinarily required to complete
11 at the graduate level, was waived or exempted based on
12 completion of a similar course at the baccalaureate level. If
13 this condition is met, the board shall apply the baccalaureate
14 course named toward the education requirements.

15 2. An applicant from a master's or doctoral program in
16 social work which did not emphasize direct patient or client
17 services may complete the clinical curriculum content
18 requirement by returning to a graduate program accredited by
19 the Council on Social Work Education or the Canadian
20 Association of Schools of Social Work, or to a clinical social
21 work graduate program with comparable standards, in order to
22 complete the education requirements for examination. However,
23 a maximum of 6 semester or 9 quarter hours of the clinical
24 curriculum content requirement may be completed by credit
25 awarded for independent study coursework as defined by board
26 rule.

27 (2) LICENSED MASTER SOCIAL WORKER.--

28 (a) Upon verification of documentation and payment of
29 a fee not to exceed \$200, as set by board rule, plus the
30 actual per applicant cost to the department for purchase of
31 the examination from the American Association of State Social

1 Worker's Boards or a similar national organization, the
2 department shall issue a license as a licensed master social
3 worker to an applicant who the board certifies:
4 1. Has made application therefor and paid the
5 appropriate fee.
6 2. Has received a doctoral degree in social work from
7 a graduate school of social work which at the time the
8 applicant graduated was accredited by an accrediting agency
9 recognized by the United States Department of Education or has
10 received a master's degree in social work from a graduate
11 school of social work which at the time the applicant
12 graduated:
13 a. Was accredited by the Council on Social Work
14 Education;
15 b. Was accredited by the Canadian Association of
16 Schools of Social Work; or
17 c. Has been determined to have been a program
18 equivalent to programs approved by the Council on Social Work
19 Education by the Foreign Equivalency Determination Service of
20 the Council on Social Work Education. An applicant who
21 graduated from a program at a university or college outside
22 the United States or Canada must present documentation of the
23 equivalency determination from the council in order to
24 qualify.
25 3. Has had not less than 2 years of social work
26 experience, which took place subsequent to completion of a
27 graduate degree in social work at an institution meeting the
28 accreditation requirements of this subsection, under the
29 supervision of a licensed clinical social worker, a licensed
30 master social worker, or the equivalent who is a qualified
31 supervisor as determined by the board. An applicant who is

1 completing the social work experience required by this
2 subparagraph may practice as a master social work intern or
3 trainee under supervision.

4 4. Has passed a theory and practice examination
5 provided by the department for this purpose. An applicant is
6 exempt from the examination requirement if the applicant holds
7 an ACSW (Academy of Certified Social Workers) credential in
8 good standing issued by the National Association of Social
9 Workers.

10 5. Has demonstrated, in a manner designated by rule of
11 the board, knowledge of the laws and rules governing the
12 practice of master-level social work.

13 (b) The educational program under this subsection must
14 include content on social work values and ethics, diversity,
15 social and economic justice, populations at risk, human
16 behavior and the social environment, social welfare policy and
17 services, social work practice, and research and skills for
18 advanced practice in an identifiable field of practice on
19 social work methodology such as management, administration,
20 program planning and evaluation, staff development, research,
21 community organization, community services, social planning,
22 program supervision, or human service advocacy. The program
23 must include a supervised field placement in an advanced
24 social work method or field of practice.

25 (c) Upon licensure, a licensed master social worker
26 may engage in autonomous social work practice as authorized by
27 this part. A licensed master social worker may not provide
28 psychotherapy services or any other service for which
29 licensure as a clinical social worker is required.

30 (3) LICENSED BACHELOR SOCIAL WORKER.--
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1 (a) Upon verification of documentation and payment of
2 a fee not to exceed \$200, as set by board rule, plus the
3 actual per applicant cost to the department for purchase of
4 the examination from the American Association of State Social
5 Worker's Boards or a similar national organization, the
6 department shall issue a license as a licensed bachelor social
7 worker to an applicant who the board certifies:

8 1. Has made application therefor and paid the
9 appropriate fee.

10 2. Has received a bachelor's degree in social work
11 from a school of social work which at the time the applicant
12 graduated was accredited by an accrediting agency recognized
13 by the United States Department of Education or has received a
14 bachelor's degree in social work from a graduate school of
15 social work which at the time the applicant graduated:

16 a. Was accredited by the Council on Social Work
17 Education;

18 b. Was accredited by the Canadian Association of
19 Schools of Social Work; or

20 c. Has been determined to have been a program
21 equivalent to programs approved by the Council on Social Work
22 Education by the Foreign Equivalency Determination Service of
23 the Council on Social Work Education. An applicant who
24 graduated from a program at a university or college outside
25 the United States or Canada must present documentation of the
26 equivalency determination from the council in order to
27 qualify.

28 3. Has had not less than 2 years of social work
29 experience, which took place subsequent to completion of a
30 bachelor's degree in social work at an institution meeting the
31 accreditation requirements of this subsection, under the

1 supervision of a licensed clinical social worker, a licensed
2 master social worker, a licensed bachelor social worker, or
3 the equivalent who is a qualified supervisor as determined by
4 the board. An applicant who is completing the social work
5 experience required by this subparagraph may practice as a
6 bachelor social work intern or trainee under supervision.

7 4. Has passed a theory and practice examination
8 provided by the department for this purpose.

9 5. Has demonstrated, in a manner designated by rule of
10 the board, knowledge of the laws and rules governing the
11 practice of bachelor-level social work.

12 (b) The educational program under this subsection must
13 include content on social work values and ethics, diversity,
14 social and economic justice, populations at risk, human
15 behavior and the social environment, social welfare policy and
16 services, social work practice, and research and skills for
17 entry-level practice. The program must include an entry-level
18 supervised placement in a social service setting.

19 (c) Upon licensure, a licensed bachelor social worker
20 may engage in social work as authorized by this part. A
21 licensed bachelor social worker may not provide psychotherapy
22 services or any other service for which licensure as a
23 licensed master social worker or clinical social worker is
24 required.

25 491.108 Licensure by endorsement.--

26 (1) The department shall license a person in any level
27 of social work regulated by this part who, upon applying to
28 the department and remitting the appropriate fee, demonstrates
29 to the board that he or she:

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1 (a) Holds an active, valid license to practice and has
2 actively practiced that level of social work in another state
3 for 3 of the 5 years immediately preceding licensure.

4 (b) Meets the education and experience requirements of
5 this part for the level of social work for which licensure is
6 applied.

7 (c) Has passed a substantially equivalent licensing
8 examination in another state.

9 (d) Holds a license in good standing, is not under
10 investigation for an act that would constitute a violation of
11 this part, and has not been found to have committed any act
12 that would constitute a violation of this part.

13 (e) Has demonstrated knowledge of the applicable laws
14 and rules of this state.

15 (2) The department may not issue a license by
16 endorsement to any applicant who is under investigation in
17 this or another jurisdiction for an act that would constitute
18 a violation of this part until such time as the investigation
19 is complete, at which time the provisions of s. 491.114 apply.

20 491.109 Requirement for instruction on human
21 immunodeficiency virus and acquired immune deficiency
22 syndrome.--The board shall require, as a condition of granting
23 a license under this part, that an applicant making initial
24 application for licensure complete an education course
25 acceptable to the board on human immunodeficiency virus and
26 acquired immune deficiency syndrome. An applicant who has not
27 taken a course at the time of licensure shall, upon submission
28 of an affidavit showing good cause, be allowed 6 months to
29 complete this requirement.

30 491.111 Renewal of license or registration.--
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1 (1) The board or department shall prescribe by rule a
2 method for the biennial renewal of licenses at a fee set by
3 rule, not to exceed \$150.

4 (2) Each applicant for renewal shall present
5 satisfactory evidence that, in the period since the license
6 was issued, the applicant has completed continuing education
7 requirements set by rule of the board or department. Not more
8 than 25 classroom hours of continuing education per year shall
9 be required.

10 (3) The board or department shall prescribe by rule a
11 method for the biennial renewal of an intern registration at a
12 fee set by rule, not to exceed \$100.

13 491.112 Inactive status; reactivation of licenses;
14 fees.--

15 (1) Inactive status is the licensure status that
16 results when a licensee has applied to be placed on inactive
17 status and has paid a \$50 fee to the department.

18 (a) An inactive license may be renewed biennially for
19 \$50 per biennium.

20 (b) An inactive license may be reactivated by
21 submitting an application to the department, completing the
22 continuing education requirements, complying with any
23 background investigation required, complying with other
24 requirements prescribed by the board, and paying a \$50
25 reactivation fee plus the current biennial renewal fee at the
26 time of reactivation.

27 (2) The board may adopt rules relating to inactive
28 licenses and the reactivation of licenses.

29 491.113 Continuing education; approval of providers,
30 programs, and courses; proof of completion.--

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1 (1) Continuing education providers, programs, and
2 courses shall be approved by the department or the board.

3 (2) The department or the board has the authority to
4 set a fee not to exceed \$300 for each provider submitted for
5 approval. Such fees shall be deposited into the Health Care
6 Trust Fund.

7 (3) Proof of completion of the required number of
8 hours of continuing education shall be submitted to the
9 department or the board in the manner and time specified by
10 rule and on forms provided by the department or the board.

11 (4) The department or the board shall adopt rules and
12 guidelines to administer and enforce the provisions of this
13 section.

14 491.114 Discipline.--

15 (1) When the department or the board finds that an
16 applicant, licensee, provisional licensee, or registered
17 intern whom it regulates under this part has committed any of
18 the acts set forth in subsection (2), it may issue an order
19 imposing one or more of the following penalties:

20 (a) Denial of an application for licensure or
21 registration, either temporarily or permanently.

22 (b) Revocation of an application for licensure or
23 registration, either temporarily or permanently.

24 (c) Suspension for a period of up to 5 years or
25 revocation of a license or registration, after hearing.

26 (d) Immediate suspension of a license or registration
27 pursuant to s. 120.60(6).

28 (e) Imposition of an administrative fine not to exceed
29 \$1,000 for each count or separate offense.

30 (f) Issuance of a public reprimand.

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1 (g) Placement of an applicant, licensee, or registered
2 intern on probation for a period of time and subject to such
3 conditions as the board may specify, including, but not
4 limited to, requiring the applicant, licensee, or registered
5 intern to submit to treatment, to attend continuing education
6 courses, to submit to reexamination, or to work under the
7 supervision of a designated licensee.

8 (h) Restriction of practice.

9 (2) The following acts of a licensee, provisional
10 licensee, registered intern, or applicant are grounds for
11 which the disciplinary actions listed in subsection (1) may be
12 taken:

13 (a) Attempting to obtain, obtaining, or renewing a
14 license or registration under this part by bribery or
15 fraudulent misrepresentation or through an error of the board
16 or the department.

17 (b) Having a license or registration to practice a
18 comparable profession revoked, suspended, or otherwise acted
19 against, including the denial of licensure by another state,
20 territory, or country.

21 (c) Being convicted or found guilty of, regardless of
22 adjudication, or having entered a plea of nolo contendere to,
23 a crime in any jurisdiction which directly relates to the
24 practice of his or her profession or the ability to practice
25 his or her profession. However, in the case of a plea of nolo
26 contendere, the board shall allow the person who is the
27 subject of the disciplinary proceeding to present evidence in
28 mitigation relevant to the underlying charges and
29 circumstances surrounding the plea.

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1 (d) False, deceptive, or misleading advertising or
2 obtaining a fee or other thing of value on the representation
3 that beneficial results from any treatment will be guaranteed.

4 (e) Advertising, practicing, or attempting to practice
5 under a name other than one's own.

6 (f) Maintaining a professional association with any
7 person who the applicant, licensee, or registered intern
8 knows, or has reason to believe, is in violation of this part
9 or of a rule of the department or the board.

10 (g) Knowingly aiding, assisting, procuring, or
11 advising any nonlicensed or nonregistered person to hold
12 himself or herself out as licensed or registered under this
13 part.

14 (h) Failing to perform any statutory or legal
15 obligation placed upon a person licensed or registered under
16 this part.

17 (i) Willfully making or filing a false report or
18 record; failing to file a report or record required by state
19 or federal law; willfully impeding or obstructing the filing
20 of a report or record; or inducing another person to make or
21 file a false report or record or to impede or obstruct the
22 filing of a report or record. Such report or record includes
23 only a report or record which requires the signature of a
24 person licensed or registered under this part.

25 (j) Paying a kickback, rebate, bonus, or other
26 remuneration for receiving a patient or client, or receiving a
27 kickback, rebate, bonus, or other remuneration for referring a
28 patient or client to another provider of mental health care
29 services or to a provider of health care services or goods;
30 referring a patient or client to oneself for services on a
31 fee-paid basis when those services are already being paid for

1 by some other public or private entity; or entering into a
2 reciprocal referral agreement.

3 (k) Committing any act upon a patient or client which
4 would constitute sexual battery or which would constitute
5 sexual misconduct as defined pursuant to s. 491.115.

6 (l) Making misleading, deceptive, untrue, or
7 fraudulent representations in the practice of any profession
8 licensed or registered under this part.

9 (m) Soliciting patients or clients personally, or
10 through an agent, through the use of fraud, intimidation,
11 undue influence, or a form of overreaching or vexatious
12 conduct.

13 (n) Failing to make available to a patient or client,
14 upon written request, copies of tests, reports, or documents
15 in the possession or under the control of the licensee or
16 registered intern which have been prepared for and paid for by
17 the patient or client.

18 (o) Failing to respond within 30 days to a written
19 communication from the department or the board concerning any
20 investigation by the department or the board, or failing to
21 make available any relevant records with respect to any
22 investigation about the licensee's or registered intern's
23 conduct or background.

24 (p) Being unable to practice the profession for which
25 he or she is licensed or registered under this part with
26 reasonable skill or competence as a result of any mental or
27 physical condition or by reason of illness; drunkenness; or
28 excessive use of drugs, narcotics, chemicals, or any other
29 substance. In enforcing this paragraph, upon a finding by the
30 secretary, his or her designee, or the board that probable
31 cause exists to believe that the licensee or registered intern

1 is unable to practice the profession because of the reasons
2 stated in this paragraph, the department shall have the
3 authority to compel a licensee or registered intern to submit
4 to a mental or physical examination by psychologists,
5 physicians, or licensees under this part, designated by the
6 department or board. If the licensee or registered intern
7 refuses to comply with such order, the department's order
8 directing the examination may be enforced by filing a petition
9 for enforcement in the circuit court in the circuit in which
10 the licensee or registered intern resides or does business.
11 The licensee or registered intern against whom the petition is
12 filed shall not be named or identified by initials in any
13 public court records or documents, and the proceedings shall
14 be closed to the public. The department shall be entitled to
15 the summary procedure provided in s. 51.011. A licensee or
16 registered intern affected under this paragraph shall at
17 reasonable intervals be afforded an opportunity to demonstrate
18 that he or she can resume the competent practice for which he
19 or she is licensed with reasonable skill and safety to
20 patients.

21 (q) Violating any provision of this part or chapter
22 455, or any rule adopted pursuant thereto.

23 (r) Performing any treatment or prescribing any
24 therapy which, by the prevailing standards of the mental
25 health professions in the community, would constitute
26 experimentation on human subjects, without first obtaining
27 full, informed, and written consent.

28 (s) Failing to meet the minimum standards of
29 performance in professional activities when measured against
30 generally prevailing peer performance, including the

31

1 undertaking of activities for which the licensee or registered
2 intern is not qualified by training or experience.

3 (t) Delegating professional responsibilities to a
4 person who the licensee or registered intern knows or has
5 reason to know is not qualified by training or experience to
6 perform such responsibilities.

7 (u) Violating a rule relating to the regulation of the
8 profession or a lawful order of the department or the board
9 previously entered in a disciplinary hearing.

10 (v) Failure of the licensee or registered intern to
11 maintain in confidence a communication made by a patient or
12 client in the context of such services, except as provided in
13 s. 491.122.

14 (w) Making public statements which are derived from
15 test data, client contacts, or behavioral research and which
16 identify or damage research subjects or clients.

17 491.115 Sexual misconduct.--Sexual misconduct by any
18 person licensed under this part, in the practice of his or her
19 profession, is prohibited. Sexual misconduct shall be defined
20 by rule of the department.

21 491.116 Sexual misconduct by a psychotherapist;
22 penalties.--

23 (1) Any psychotherapist who commits sexual misconduct
24 with a client, or former client when the professional
25 relationship was terminated primarily for the purpose of
26 engaging in sexual contact, commits a felony of the third
27 degree, punishable as provided in s. 775.082 or s. 775.083;
28 however, a second or subsequent offense is a felony of the
29 second degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31

1 (2) Any psychotherapist who violates subsection (1) by
2 means of therapeutic deception commits a felony of the second
3 degree punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

5 (3) The giving of consent by the client to any such
6 act shall not be a defense to these offenses.

7 (4) For the purposes of this section:

8 (a) "Psychotherapist" means any person licensed
9 pursuant to chapter 458, chapter 459, chapter 464, chapter
10 490, or part I or part II of chapter 491, or any other person
11 who provides or purports to provide treatment, diagnosis,
12 assessment, evaluation, or counseling of any mental or
13 emotional illness, symptom, or condition.

14 (b) "Therapeutic deception" means a representation to
15 the client that sexual contact by the psychotherapist is
16 consistent with or part of the treatment of the client.

17 (c) "Sexual misconduct" means the oral, anal, or
18 vaginal penetration of another by, or contact with, the sexual
19 organ of another or the anal or vaginal penetration of another
20 by any object.

21 (d) "Client" means a person to whom the services of a
22 psychotherapist are provided.

23 491.117 Violations; penalty; injunction.--

24 (1) It is unlawful and a violation of this part for
25 any person to:

26 (a) Use the following titles or any combination
27 thereof, unless the person holds a valid, active license as a
28 licensed clinical social worker issued pursuant to this part:

29 1. "Licensed clinical social worker."

30 2. "Clinical social worker."

31 3. "Licensed social worker."

- 1 4. "Psychiatric social worker."
2 5. "Psychosocial worker."
3 6. "Social worker."
4 (b) Use of the following titles or any combination
5 thereof, unless the person holds a valid, active license as a
6 licensed master social worker issued pursuant to this part:
7 1. "Licensed master social worker."
8 2. "Master social worker."
9 3. "Licensed social worker."
10 4. "Graduate social worker."
11 5. "Advanced social worker."
12 6. "Social worker."
13 (c) Use of the following titles or any combination
14 thereof, unless the person holds a valid, active license as a
15 licensed bachelor social worker issued pursuant to this part:
16 1. "Licensed bachelor social worker."
17 2. "Bachelor social worker."
18 3. "Baccalaureate social worker."
19 4. "Licensed social worker."
20 5. "Social worker technician."
21 6. "Social worker."
22 (d) Use the title "registered clinical social worker
23 intern" unless he or she holds a valid, active registration
24 issued under this part.
25 (e) Use the title "provisional clinical social worker
26 licensee" unless he or she holds a valid, active provisional
27 license issued under this part.
28 (f) Use the term "psychotherapist" or "sex therapist,"
29 unless such person is licensed pursuant to this part or
30 chapter 490, or is certified under s. 464.012 as an advanced
31 registered nurse practitioner who has been determined by the

1 Board of Nursing as a specialist in psychiatric mental health
2 and the use of such term is within the scope of his or her
3 practice based on education, training, and licensure.

4 (g) Present as his or her own the social work license
5 of another.

6 (h) Give false or forged evidence to the board or a
7 member thereof for the purpose of obtaining a license.

8 (i) Use or attempt to use a license issued pursuant to
9 this part which has been revoked or is under suspension.

10 (j) Knowingly conceal information relative to any
11 violation of this part.

12 (k) Beginning January 1, 1999, practice social work in
13 this state, as the practice is defined in s. 491.102, unless
14 the person holds a valid, active license to practice social
15 work issued under this part.

16 (2) It is unlawful and a violation of this part for
17 any person to describe his or her services using the following
18 terms or any derivative thereof, unless such person holds a
19 valid, active license under this part or chapter 490, or is
20 certified under s. 464.012 as an advanced registered nurse
21 practitioner who has been determined by the Board of Nursing
22 as a specialist in psychiatric mental health and the use of
23 such terms is within the scope of his or her practice based on
24 education, training, and licensure:

25 (a) "Psychotherapy."

26 (b) "Sex therapy."

27 (c) "Sex counseling."

28 (d) "Clinical social work."

29 (e) "Psychiatric social work."

30 (3) It is unlawful and a violation of this part for
31 any person to describe his or her services using the following

1 terms or any derivative thereof, unless such person holds a
2 valid, active license under this part:

3 (a) "Social work."

4 (b) "Social work services."

5 (4) Any person who violates any provision of
6 subsection (1), subsection (2), or subsection (3) commits a
7 misdemeanor of the first degree, punishable as provided in s.
8 775.082 or s. 775.083.

9 (5) The department may institute appropriate judicial
10 proceedings to enjoin violation of this section.

11 491.118 Exemptions.--

12 (1) No provision of this part may be construed to
13 limit the practice of physicians licensed under chapter 458 or
14 chapter 459 or psychologists licensed under chapter 490, so
15 long as they do not unlawfully hold themselves out to the
16 public as possessing a license, provisional license, or
17 registration issued under this part or use a professional
18 title protected by this part.

19 (2) No provision of this part may be construed to
20 limit the practice of nursing, school psychology, or
21 psychology or to prevent qualified members of other
22 professions from doing work of a nature consistent with their
23 training and licensure, so long as they do not hold themselves
24 out to the public as possessing a license, provisional
25 license, or registration issued under this part or use a title
26 protected by this part.

27 (3) No provision of this part may be construed to
28 limit the performance of activities of a rabbi, priest,
29 minister, or clergyman of any religious denomination or sect,
30 or use of the term "Christian counselor" or "Christian
31 clinical counselor" when the activities are within the scope

1 of the performance of his or her regular or specialized
2 ministerial duties and no compensation is received by him or
3 her, or when such activities are performed, with or without
4 compensation, by a person for or under the auspices or
5 sponsorship, individually or in conjunction with others, of an
6 established and legally cognizable church, denomination, or
7 sect, and when the person rendering service remains
8 accountable to the established authority thereof, so long as
9 such person does not unlawfully hold himself or herself out to
10 the public as possessing a license issued under this part or
11 use a professional title protected by this part.

12 (4) A person is not required to be licensed,
13 provisionally licensed, or registered under this part who:

14 (a) Is a salaried employee of a government agency;
15 developmental services program or mental health, alcoholic, or
16 drug abuse facility operating under chapter 393, chapter 394,
17 or chapter 397; subsidized child care, subsidized child care
18 case management, or child care resource and referral program
19 operating under chapter 402; child-placing or child-caring
20 agency licensed under chapter 409; domestic violence center
21 certified under chapter 415; accredited academic institution;
22 or research institution, if such employee is performing duties
23 for which he or she was trained and hired solely within the
24 confines of such agency, facility, or institution.

25 (b) Is a salaried employee of a private, nonprofit
26 organization providing counseling services to children, youth,
27 and families, if such services are provided for no charge, if
28 such employee is performing duties for which he was trained
29 and hired.

30 (c) Is a student providing services regulated under
31 this part who is pursuing a course of study that leads to a

1 degree in a profession regulated by this part, is providing
2 services in a training setting, provided such services and
3 associated activities constitute part of a supervised course
4 of study, and is designated by the title "student intern."

5 (d) Is not a resident of this state but offers
6 services in this state, provided:

7 1. Such services are performed for no more than 5 days
8 in any month and no more than 15 days in any calendar year;
9 and

10 2. Such nonresident is licensed to practice the
11 services provided by a state or territory of the United States
12 or by a foreign country or province.

13
14 The exemptions in paragraphs (a) and (b) expire on January 1,
15 2003, after which no person will be exempt under such
16 conditions unless the person works in a program that
17 administers and maintains a competency-based training program
18 for employees providing social work services, or if the agency
19 maintains external accreditation by an appropriate
20 standard-setting body.

21 (5) No provision of this part may be construed to
22 limit the practice of any individual who solely engages in
23 behavior analysis so long as he or she does not hold himself
24 or herself out to the public as possessing a license issued
25 under this part or use a title protected by this part.

26 (6) Nothing in subsections (2)-(4) exempts any person
27 from the provisions of s. 491.117(1)(a)-(e).

28 (7) Any person who is not licensed under any provision
29 of this part by January 1, 1999, and who desires to become so
30 licensed shall register with the department that person's
31 intent to become fully licensed no later than January 1, 2000.

1 The costs to the department of such registration shall be
2 borne by the registrant. The department may require affidavits
3 and supporting documentation sufficient to demonstrate that
4 the registrant is preparing for examination by January 1,
5 1999, under this part. The department may adopt rules to
6 implement this subsection. Upon receipt of the department's
7 notice of registration, the registrant may practice services
8 as defined in s. 491.102(7) and (8), provided the registrant
9 uses "trainee" or "intern" with any title or description of
10 the registrant's work and on any business correspondence and
11 work product, including, but not limited to, a business card,
12 letterhead, sign, billing, or report, unless exempt under this
13 part.

14 (8) Except as stipulated by the board, the exemptions
15 contained in this section do not apply to any person licensed
16 under this part whose license has been suspended or revoked by
17 the board or another jurisdiction.

18 (9) Nothing in this section shall be construed to
19 exempt a person from meeting the minimum standards of
20 performance in professional activities when measured against
21 generally prevailing peer performance, including the
22 undertaking of activities for which the person is not
23 qualified by training or experience.

24 491.119 Practice of hypnosis.--Of the persons
25 regulated by this part, only a licensed clinical social worker
26 who is qualified as determined by the board may practice
27 hypnosis as defined in s. 456.32(1). The provisions of this
28 part may not be interpreted to limit or affect the right of
29 any person qualified under chapter 456 to practice hypnosis
30 pursuant to that chapter or to practice hypnosis for
31 nontherapeutic purposes, so long as such person does not hold

1 himself or herself out to the public as possessing a license
2 issued under this part or use a title protected by this part.

3 491.121 Practice of sex therapy.--Of the persons
4 regulated by this part, only a licensed clinical social worker
5 who meets the qualifications set by the board may hold himself
6 or herself out as a sex therapist. The board shall define
7 these qualifications by rule. In establishing these
8 qualifications, the board may refer to the sexual disorder and
9 sexual dysfunction sections of the most current edition of the
10 Diagnostic and Statistical Manual of the American Psychiatric
11 Association or other relevant publications.

12 491.122 Confidentiality and privileged
13 communications.--Any communication between any person licensed
14 under this part and his or her patient or client shall be
15 confidential. This secrecy may be waived under the following
16 conditions:

17 (1) When the person licensed under this part is a
18 party defendant to a civil, criminal, or disciplinary action
19 arising from a complaint filed by the patient or client, in
20 which case the waiver shall be limited to that action.

21 (2) When the patient or client agrees to the waiver,
22 in writing, or, when more than one person in a family is
23 receiving therapy, when each family member agrees to the
24 waiver, in writing.

25 (3) When there is a clear and immediate probability of
26 physical harm to the patient or client, to other individuals,
27 or to society and the person licensed under this part
28 communicates the information only to the potential victim,
29 appropriate family member, or law enforcement or other
30 appropriate authorities.

31

1 498.123 Records.--Each licensed social work
2 professional who provides services as defined in this part
3 must maintain records. The board may adopt rules defining the
4 minimum requirements for records and reports, including
5 content, length of time records must be maintained, and
6 transfer of either the records or a report of such records to
7 a subsequent treating practitioner or other individual with
8 written consent of the client or clients.

9 491.124 Display of license; use of professional title
10 on promotional materials.--

11 (1)(a) A person licensed under this part as a licensed
12 social worker shall conspicuously display the valid license
13 issued by the department or a true copy thereof at each
14 location at which the licensee practices his or her
15 profession.

16 (b) Licensed social workers shall include the words
17 "Licensed Clinical Social Worker" or the letters "LCSW," or
18 "Licensed Master Social Worker" or the letters "LMSW," or
19 "Licensed Bachelor Social Worker" or the letters "LBSW" on all
20 promotional materials, including cards, brochures, stationery,
21 advertisements, and signs, naming the licensee.

22 (2)(a) A person registered under this part as a
23 clinical social worker intern shall conspicuously display the
24 valid registration issued by the department or a true copy
25 thereof at each location at which the registered intern is
26 completing the experience requirements.

27 (b) A registered clinical social worker intern shall
28 include the words "registered clinical social worker intern"
29 on all promotional materials, including cards, brochures,
30 stationery, advertisements, and signs, naming the registered
31 intern.

1 (3)(a) A person provisionally licensed under this part
2 as a provisional clinical social worker licensee shall
3 conspicuously display the valid provisional license issued by
4 the department or a true copy thereof at each location at
5 which the provisional licensee is providing services.

6 (b) A provisional clinical social worker licensee
7 shall include the words "provisional clinical social worker
8 licensee" on all promotional materials, including cards,
9 brochures, stationery, advertisements, and signs, naming the
10 provisional licensee.

11 Section 2. Sections 491.002 through 491.0149, Florida
12 Statutes, are designated as part I of chapter 491, Florida
13 Statutes, and entitled "Marriage and Family Therapy and Mental
14 Health Counseling."

15 Section 3. Section 491.002, Florida Statutes, is
16 amended to read:

17 491.002 Intent.--The Legislature finds that as society
18 becomes increasingly complex, emotional survival is equal in
19 importance to physical survival. Therefore, in order to
20 preserve the health, safety, and welfare of the public, the
21 Legislature must provide privileged communication for members
22 of the public or those acting on their behalf to encourage
23 needed or desired counseling, clinical and psychotherapy
24 services, or certain other services of a psychological nature
25 to be sought out. The Legislature further finds that, since
26 such services assist the public primarily with emotional
27 survival, which in turn affects physical and psychophysical
28 survival, the practice of ~~clinical social work~~, marriage and
29 family therapy, and mental health counseling by persons not
30 qualified to practice such professions presents a danger to
31 public health, safety, and welfare. The Legislature finds

1 that, to further secure the health, safety, and welfare of the
2 public and also to encourage professional cooperation among
3 all qualified professionals, the Legislature must assist the
4 public in making informed choices of such services by
5 establishing minimum qualifications for entering into and
6 remaining in the respective professions.

7 Section 4. Section 491.003, Florida Statutes, is
8 amended to read:

9 491.003 Definitions.--As used in this part ~~chapter~~:

10 (1) "Board" means the Board of ~~Clinical Social Work,~~
11 Marriage and Family Therapy, and Mental Health Counseling.

12 ~~(2) "Clinical social worker" means a person licensed~~
13 ~~under this chapter to practice clinical social work.~~

14 ~~(3) "Clinical social work experience" is defined as a~~
15 ~~period during which the applicant provides clinical social~~
16 ~~work services, including assessment, diagnosis, treatment, and~~
17 ~~evaluation of clients; provided that at least 50 percent of~~
18 ~~the hours worked consist of providing psychotherapy and~~
19 ~~counseling services directly to clients.~~

20 ~~(2)(4)~~ "Department" means the Department of Health.

21 ~~(3)(5)~~ "Marriage and family therapist" means a person
22 licensed under this part ~~chapter~~ to practice marriage and
23 family therapy.

24 ~~(4)(6)~~ "Mental health counselor" means a person
25 licensed under this part ~~chapter~~ to practice mental health
26 counseling.

27 ~~(7) The "practice of clinical social work" is defined~~
28 ~~as the use of scientific and applied knowledge, theories, and~~
29 ~~methods for the purpose of describing, preventing, evaluating,~~
30 ~~and treating individual, couple, marital, family, or group~~
31 ~~behavior, based on the person-in-situation perspective of~~

1 ~~psychosocial development, normal and abnormal behavior,~~
2 ~~psychopathology, unconscious motivation, interpersonal~~
3 ~~relationships, environmental stress, differential assessment,~~
4 ~~differential planning, and data gathering. The purpose of~~
5 ~~such services is the prevention and treatment of undesired~~
6 ~~behavior and enhancement of mental health. The practice of~~
7 ~~clinical social work includes methods of a psychological~~
8 ~~nature used to evaluate, assess, diagnose, treat, and prevent~~
9 ~~emotional and mental disorders and dysfunctions (whether~~
10 ~~cognitive, affective, or behavioral), sexual dysfunction,~~
11 ~~behavioral disorders, alcoholism, and substance abuse. The~~
12 ~~practice of clinical social work includes, but is not limited~~
13 ~~to, psychotherapy, hypnotherapy, and sex therapy. The~~
14 ~~practice of clinical social work also includes counseling,~~
15 ~~behavior modification, consultation, client-centered advocacy,~~
16 ~~crisis intervention, and the provision of needed information~~
17 ~~and education to clients, when using methods of a~~
18 ~~psychological nature to evaluate, assess, diagnose, treat, and~~
19 ~~prevent emotional and mental disorders and dysfunctions~~
20 ~~(whether cognitive, affective, or behavioral), sexual~~
21 ~~dysfunction, behavioral disorders, alcoholism, or substance~~
22 ~~abuse. The practice of clinical social work may also include~~
23 ~~clinical research into more effective psychotherapeutic~~
24 ~~modalities for the treatment and prevention of such~~
25 ~~conditions.~~

26 ~~(a) Clinical social work may be rendered to~~
27 ~~individuals, including individuals affected by the termination~~
28 ~~of marriage, and to marriages, couples, families, groups,~~
29 ~~organizations, and communities.~~

30 ~~(b) The use of specific methods, techniques, or~~
31 ~~modalities within the practice of clinical social work is~~

1 ~~restricted to clinical social workers appropriately trained in~~
2 ~~the use of such methods, techniques, or modalities.~~

3 ~~(c) The terms "diagnose" and "treat," as used in this~~
4 ~~chapter, when considered in isolation or in conjunction with~~
5 ~~any provision of the rules of the board, shall not be~~
6 ~~construed to permit the performance of any act which clinical~~
7 ~~social workers are not educated and trained to perform,~~
8 ~~including, but not limited to, admitting persons to hospitals~~
9 ~~for treatment of the foregoing conditions, treating persons in~~
10 ~~hospitals without medical supervision, prescribing medicinal~~
11 ~~drugs as defined in chapter 465, authorizing clinical~~
12 ~~laboratory procedures pursuant to chapter 483, or radiological~~
13 ~~procedures, or use of electroconvulsive therapy. In addition,~~
14 ~~this definition shall not be construed to permit any person~~
15 ~~licensed, provisionally licensed, registered, or certified~~
16 ~~pursuant to this chapter to describe or label any test,~~
17 ~~report, or procedure as "psychological," except to relate~~
18 ~~specifically to the definition of practice authorized in this~~
19 ~~subsection.~~

20 ~~(d) The definition of "clinical social work" contained~~
21 ~~in this subsection includes all services offered directly to~~
22 ~~the general public or through organizations, whether public or~~
23 ~~private, and applies whether payment is requested or received~~
24 ~~for services rendered.~~

25 (5)(8) The "practice of marriage and family therapy"
26 is defined as the use of scientific and applied marriage and
27 family theories, methods, and procedures for the purpose of
28 describing, evaluating, and modifying marital, family, and
29 individual behavior, within the context of marital and family
30 systems, including the context of marital formation and
31 dissolution, and is based on marriage and family systems

1 theory, marriage and family development, human development,
2 normal and abnormal behavior, psychopathology, human
3 sexuality, psychotherapeutic and marriage and family therapy
4 theories and techniques. The practice of marriage and family
5 therapy includes methods of a psychological nature used to
6 evaluate, assess, diagnose, treat, and prevent emotional and
7 mental disorders or dysfunctions (whether cognitive,
8 affective, or behavioral), sexual dysfunction, behavioral
9 disorders, alcoholism, and substance abuse. The practice of
10 marriage and family therapy includes, but is not limited to,
11 marriage and family therapy, psychotherapy, including
12 behavioral family therapy, hypnotherapy, and sex therapy. The
13 practice of marriage and family therapy also includes
14 counseling, behavior modification, consultation,
15 client-centered advocacy, crisis intervention, and the
16 provision of needed information and education to clients, when
17 using methods of a psychological nature to evaluate, assess,
18 diagnose, treat, and prevent emotional and mental disorders
19 and dysfunctions (whether cognitive, affective, or
20 behavioral), sexual dysfunction, behavioral disorders,
21 alcoholism, or substance abuse. The practice of marriage and
22 family therapy may also include clinical research into more
23 effective psychotherapeutic modalities for the treatment and
24 prevention of such conditions.

25 (a) Marriage and family therapy may be rendered to
26 individuals, including individuals affected by termination of
27 marriage, to couples, whether married or unmarried, to
28 families, or to groups.

29 (b) The use of specific methods, techniques, or
30 modalities within the practice of marriage and family therapy

31

1 is restricted to marriage and family therapists appropriately
2 trained in the use of such methods, techniques, or modalities.

3 (c) The terms "diagnose" and "treat," as used in this
4 part chapter, when considered in isolation or in conjunction
5 with any provision of the rules of the board, shall not be
6 construed to permit the performance of any act which marriage
7 and family therapists are not educated and trained to perform,
8 including, but not limited to, admitting persons to hospitals
9 for treatment of the foregoing conditions, treating persons in
10 hospitals without medical supervision, prescribing medicinal
11 drugs as defined in chapter 465, authorizing clinical
12 laboratory procedures pursuant to chapter 483, or radiological
13 procedures, or use of electroconvulsive therapy. In addition,
14 this definition shall not be construed to permit any person
15 licensed, provisionally licensed, or registered, ~~or certified~~
16 pursuant to this part chapter to describe or label any test,
17 report, or procedure as "psychological," except to relate
18 specifically to the definition of practice authorized in this
19 subsection.

20 (d) The definition of "marriage and family therapy"
21 contained in this subsection includes all services offered
22 directly to the general public or through organizations,
23 whether public or private, and applies whether payment is
24 requested or received for services rendered.

25 ~~(6)(9)~~ The "practice of mental health counseling" is
26 defined as the use of scientific and applied behavioral
27 science theories, methods, and techniques for the purpose of
28 describing, preventing, and treating undesired behavior and
29 enhancing mental health and human development and is based on
30 the person-in-situation perspectives derived from research and
31 theory in personality, family, group, and organizational

1 dynamics and development, career planning, cultural diversity,
2 human growth and development, human sexuality, normal and
3 abnormal behavior, psychopathology, psychotherapy, and
4 rehabilitation. The practice of mental health counseling
5 includes methods of a psychological nature used to evaluate,
6 assess, diagnose, and treat emotional and mental dysfunctions
7 or disorders (whether cognitive, affective, or behavioral),
8 behavioral disorders, interpersonal relationships, sexual
9 dysfunction, alcoholism, and substance abuse. The practice of
10 mental health counseling includes, but is not limited to,
11 psychotherapy, hypnotherapy, and sex therapy. The practice of
12 mental health counseling also includes counseling, behavior
13 modification, consultation, client-centered advocacy, crisis
14 intervention, and the provision of needed information and
15 education to clients, when using methods of a psychological
16 nature to evaluate, assess, diagnose, treat, and prevent
17 emotional and mental disorders and dysfunctions (whether
18 cognitive, affective, or behavioral), behavioral disorders,
19 sexual dysfunction, alcoholism, or substance abuse. The
20 practice of mental health counseling may also include clinical
21 research into more effective psychotherapeutic modalities for
22 the treatment and prevention of such conditions.

23 (a) Mental health counseling may be rendered to
24 individuals, including individuals affected by the termination
25 of marriage, and to couples, families, groups, organizations,
26 and communities.

27 (b) The use of specific methods, techniques, or
28 modalities within the practice of mental health counseling is
29 restricted to mental health counselors appropriately trained
30 in the use of such methods, techniques, or modalities.

31

1 (c) The terms "diagnose" and "treat," as used in this
2 part chapter, when considered in isolation or in conjunction
3 with any provision of the rules of the board, shall not be
4 construed to permit the performance of any act which mental
5 health counselors are not educated and trained to perform,
6 including, but not limited to, admitting persons to hospitals
7 for treatment of the foregoing conditions, treating persons in
8 hospitals without medical supervision, prescribing medicinal
9 drugs as defined in chapter 465, authorizing clinical
10 laboratory procedures pursuant to chapter 483, or radiological
11 procedures, or use of electroconvulsive therapy. In addition,
12 this definition shall not be construed to permit any person
13 licensed, provisionally licensed, or registered, ~~or certified~~
14 pursuant to this part chapter to describe or label any test,
15 report, or procedure as "psychological," except to relate
16 specifically to the definition of practice authorized in this
17 subsection.

18 (d) The definition of "mental health counseling"
19 contained in this subsection includes all services offered
20 directly to the general public or through organizations,
21 whether public or private, and applies whether payment is
22 requested or received for services rendered.

23 ~~(10) "Provisional clinical social worker licensee"~~
24 ~~means a person provisionally licensed under this chapter to~~
25 ~~provide clinical social work services under supervision.~~

26 (7)~~(11)~~ "Provisional marriage and family therapist
27 licensee" means a person provisionally licensed under this
28 part chapter to provide marriage and family therapy services
29 under supervision.

30 (8)~~(12)~~ "Provisional mental health counselor licensee"
31 means a person provisionally licensed under this part chapter

1 to provide mental health counseling services under
2 supervision.

3 (9)~~(13)~~ "Psychotherapist" means a clinical social
4 worker licensed under part II or a, marriage and family
5 therapist, or mental health counselor licensed under pursuant
6 to this part chapter.

7 ~~(14)~~ "Registered clinical social worker intern" means
8 a person registered under this chapter who is completing the
9 postgraduate clinical social work experience requirement
10 specified in s. ~~491.005(1)(c)~~.

11 (10)~~(15)~~ "Registered marriage and family therapist
12 intern" means a person registered under this part chapter who
13 is completing the post-master's clinical experience
14 requirement specified in s. 491.005(1)~~(3)~~(c).

15 (11)~~(16)~~ "Registered mental health counselor intern"
16 means a person registered under this part chapter who is
17 completing the post-master's clinical experience requirement
18 specified in s. 491.005(2)~~(4)~~(c).

19 Section 5. Section 491.004, Florida Statutes, is
20 amended to read:

21 491.004 Board of ~~Clinical Social Work~~, Marriage and
22 Family Therapy, and Mental Health Counseling.--

23 (1) There is created within the department the Board
24 of ~~Clinical Social Work~~, Marriage and Family Therapy, and
25 Mental Health Counseling composed of nine members appointed by
26 the Governor and confirmed by the Senate.

27 (2)(a) Six members of the board shall be persons
28 licensed under this part chapter as follows:

29 1. ~~Two members shall be licensed practicing clinical~~
30 ~~social workers.~~

31

1 1.2. Three ~~Two~~ members shall be licensed practicing
2 marriage and family therapists.

3 2.3. Three ~~Two~~ members shall be licensed practicing
4 mental health counselors.

5 (b) Three members shall be citizens of the state who
6 are not and have never been licensed in a mental
7 health-related profession and who are in no way connected with
8 the practice of any such profession.

9 (3) No later than January 1, 1988, the Governor shall
10 appoint the initial ~~nine~~ members of the board as follows:

11 (a) Three members for terms of 2 years each.

12 (b) Three members for terms of 3 years each.

13 (c) Three members for terms of 4 years each.

14 (4) As the terms of the initial members expire, the
15 Governor shall appoint successors for terms of 4 years; and
16 those members shall serve until their successors are
17 appointed.

18 (5) The board shall adopt rules to implement and
19 enforce the provisions of this part ~~chapter~~.

20 (6) All applicable provisions of chapter 455 relating
21 to activities of regulatory boards shall apply to the board.

22 (7) The board shall maintain its official headquarters
23 in the City of Tallahassee.

24 Section 6. Section 491.0045, Florida Statutes, is
25 amended to read:

26 491.0045 Intern registration; requirements.--

27 (1) ~~Effective January 1, 1998,~~An individual who
28 intends to practice in Florida to satisfy the postgraduate or
29 post-master's level experience requirements, as specified in
30 s. 491.005(1)(c), ~~(3)(c), or~~ (2)(4)(c), must register as an
31

1 intern in the profession for which he or she is seeking
2 licensure prior to commencing the experience requirement.

3 (2) The department shall register as a ~~clinical social~~
4 ~~worker intern,~~ marriage and family therapist intern, or mental
5 health counselor intern each applicant who the board certifies
6 has:

7 (a) Completed the application form and remitted a
8 nonrefundable application fee not to exceed \$200, as set by
9 board rule;

10 (b) Completed the education requirements as specified
11 in s. 491.005 for the profession for which he or she is
12 applying for licensure; and

13 (c) Identified a qualified supervisor.

14 (3) An individual registered under this section must
15 remain under supervision until he or she is in receipt of a
16 license or a letter from the department stating that he or she
17 is licensed to practice the profession for which he or she
18 applied.

19 Section 7. Section 491.0046, Florida Statutes, is
20 amended to read:

21 491.0046 Provisional license; requirements.--

22 (1) An individual who has satisfied the clinical
23 experience requirements of s. 491.005 intending to provide
24 ~~clinical social work,~~ marriage and family therapy, or mental
25 health counseling services in Florida while satisfying
26 coursework or examination requirements for licensure must be
27 provisionally licensed in the profession for which he or she
28 is seeking licensure prior to beginning practice.

29 (2) The department shall issue a ~~provisional clinical~~
30 ~~social worker license,~~ provisional marriage and family
31

1 therapist license, or provisional mental health counselor
2 license to each applicant who the board certifies has:

3 (a) Completed the application form and remitted a
4 nonrefundable application fee not to exceed \$100, as set by
5 board rule; and

6 (b)1. Earned ~~a graduate degree in social work,~~a
7 graduate degree with a major emphasis in marriage and family
8 therapy or a closely related field, or a graduate degree in a
9 major related to the practice of mental health counseling, and
10 satisfied the clinical experience requirements for licensure
11 pursuant to s. 491.005; or

12 2. Been approved for examination under the provisions
13 for licensure by endorsement pursuant to s. 491.006.

14 (3) A provisional licensee must work under the
15 supervision of a licensed mental health professional, as
16 defined by the board, until the provisional licensee is in
17 receipt of a license or a letter from the department stating
18 that he or she is licensed as a ~~clinical social worker,~~
19 marriage and family therapist, or mental health counselor.

20 (4) A provisional license expires 24 months after the
21 date it is issued and may not be renewed or reissued.

22 Section 8. Section 491.0047, Florida Statutes, is
23 amended to read:

24 491.0047 Exemptions from public records and meetings
25 requirements.--The exemptions from s. 119.07(1) provided by
26 ss. 455.621 ~~455.225~~(2) and (10) and 455.707 ~~455.261~~(3)(e) and
27 (5)(a) also apply to information concerning ~~a provisional~~
28 ~~psychologist regulated by the Agency for Health Care~~
29 ~~Administration and the Department of Health under chapter 490,~~
30 ~~a registered clinical social worker intern,~~a registered
31 marriage and family therapist intern, a registered mental

1 health counselor intern, ~~a provisional clinical social worker,~~
2 a provisional marriage and family therapist, or a provisional
3 mental health counselor regulated by the Agency for Health
4 Care Administration and the department of Health under this
5 part ~~chapter~~. The exemption from s. 286.011 provided by s.
6 455.621 ~~455.225~~(4) also applies to the proceedings of a
7 probable cause panel with respect to an investigation
8 concerning ~~a provisional psychologist, a registered clinical~~
9 ~~social worker intern,~~a registered marriage and family
10 therapist intern, a registered mental health counselor intern,
11 ~~a provisional clinical social worker,~~a provisional marriage
12 and family therapist, or a provisional mental health counselor
13 regulated by the agency and department under ~~chapter 490 or~~
14 this part ~~chapter~~. This section is subject to the Open
15 Government Sunset Review Act of 1995 in accordance with s.
16 119.15 and shall stand repealed on October 2, 2002, unless
17 reviewed and saved from repeal through reenactment by the
18 Legislature.

19 Section 9. Section 491.005, Florida Statutes, is
20 amended to read:

21 491.005 Licensure by examination.--

22 ~~(1) Upon verification of documentation and payment of~~
23 ~~a fee not to exceed \$200, as set by board rule, plus the~~
24 ~~actual per applicant cost to the department for purchase of~~
25 ~~the examination from the American Association of State Social~~
26 ~~Worker's Boards or a similar national organization, the~~
27 ~~department shall issue a license as a clinical social worker~~
28 ~~to an applicant who the board certifies:~~

29 ~~(a) Has made application therefor and paid the~~
30 ~~appropriate fee.~~

31

1 ~~(b)1. Has received a doctoral degree in social work~~
2 ~~from a graduate school of social work which at the time the~~
3 ~~applicant graduated was accredited by an accrediting agency~~
4 ~~recognized by the United States Department of Education or has~~
5 ~~received a master's degree in social work from a graduate~~
6 ~~school of social work which at the time the applicant~~
7 ~~graduated:~~

8 ~~a. Was accredited by the Council on Social Work~~
9 ~~Education;~~

10 ~~b. Was accredited by the Canadian Association of~~
11 ~~Schools of Social Work; or~~

12 ~~c. Has been determined to have been a program~~
13 ~~equivalent to programs approved by the Council on Social Work~~
14 ~~Education by the Foreign Equivalency Determination Service of~~
15 ~~the Council on Social Work Education. An applicant who~~
16 ~~graduated from a program at a university or college outside of~~
17 ~~the United States or Canada must present documentation of the~~
18 ~~equivalency determination from the council in order to~~
19 ~~qualify.~~

20 ~~2. The applicant's graduate program must have~~
21 ~~emphasized direct clinical patient or client health care~~
22 ~~services, including, but not limited to, coursework in~~
23 ~~clinical social work, psychiatric social work, medical social~~
24 ~~work, social casework, psychotherapy, or group therapy. The~~
25 ~~applicant's graduate program must have included all of the~~
26 ~~following coursework:~~

27 ~~a. A supervised field placement which was part of the~~
28 ~~applicant's advanced concentration in direct practice, during~~
29 ~~which the applicant provided clinical services directly to~~
30 ~~clients.~~

31

1 ~~b. Completion of 24 semester hours or 37 quarter hours~~
2 ~~in theory of human behavior and practice methods as courses in~~
3 ~~clinically oriented services, including a minimum of one~~
4 ~~course in psychopathology taken in a school of social work~~
5 ~~accredited or approved pursuant to subparagraph 1.~~

6 ~~3. If the course title which appears on the~~
7 ~~applicant's transcript does not clearly identify the content~~
8 ~~of the coursework, the applicant shall be required to provide~~
9 ~~additional documentation, including, but not limited to, a~~
10 ~~syllabus or catalog description published for the course.~~

11 ~~(c) Has had not less than 2 years of clinical social~~
12 ~~work experience, which took place subsequent to completion of~~
13 ~~a graduate degree in social work at an institution meeting the~~
14 ~~accreditation requirements of this section, under the~~
15 ~~supervision of a licensed clinical social worker or the~~
16 ~~equivalent who is a qualified supervisor as determined by the~~
17 ~~board. An individual who intends to practice in Florida to~~
18 ~~satisfy clinical experience requirements must register~~
19 ~~pursuant to s. 491.0045 prior to commencing practice. If the~~
20 ~~applicant's graduate program was not a program which~~
21 ~~emphasized direct clinical patient or client health care~~
22 ~~services as described in s. 491.003, the supervised experience~~
23 ~~requirement must take place after the applicant has completed~~
24 ~~a minimum of 15 semester hours or 22 quarter hours of the~~
25 ~~coursework required. A doctoral internship may be applied~~
26 ~~toward the clinical social work experience requirement. The~~
27 ~~experience requirement may be met by work performed on or off~~
28 ~~the premises of the supervising clinical social worker or the~~
29 ~~equivalent, provided the off-premises work is not the~~
30 ~~independent private practice rendering of clinical social work~~
31 ~~that does not have a licensed mental health professional, as~~

1 ~~determined by the board, on the premises at the same time the~~
2 ~~intern is providing services.~~

3 ~~(d) Has passed a theory and practice examination~~
4 ~~provided by the department for this purpose.~~

5 ~~(e) Has demonstrated, in a manner designated by rule~~
6 ~~of the board, knowledge of the laws and rules governing the~~
7 ~~practice of clinical social work, marriage and family therapy,~~
8 ~~and mental health counseling.~~

9 ~~(2)(a) Notwithstanding the provisions of paragraph~~
10 ~~(1)(b), coursework which was taken at a baccalaureate level~~
11 ~~shall not be considered toward completion of education~~
12 ~~requirements for licensure unless an official of the graduate~~
13 ~~program certifies in writing on the graduate school's~~
14 ~~stationery that a specific course, which students enrolled in~~
15 ~~the same graduate program were ordinarily required to complete~~
16 ~~at the graduate level, was waived or exempted based on~~
17 ~~completion of a similar course at the baccalaureate level. If~~
18 ~~this condition is met, the board shall apply the baccalaureate~~
19 ~~course named toward the education requirements.~~

20 ~~(b) An applicant from a master's or doctoral program~~
21 ~~in social work which did not emphasize direct patient or~~
22 ~~client services may complete the clinical curriculum content~~
23 ~~requirement by returning to a graduate program accredited by~~
24 ~~the Council on Social Work Education or the Canadian~~
25 ~~Association of Schools of Social Work, or to a clinical social~~
26 ~~work graduate program with comparable standards, in order to~~
27 ~~complete the education requirements for examination. However,~~
28 ~~a maximum of 6 semester or 9 quarter hours of the clinical~~
29 ~~curriculum content requirement may be completed by credit~~
30 ~~awarded for independent study coursework as defined by board~~
31 ~~rule.~~

1 (1)~~(3)~~ Upon verification of documentation and payment
2 of a fee not to exceed \$200, as set by board rule, plus the
3 actual cost to the department for the purchase of the
4 examination from the Association of Marital and Family Therapy
5 Regulatory Board, or similar national organization, the
6 department shall issue a license as a marriage and family
7 therapist to an applicant who the board certifies:

8 (a) Has made application therefor and paid the
9 appropriate fee.

10 (b)1. Has a minimum of a master's degree with major
11 emphasis in marriage and family therapy, or a closely related
12 field, and has completed all of the following requirements:

13 a. Twenty-seven semester hours or 41 quarter hours of
14 graduate coursework, which must include a minimum of 2
15 semester hours or 3 quarter hours of graduate-level course
16 credits in each of the following nine areas: dynamics of
17 marriage and family systems; marriage therapy and counseling
18 theory and techniques; family therapy and counseling theory
19 and techniques; individual human development theories
20 throughout the life cycle; personality theory;
21 psychopathology; human sexuality theory and counseling
22 techniques; general counseling theory and techniques; and
23 psychosocial theory. Content may be combined, provided no more
24 than two of the nine content areas are included in any one
25 graduate-level course and the applicant can document that the
26 equivalent of 2 semester hours of coursework was devoted to
27 each content area. Courses in research, evaluation, appraisal,
28 assessment, or testing theories and procedures; thesis or
29 dissertation work; or practicums, internships, or fieldwork
30 may not be applied toward this requirement.

31

1 b. A minimum of one graduate-level course of 2
2 semester hours or 3 quarter hours in legal, ethical, and
3 professional standards issues in the practice of marriage and
4 family therapy or a course determined by the board to be
5 equivalent.

6 c. A minimum of one graduate-level course of 2
7 semester hours or 3 quarter hours in diagnosis, appraisal,
8 assessment, and testing for individual or interpersonal
9 disorder or dysfunction; and a minimum of one 2-semester-hour
10 or 3-quarter-hour graduate-level course in behavioral research
11 which focuses on the interpretation and application of
12 research data as it applies to clinical practice. Credit for
13 thesis or dissertation work, practicums, internships, or
14 fieldwork may not be applied toward this requirement.

15 d. A minimum of one supervised clinical practicum,
16 internship, or field experience in a marriage and family
17 counseling setting, during which the student provided 180
18 direct client contact hours of marriage and family therapy
19 services under the supervision of an individual who met the
20 requirements for supervision under paragraph (c). This
21 requirement may be met by a supervised practice experience
22 which took place outside the academic arena, but which is
23 certified as equivalent to a graduate-level practicum or
24 internship program which required a minimum of 180 direct
25 client contact hours of marriage and family therapy services
26 currently offered within an academic program of a college or
27 university accredited by an accrediting agency approved by the
28 United States Department of Education, or an institution which
29 is publicly recognized as a member in good standing with the
30 Association of Universities and Colleges of Canada or a
31 training institution accredited by the Commission on

1 Accreditation for Marriage and Family Therapy Education
2 recognized by the United States Department of Education.
3 Certification shall be required from an official of such
4 college, university, or training institution.

5 2. If the course title which appears on the
6 applicant's transcript does not clearly identify the content
7 of the coursework, the applicant shall be required to provide
8 additional documentation, including, but not limited to, a
9 syllabus or catalog description published for the course.

10

11 The required master's degree must have been received in an
12 institution of higher education which at the time the
13 applicant graduated was: fully accredited by a regional
14 accrediting body recognized by the Commission on Recognition
15 of Postsecondary Accreditation; publicly recognized as a
16 member in good standing with the Association of Universities
17 and Colleges of Canada; or an institution of higher education
18 located outside the United States and Canada, which at the
19 time the applicant was enrolled and at the time the applicant
20 graduated maintained a standard of training substantially
21 equivalent to the standards of training of those institutions
22 in the United States which are accredited by a regional
23 accrediting body recognized by the Commission on Recognition
24 of Postsecondary Accreditation. Such foreign education and
25 training must have been received in an institution or program
26 of higher education officially recognized by the government of
27 the country in which it is located as an institution or
28 program to train students to practice as professional marriage
29 and family therapists or psychotherapists. The burden of
30 establishing that the requirements of this provision have been
31 met shall be upon the applicant, and the board shall require

1 documentation, such as, but not limited to, an evaluation by a
2 foreign equivalency determination service, as evidence that
3 the applicant's graduate degree program and education were
4 equivalent to an accredited program in this country. An
5 applicant with a master's degree from a program which did not
6 emphasize marriage and family therapy may complete the
7 coursework requirement in a training institution fully
8 accredited by the Commission on Accreditation for Marriage and
9 Family Therapy Education recognized by the United States
10 Department of Education.

11 (c) Has had not less than 2 years of clinical
12 experience during which 50 percent of the applicant's clients
13 were receiving marriage and family therapy services, which
14 must be at the post-master's level under the supervision of a
15 licensed marriage and family therapist with at least 5 years
16 of experience, or the equivalent, who is a qualified
17 supervisor as determined by the board. An individual who
18 intends to practice in Florida to satisfy the clinical
19 experience requirements must register pursuant to s. 491.0045
20 prior to commencing practice. If a graduate has a master's
21 degree with a major emphasis in marriage and family therapy or
22 a closely related field that did not include all the
23 coursework required under sub-subparagraphs (b)1.a.-c., credit
24 for the post-master's level clinical experience shall not
25 commence until the applicant has completed a minimum of 10 of
26 the courses required under sub-subparagraphs (b)1.a.-c., as
27 determined by the board, and at least 6 semester hours or 9
28 quarter hours of the course credits must have been completed
29 in the area of marriage and family systems, theories, or
30 techniques. Within the 2 ~~3~~ years of required experience, the
31 applicant shall provide direct individual, group, or family

1 therapy and counseling, to include the following categories of
2 cases: unmarried dyads, married couples, separating and
3 divorcing couples, and family groups including children. A
4 doctoral internship may be applied toward the clinical
5 experience requirement. The clinical experience requirement
6 may be met by work performed on or off the premises of the
7 supervising marriage and family therapist or the equivalent,
8 provided the off-premises work is not the independent private
9 practice rendering of marriage and family therapy services
10 that does not have a licensed mental health professional, as
11 determined by the board, on the premises at the same time the
12 intern is providing services.

13 (d) Has passed a theory and practice examination
14 provided by the department for this purpose.

15 (e) Has demonstrated, in a manner designated by rule
16 of the board, knowledge of the laws and rules governing the
17 practice of ~~clinical social work~~, marriage and family therapy,
18 and mental health counseling.

19 (2)~~(4)~~ Upon verification of documentation and payment
20 of a fee not to exceed \$200, as set by board rule, plus the
21 actual per applicant cost to the department for purchase of
22 the examination from the Professional Examination Service for
23 the National Academy of Certified Clinical Mental Health
24 Counselors or a similar national organization, the department
25 shall issue a license as a mental health counselor to an
26 applicant who the board certifies:

27 (a) Has made application therefor and paid the
28 appropriate fee.

29 (b)1. Has received a minimum of an earned master's
30 degree with a major related to the practice of mental health
31

1 counseling, and has completed all of the following
2 requirements:

3 a. Twenty-one semester hours or 32 quarter hours of
4 graduate coursework, which must include a minimum of 2
5 semester hours or 3 quarter hours of graduate-level coursework
6 in each of the following seven content areas: counseling
7 theories and practice; human development theories; personality
8 theory; psychopathology or abnormal psychology; human
9 sexuality theories; group theories and practice; and
10 individual evaluation and assessment. Content may be
11 combined, provided no more than two of the seven content areas
12 are included in any one graduate-level course and the
13 applicant can document that the equivalent of 2 semester hours
14 of content was devoted to each content area. Courses in
15 research, thesis or dissertation work, practicums,
16 internships, or fieldwork may not be applied toward this
17 requirement.

18 b. A minimum of one 2-semester-hour or 3-quarter-hour
19 graduate-level course in research or in career or vocational
20 counseling. Credit for thesis or dissertation work,
21 practicums, internships, or fieldwork may not be applied
22 toward this requirement.

23 c. A minimum of 2 semester hours or 3 quarter hours of
24 graduate-level coursework in legal, ethical, and professional
25 standards issues in the practice of mental health counseling,
26 which includes goals and objectives of professional counseling
27 organizations, codes of ethics, legal considerations,
28 standards of preparation, certifications and licensing, and
29 the role identity of counselors. Courses in research, thesis
30 or dissertation work, practicums, internships, or fieldwork
31 may not be applied toward this requirement.

1 d. A minimum of one supervised practicum, internship,
2 or field experience in a counseling setting. This requirement
3 may be met by a supervised practice experience which takes
4 place outside the academic arena, but which is certified as
5 equivalent to a graduate-level practicum in a clinical mental
6 health counseling setting currently offered within an academic
7 program of a college or university accredited by an
8 accrediting agency approved by the United States Department of
9 Education. Such certification shall be required from an
10 official of such college or university.

11 2. If the course title which appears on the
12 applicant's transcript does not clearly identify the content
13 of the coursework, the applicant shall be required to provide
14 additional documentation, including, but not limited to, a
15 syllabus or catalog description published for the course.

16
17 Except as provided in sub-subparagraph 1.d., education and
18 training in mental health counseling must have been received
19 in an institution of higher education which at the time the
20 applicant graduated was: fully accredited by a regional
21 accrediting body recognized by the Commission on Recognition
22 of Postsecondary Accreditation; publicly recognized as a
23 member in good standing with the Association of Universities
24 and Colleges of Canada; or an institution of higher education
25 located outside the United States and Canada, which at the
26 time the applicant was enrolled and at the time the applicant
27 graduated maintained a standard of training substantially
28 equivalent to the standards of training of those institutions
29 in the United States which are accredited by a regional
30 accrediting body recognized by the Commission on Recognition
31 of Postsecondary Accreditation. Such foreign education and

1 training must have been received in an institution or program
2 of higher education officially recognized by the government of
3 the country in which it is located as an institution or
4 program to train students to practice as mental health
5 counselors. The burden of establishing that the requirements
6 of this provision have been met shall be upon the applicant,
7 and the board shall require documentation, such as, but not
8 limited to, an evaluation by a foreign equivalency
9 determination service, as evidence that the applicant's
10 graduate degree program and education were equivalent to an
11 accredited program in this country.

12 (c) Has had not less than 2 years of clinical
13 experience in mental health counseling, which must be at the
14 post-master's level under the supervision of a licensed mental
15 health counselor or the equivalent who is a qualified
16 supervisor as determined by the board. An individual who
17 intends to practice in Florida to satisfy the clinical
18 experience requirements must register pursuant to s. 491.0045
19 prior to commencing practice. If a graduate has a master's
20 degree with a major related to the practice of mental health
21 counseling which did not include all the coursework required
22 under sub-subparagraphs (b)1.a.-c., credit for the
23 post-master's level clinical experience shall not commence
24 until the applicant has completed a minimum of seven of the
25 courses required under sub-subparagraphs (b)1.a.-c., as
26 determined by the board, one of which must be a course in
27 psychopathology or abnormal psychology. A doctoral internship
28 may be applied toward the clinical experience requirement. The
29 clinical experience requirement may be met by work performed
30 on or off the premises of the supervising mental health
31 counselor or the equivalent, provided the off-premises work is

1 not the independent private practice rendering of services
2 that does not have a licensed mental health professional, as
3 determined by the board, on the premises at the same time the
4 intern is providing services.

5 (d) Has passed a theory and practice examination
6 provided by the department for this purpose.

7 (e) Has demonstrated, in a manner designated by rule
8 of the board, knowledge of the laws and rules governing the
9 practice of ~~clinical social work~~, marriage and family therapy,
10 and mental health counseling.

11 Section 10. Effective January 1, 2001, paragraph (b)
12 of subsection (1) and paragraphs (b) and (c) of subsection (2)
13 of section 491.005, Florida Statutes, as amended by chapters
14 97-198 and 97-264, Laws of Florida, and this act, are
15 reenacted to read:

16 491.005 Licensure by examination.--

17 (1) Upon verification of documentation and payment of
18 a fee not to exceed \$200, as set by board rule, plus the
19 actual cost to the department for the purchase of the
20 examination from the Association of Marital and Family Therapy
21 Regulatory Board, or similar national organization, the
22 department shall issue a license as a marriage and family
23 therapist to an applicant who the board certifies:

24 (b)1. Has a minimum of a master's degree with major
25 emphasis in marriage and family therapy, or a closely related
26 field, and has completed all of the following requirements:

27 a. Thirty-six semester hours or 48 quarter hours of
28 graduate coursework, which must include a minimum of 3
29 semester hours or 4 quarter hours of graduate-level course
30 credits in each of the following nine areas: dynamics of
31 marriage and family systems; marriage therapy and counseling

1 theory and techniques; family therapy and counseling theory
2 and techniques; individual human development theories
3 throughout the life cycle; personality theory or general
4 counseling theory and techniques; psychopathology; human
5 sexuality theory and counseling techniques; psychosocial
6 theory; and substance abuse theory and counseling techniques.
7 Courses in research, evaluation, appraisal, assessment, or
8 testing theories and procedures; thesis or dissertation work;
9 or practicums, internships, or fieldwork may not be applied
10 toward this requirement.

11 b. A minimum of one graduate-level course of 3
12 semester hours or 4 quarter hours in legal, ethical, and
13 professional standards issues in the practice of marriage and
14 family therapy or a course determined by the board to be
15 equivalent.

16 c. A minimum of one graduate-level course of 3
17 semester hours or 4 quarter hours in diagnosis, appraisal,
18 assessment, and testing for individual or interpersonal
19 disorder or dysfunction; and a minimum of one 3-semester-hour
20 or 4-quarter-hour graduate-level course in behavioral research
21 which focuses on the interpretation and application of
22 research data as it applies to clinical practice. Credit for
23 thesis or dissertation work, practicums, internships, or
24 fieldwork may not be applied toward this requirement.

25 d. A minimum of one supervised clinical practicum,
26 internship, or field experience in a marriage and family
27 counseling setting, during which the student provided 180
28 direct client contact hours of marriage and family therapy
29 services under the supervision of an individual who met the
30 requirements for supervision under paragraph (c). This
31 requirement may be met by a supervised practice experience

1 which took place outside the academic arena, but which is
2 certified as equivalent to a graduate-level practicum or
3 internship program which required a minimum of 180 direct
4 client contact hours of marriage and family therapy services
5 currently offered within an academic program of a college or
6 university accredited by an accrediting agency approved by the
7 United States Department of Education, or an institution which
8 is publicly recognized as a member in good standing with the
9 Association of Universities and Colleges of Canada or a
10 training institution accredited by the Commission on
11 Accreditation for Marriage and Family Therapy Education
12 recognized by the United States Department of Education.
13 Certification shall be required from an official of such
14 college, university, or training institution.

15 2. If the course title which appears on the
16 applicant's transcript does not clearly identify the content
17 of the coursework, the applicant shall be required to provide
18 additional documentation, including, but not limited to, a
19 syllabus or catalog description published for the course.

20
21 The required master's degree must have been received in an
22 institution of higher education which at the time the
23 applicant graduated was: fully accredited by a regional
24 accrediting body recognized by the Commission on Recognition
25 of Postsecondary Accreditation; publicly recognized as a
26 member in good standing with the Association of Universities
27 and Colleges of Canada; or an institution of higher education
28 located outside the United States and Canada, which at the
29 time the applicant was enrolled and at the time the applicant
30 graduated maintained a standard of training substantially
31 equivalent to the standards of training of those institutions

1 | in the United States which are accredited by a regional
2 | accrediting body recognized by the Commission on Recognition
3 | of Postsecondary Accreditation. Such foreign education and
4 | training must have been received in an institution or program
5 | of higher education officially recognized by the government of
6 | the country in which it is located as an institution or
7 | program to train students to practice as professional marriage
8 | and family therapists or psychotherapists. The burden of
9 | establishing that the requirements of this provision have been
10 | met shall be upon the applicant, and the board shall require
11 | documentation, such as, but not limited to, an evaluation by a
12 | foreign equivalency determination service, as evidence that
13 | the applicant's graduate degree program and education were
14 | equivalent to an accredited program in this country. An
15 | applicant with a master's degree from a program which did not
16 | emphasize marriage and family therapy may complete the
17 | coursework requirement in a training institution fully
18 | accredited by the Commission on Accreditation for Marriage and
19 | Family Therapy Education recognized by the United States
20 | Department of Education.

21 | (2) Upon verification of documentation and payment of
22 | a fee not to exceed \$200, as set by board rule, plus the
23 | actual per applicant cost to the department for purchase of
24 | the examination from the Professional Examination Service for
25 | the National Academy of Certified Clinical Mental Health
26 | Counselors or a similar national organization, the department
27 | shall issue a license as a mental health counselor to an
28 | applicant who the board certifies:

29 | (b)1. Has a minimum of an earned master's degree from
30 | a mental health counseling program accredited by the Council
31 | for the Accreditation of Counseling and Related Educational

1 Programs that consists of at least 60 semester hours or 80
2 quarter hours of clinical and didactic instruction, including
3 a course in human sexuality and substance abuse. If the
4 master's degree is earned from a program related to the
5 practice of mental health counseling that is not accredited by
6 the Council for the Accreditation of Counseling and Related
7 Educational Programs, then the coursework and practicum,
8 internship, or fieldwork must meet the following requirements:
9 a. Thirty-six semester hours or 48 quarter hours of
10 graduate coursework, which must include a minimum of 3
11 semester hours or 4 quarter hours of graduate-level coursework
12 in each of the following 12 content areas: counseling theories
13 and practice; human growth and development; diagnosis and
14 treatment of psychopathology; human sexuality; group theories
15 and practice; individual evaluation and assessment; career and
16 lifestyle assessment; research and program evaluation; social
17 and cultural foundations; foundations of mental health
18 counseling; counseling in community settings; and substance
19 abuse. Courses in research, thesis or dissertation work,
20 practicums, internships, or fieldwork may not be applied
21 toward this requirement.
22 b. A minimum of 3 semester hours or 4 quarter hours of
23 graduate-level coursework in legal, ethical, and professional
24 standards issues in the practice of mental health counseling,
25 which includes goals, objectives, and practices of
26 professional counseling organizations, codes of ethics, legal
27 considerations, standards of preparation, certifications and
28 licensing, and the role identity and professional obligations
29 of mental health counselors. Courses in research, thesis or
30 dissertation work, practicums, internships, or fieldwork may
31 not be applied toward this requirement.

1 c. The equivalent of at least 1,000 hours of
2 university-sponsored supervised clinical practicum,
3 internship, or field experience as required in the accrediting
4 standards of the Council for Accreditation of Counseling and
5 Related Educational Programs for mental health counseling
6 programs. If the academic practicum, internship, or field
7 experience was less than 1,000 hours, experience gained
8 outside the academic arena in clinical mental health settings
9 under the supervision of a qualified supervisor as determined
10 by the board may be applied. This experience may not be used
11 to satisfy the post-master's clinical experience requirement.

12 2. If the course title which appears on the
13 applicant's transcript does not clearly identify the content
14 of the coursework, the applicant shall be required to provide
15 additional documentation, including, but not limited to, a
16 syllabus or catalog description published for the course.

17
18 Education and training in mental health counseling must have
19 been received in an institution of higher education which at
20 the time the applicant graduated was: fully accredited by a
21 regional accrediting body recognized by the Commission on
22 Recognition of Postsecondary Accreditation; publicly
23 recognized as a member in good standing with the Association
24 of Universities and Colleges of Canada; or an institution of
25 higher education located outside the United States and Canada,
26 which at the time the applicant was enrolled and at the time
27 the applicant graduated maintained a standard of training
28 substantially equivalent to the standards of training of those
29 institutions in the United States which are accredited by a
30 regional accrediting body recognized by the Commission on
31 Recognition of Postsecondary Accreditation. Such foreign

1 education and training must have been received in an
2 institution or program of higher education officially
3 recognized by the government of the country in which it is
4 located as an institution or program to train students to
5 practice as mental health counselors. The burden of
6 establishing that the requirements of this provision have been
7 met shall be upon the applicant, and the board shall require
8 documentation, such as, but not limited to, an evaluation by a
9 foreign equivalency determination service, as evidence that
10 the applicant's graduate degree program and education were
11 equivalent to an accredited program in this country.

12 (c) Has had not less than 2 years of clinical
13 experience in mental health counseling, which must be at the
14 post-master's level under the supervision of a licensed mental
15 health counselor or the equivalent who is a qualified
16 supervisor as determined by the board. An individual who
17 intends to practice in Florida to satisfy the clinical
18 experience requirements must register pursuant to s. 491.0045
19 prior to commencing practice. If a graduate has a master's
20 degree with a major related to the practice of mental health
21 counseling that did not include all the coursework required
22 under sub-subparagraphs (b)1.a.-b., credit for the
23 post-master's level clinical experience shall not commence
24 until the applicant has completed a minimum of seven of the
25 courses required under sub-subparagraphs (b)1.a.-b., as
26 determined by the board, one of which must be a course in
27 psychopathology or abnormal psychology. A doctoral internship
28 may be applied toward the clinical experience requirement. The
29 clinical experience requirement may be met by work performed
30 on or off the premises of the supervising mental health
31 counselor or the equivalent, provided the off-premises work is

1 not the independent private practice rendering of services
2 that does not have a licensed mental health professional, as
3 determined by the board, on the premises at the same time the
4 intern is providing services.

5 Section 11. Section 491.0057, Florida Statutes, is
6 amended to read:

7 491.0057 Dual licensure as a marriage and family
8 therapist.--The department shall license as a marriage and
9 family therapist any person who demonstrates to the board that
10 he or she:

11 (1) Holds a valid, active license as a psychologist
12 under chapter 490 or as a clinical social worker under part II
13 or mental health counselor under this part ~~chapter~~, or is
14 certified under s. 464.012 as an advanced registered nurse
15 practitioner who has been determined by the Board of Nursing
16 as a specialist in psychiatric mental health.

17 (2) Has held a valid, active license for at least 3
18 years.

19 (3) Has passed the examination provided by the
20 department for marriage and family therapy.

21 Section 12. Section 491.006, Florida Statutes, is
22 amended to read:

23 491.006 Licensure ~~or certification~~ by endorsement.--

24 (1) The department shall license ~~or grant a~~
25 ~~certificate to~~ a person in a profession regulated by this part
26 ~~chapter~~ who, upon applying to the department and remitting the
27 appropriate fee, demonstrates to the board that he or she:

28 (a) Has demonstrated, in a manner designated by rule
29 of the board, knowledge of the laws and rules governing the
30 practice of ~~clinical social work~~, marriage and family therapy,
31 and mental health counseling.

1 (b)1. Holds an active valid license to practice and
2 has actively practiced the profession for which licensure is
3 applied in another state for 3 of the last 5 years immediately
4 preceding licensure.

5 2. Meets the education requirements of this part
6 ~~chapter~~ for the profession for which licensure is applied.

7 3. Has passed a substantially equivalent licensing
8 examination in another state.

9 4. Holds a license in good standing, is not under
10 investigation for an act which would constitute a violation of
11 this part ~~chapter~~, and has not been found to have committed
12 any act which would constitute a violation of this part
13 ~~chapter~~.

14 (2) The department shall not issue a license ~~or~~
15 ~~certificate~~ by endorsement to any applicant who is under
16 investigation in this or another jurisdiction for an act which
17 would constitute a violation of this part ~~chapter~~ until such
18 time as the investigation is complete, at which time the
19 provisions of s. 491.009 shall apply.

20 Section 13. Section 491.0065, Florida Statutes, is
21 amended to read:

22 491.0065 Requirement for instruction on human
23 immunodeficiency virus and acquired immune deficiency
24 syndrome.--The board shall require, as a condition of granting
25 a license under this part ~~chapter~~, that an applicant making
26 initial application for licensure complete an education course
27 acceptable to the board on human immunodeficiency virus and
28 acquired immune deficiency syndrome. An applicant who has not
29 taken a course at the time of licensure shall, upon submission
30 of an affidavit showing good cause, be allowed 6 months to
31 complete this requirement.

1 Section 14. Section 491.007, Florida Statutes, is
2 amended to read:

3 491.007 Renewal of license or registration, ~~or~~
4 ~~certificate~~.--

5 (1) The board or department shall prescribe by rule a
6 method for the biennial renewal of licenses ~~or certificates~~ at
7 a fee set by rule, not to exceed \$250.

8 (2) Each applicant for renewal shall present
9 satisfactory evidence that, in the period since the license ~~or~~
10 ~~certificate~~ was issued, the applicant has completed continuing
11 education requirements set by rule of the board or department.
12 Not more than 25 classroom hours of continuing education per
13 year shall be required.

14 (3) The board or department shall prescribe by rule a
15 method for the biennial renewal of an intern registration at a
16 fee set by rule, not to exceed \$100.

17 Section 15. Section 491.008, Florida Statutes, reads:
18 491.008 Inactive status; reactivation of licenses;
19 fees.--

20 (1) Inactive status is the licensure status that
21 results when a licensee has applied to be placed on inactive
22 status and has paid a \$50 fee to the department.

23 (a) An inactive license may be renewed biennially for
24 \$50 per biennium.

25 (b) An inactive license may be reactivated by
26 submitting an application to the department, completing the
27 continuing education requirements, complying with any
28 background investigation required, complying with other
29 requirements prescribed by the board, and paying a \$50
30 reactivation fee plus the current biennial renewal fee at the
31 time of reactivation.

1 (2) The board may adopt rules relating to inactive
2 licenses and the reactivation of licenses.

3 Section 16. Section 491.0085, Florida Statutes, reads:
4 491.0085 Continuing education; approval of providers,
5 programs, and courses; proof of completion.--

6 (1) Continuing education providers, programs, and
7 courses shall be approved by the department or the board.

8 (2) The department or the board has the authority to
9 set a fee not to exceed \$200 for each applicant who applies
10 for or renews provider status. Such fees shall be deposited
11 into the Health Care Trust Fund.

12 (3) Proof of completion of the required number of
13 hours of continuing education shall be submitted to the
14 department or the board in the manner and time specified by
15 rule and on forms provided by the department or the board.

16 (4) The department or the board shall adopt rules and
17 guidelines to administer and enforce the provisions of this
18 section.

19 Section 17. Section 491.009, Florida Statutes, is
20 amended to read:

21 491.009 Discipline.--

22 (1) When the department or the board finds that an
23 applicant, licensee, provisional licensee, or registered
24 ~~intern, or certificateholder~~ whom it regulates under this part
25 ~~chapter~~ has committed any of the acts set forth in subsection
26 (2), it may issue an order imposing one or more of the
27 following penalties:

28 (a) Denial of an application for licensure or,
29 registration, ~~or certification~~, either temporarily or
30 permanently.

31

1 (b) Revocation of an application for licensure or
2 registration, ~~or certification~~, either temporarily or
3 permanently.

4 (c) Suspension for a period of up to 5 years or
5 revocation of a license or, registration, ~~or certificate~~,
6 after hearing.

7 (d) Immediate suspension of a license or
8 registration, ~~or certificate~~ pursuant to s. 120.60(6).

9 (e) Imposition of an administrative fine not to exceed
10 \$1,000 for each count or separate offense.

11 (f) Issuance of a public reprimand.

12 (g) Placement of an applicant, licensee, or registered
13 intern, ~~or certificateholder~~ on probation for a period of time
14 and subject to such conditions as the board may specify,
15 including, but not limited to, requiring the applicant,
16 licensee, or registered intern, ~~or certificateholder~~ to submit
17 to treatment, to attend continuing education courses, to
18 submit to reexamination, or to work under the supervision of a
19 designated licensee ~~or certificateholder~~.

20 (h) Restriction of practice.

21 (2) The following acts of a licensee, provisional
22 licensee, registered intern, ~~certificateholder~~, or applicant
23 are grounds for which the disciplinary actions listed in
24 subsection (1) may be taken:

25 (a) Attempting to obtain, obtaining, or renewing a
26 license or, registration, ~~or certificate~~ under this part
27 ~~chapter~~ by bribery or fraudulent misrepresentation or through
28 an error of the board or the department.

29 (b) Having a license or, registration, ~~or certificate~~
30 to practice a comparable profession revoked, suspended, or
31

1 otherwise acted against, including the denial of ~~certification~~
2 ~~or~~ licensure by another state, territory, or country.

3 (c) Being convicted or found guilty of, regardless of
4 adjudication, or having entered a plea of nolo contendere to,
5 a crime in any jurisdiction which directly relates to the
6 practice of his or her profession or the ability to practice
7 his or her profession. However, in the case of a plea of nolo
8 contendere, the board shall allow the person who is the
9 subject of the disciplinary proceeding to present evidence in
10 mitigation relevant to the underlying charges and
11 circumstances surrounding the plea.

12 (d) False, deceptive, or misleading advertising or
13 obtaining a fee or other thing of value on the representation
14 that beneficial results from any treatment will be guaranteed.

15 (e) Advertising, practicing, or attempting to practice
16 under a name other than one's own.

17 (f) Maintaining a professional association with any
18 person who the applicant, licensee, or registered intern,~~or~~
19 ~~certificateholder~~ knows, or has reason to believe, is in
20 violation of this part ~~chapter~~ or of a rule of the department
21 or the board.

22 (g) Knowingly aiding, assisting, procuring, or
23 advising any nonlicensed or~~nonregistered, or noncertified~~
24 person to hold himself or herself out as licensed or~~7~~
25 ~~registered, or certified~~ under this part ~~chapter~~.

26 (h) Failing to perform any statutory or legal
27 obligation placed upon a person licensed or~~7, registered, or~~
28 ~~certified~~ under this part ~~chapter~~.

29 (i) Willfully making or filing a false report or
30 record; failing to file a report or record required by state
31 or federal law; willfully impeding or obstructing the filing

1 of a report or record; or inducing another person to make or
2 file a false report or record or to impede or obstruct the
3 filing of a report or record. Such report or record includes
4 only a report or record which requires the signature of a
5 person licensed or,~~registered, or certified~~ under this part
6 chapter.

7 (j) Paying a kickback, rebate, bonus, or other
8 remuneration for receiving a patient or client, or receiving a
9 kickback, rebate, bonus, or other remuneration for referring a
10 patient or client to another provider of mental health care
11 services or to a provider of health care services or goods;
12 referring a patient or client to oneself for services on a
13 fee-paid basis when those services are already being paid for
14 by some other public or private entity; or entering into a
15 reciprocal referral agreement.

16 (k) Committing any act upon a patient or client which
17 would constitute sexual battery or which would constitute
18 sexual misconduct as defined pursuant to s. 491.0111.

19 (l) Making misleading, deceptive, untrue, or
20 fraudulent representations in the practice of any profession
21 licensed or,~~registered, or certified~~ under this part chapter.

22 (m) Soliciting patients or clients personally, or
23 through an agent, through the use of fraud, intimidation,
24 undue influence, or a form of overreaching or vexatious
25 conduct.

26 (n) Failing to make available to a patient or client,
27 upon written request, copies of tests, reports, or documents
28 in the possession or under the control of the licensee or,
29 ~~registered intern, or certificateholder~~ which have been
30 prepared for and paid for by the patient or client.

31

1 (o) Failing to respond within 30 days to a written
2 communication from the department or the board concerning any
3 investigation by the department or the board, or failing to
4 make available any relevant records with respect to any
5 investigation about the licensee's or, registered intern's, ~~or~~
6 ~~certificateholder's~~ conduct or background.

7 (p) Being unable to practice the profession for which
8 he or she is licensed or, registered, ~~or certified~~ under this
9 part ~~chapter~~ with reasonable skill or competence as a result
10 of any mental or physical condition or by reason of illness;
11 drunkenness; or excessive use of drugs, narcotics, chemicals,
12 or any other substance. In enforcing this paragraph, upon a
13 finding by the secretary, the secretary's designee, or the
14 board that probable cause exists to believe that the licensee
15 or, registered intern, ~~or certificateholder~~ is unable to
16 practice the profession because of the reasons stated in this
17 paragraph, the department shall have the authority to compel a
18 licensee or, registered intern, ~~or certificateholder~~ to submit
19 to a mental or physical examination by psychologists,
20 physicians, or other licensees under this part ~~chapter~~,
21 designated by the department or board. If the licensee or,
22 registered intern, ~~or certificateholder~~ refuses to comply with
23 such order, the department's order directing the examination
24 may be enforced by filing a petition for enforcement in the
25 circuit court in the circuit in which the licensee or,
26 registered intern, ~~or certificateholder~~ resides or does
27 business. The licensee or, registered intern, ~~or~~
28 ~~certificateholder~~ against whom the petition is filed shall not
29 be named or identified by initials in any public court records
30 or documents, and the proceedings shall be closed to the
31 public. The department shall be entitled to the summary

1 procedure provided in s. 51.011. A licensee or registered
2 intern, ~~or certificateholder~~ affected under this paragraph
3 shall at reasonable intervals be afforded an opportunity to
4 demonstrate that he or she can resume the competent practice
5 for which he or she is licensed or registered, ~~or certified~~
6 with reasonable skill and safety to patients.

7 (q) Violating provisions of this part ~~chapter~~, or of
8 chapter 455, or any rules adopted pursuant thereto.

9 (r) Performing any treatment or prescribing any
10 therapy which, by the prevailing standards of the mental
11 health professions in the community, would constitute
12 experimentation on human subjects, without first obtaining
13 full, informed, and written consent.

14 (s) Failing to meet the minimum standards of
15 performance in professional activities when measured against
16 generally prevailing peer performance, including the
17 undertaking of activities for which the licensee or
18 registered intern, ~~or certificateholder~~ is not qualified by
19 training or experience.

20 (t) Delegating professional responsibilities to a
21 person whom the licensee or registered intern, ~~or~~
22 ~~certificateholder~~ knows or has reason to know is not qualified
23 by training or experience to perform such responsibilities.

24 (u) Violating a rule relating to the regulation of the
25 profession or a lawful order of the department or the board
26 previously entered in a disciplinary hearing.

27 (v) Failure of the licensee or registered intern, ~~or~~
28 ~~certificateholder~~ to maintain in confidence a communication
29 made by a patient or client in the context of such services,
30 except as provided in s. 491.0147.

31

1 (w) Making public statements which are derived from
2 test data, client contacts, or behavioral research and which
3 identify or damage research subjects or clients.

4 Section 18. Section 491.0111, Florida Statutes, is
5 amended to read:

6 491.0111 Sexual misconduct.--Sexual misconduct by any
7 person licensed ~~or certified~~ under this part ~~chapter~~, in the
8 practice of her or his profession, is prohibited. Sexual
9 misconduct shall be defined by rule.

10 Section 19. Section 491.0112, Florida Statutes, is
11 amended to read:

12 491.0112 Sexual misconduct by a psychotherapist;
13 penalties.--

14 (1) Any psychotherapist who commits sexual misconduct
15 with a client, or former client when the professional
16 relationship was terminated primarily for the purpose of
17 engaging in sexual contact, commits a felony of the third
18 degree, punishable as provided in s. 775.082 or s. 775.083;
19 however, a second or subsequent offense is a felony of the
20 second degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

22 (2) Any psychotherapist who violates subsection (1) by
23 means of therapeutic deception commits a felony of the second
24 degree punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084.

26 (3) The giving of consent by the client to any such
27 act shall not be a defense to these offenses.

28 (4) For the purposes of this section:

29 (a) ~~The term~~ "Psychotherapist" means any person
30 licensed pursuant to chapter 458, chapter 459, chapter 464,
31 chapter 490, or part I or part II of chapter 491, or any other

1 person who provides or purports to provide treatment,
2 diagnosis, assessment, evaluation, or counseling of any mental
3 or emotional illness, symptom, or condition.

4 (b) "Therapeutic deception" means a representation to
5 the client that sexual contact by the psychotherapist is
6 consistent with or part of the treatment of the client.

7 (c) "Sexual misconduct" means the oral, anal, or
8 vaginal penetration of another by, or contact with, the sexual
9 organ of another or the anal or vaginal penetration of another
10 by any object.

11 (d) "Client" means a person to whom the services of a
12 psychotherapist are provided.

13 Section 20. Section 491.012, Florida Statutes, is
14 amended to read:

15 491.012 Violations; penalty; injunction.--

16 (1) It is unlawful and a violation of this part
17 ~~chapter~~ for any person to:

18 ~~(a) Use the following titles or any combination~~
19 ~~thereof, unless she or he holds a valid, active license as a~~
20 ~~clinical social worker issued pursuant to this chapter:~~

21 1. ~~"Licensed clinical social worker."~~

22 2. ~~"Clinical social worker."~~

23 3. ~~"Licensed social worker."~~

24 4. ~~"Psychiatric social worker."~~

25 5. ~~"Psychosocial worker."~~

26 (a)(b) Use the following titles or any combination
27 thereof, unless she or he holds a valid, active license as a
28 marriage and family therapist issued pursuant to this part
29 ~~chapter~~:

30 1. "Licensed marriage and family therapist."

31 2. "Marriage and family therapist."

- 1 3. "Marriage counselor."
- 2 4. "Marriage consultant."
- 3 5. "Family therapist."
- 4 6. "Family counselor."
- 5 7. "Family consultant."

6 (b)~~(c)~~ Use the following titles or any combination
7 thereof, unless she or he holds a valid, active license as a
8 mental health counselor issued pursuant to this part ~~chapter~~:

- 9 1. "Licensed mental health counselor."
- 10 2. "Mental health counselor."
- 11 3. "Mental health therapist."
- 12 4. "Mental health consultant."

13 (c)~~(d)~~ Use the terms psychotherapist or sex therapist,
14 unless such person is licensed pursuant to this part ~~chapter~~
15 or chapter 490, or is certified under s. 464.012 as an
16 advanced registered nurse practitioner who has been determined
17 by the Board of Nursing as a specialist in psychiatric mental
18 health and the use of such terms is within the scope of her or
19 his practice based on education, training, and licensure.

20 (d)~~(e)~~ Present as her or his own the ~~clinical social~~
21 ~~work, marriage and family therapy, or mental health counseling~~
22 license of another.

23 (e)~~(f)~~ Give false or forged evidence to the board or a
24 member thereof for the purpose of obtaining a license.

25 (f)~~(g)~~ Use or attempt to use a license issued pursuant
26 to this part ~~chapter~~ which has been revoked or is under
27 suspension.

28 (g)~~(h)~~ Knowingly conceal information relative to
29 violations of this part ~~chapter~~.

30 ~~(i) Practice clinical social work in this state, as~~
31 ~~the practice is defined in s. 491.003(7), for compensation,~~

1 ~~unless the person holds a valid, active license to practice~~
2 ~~clinical social work issued pursuant to this chapter.~~

3 (h)~~(j)~~ Practice marriage and family therapy in this
4 state, as the practice is defined in s. 491.003(5)~~(8)~~, for
5 compensation, unless the person holds a valid, active license
6 to practice marriage and family therapy issued pursuant to
7 this part ~~chapter~~.

8 (i)~~(k)~~ Practice mental health counseling in this
9 state, as the practice is defined in s. 491.003(6)~~(9)~~, for
10 compensation, unless the person holds a valid, active license
11 to practice mental health counseling issued pursuant to this
12 part ~~chapter~~.

13 (j)~~(l)~~ Use the following titles or any combination
14 thereof, unless he or she holds a valid registration as an
15 intern issued pursuant to this part ~~chapter~~:

16 1. ~~"Registered clinical social worker intern."~~

17 1.2. "Registered marriage and family therapist
18 intern."

19 2.3. "Registered mental health counselor intern."

20 (k)~~(m)~~ Use the following titles or any combination
21 thereof, unless he or she holds a valid provisional license
22 issued pursuant to this part ~~chapter~~:

23 1. ~~"Provisional clinical social worker licensee."~~

24 1.2. "Provisional marriage and family therapist
25 licensee."

26 2.3. "Provisional mental health counselor licensee."

27 (2) It is unlawful and a violation of this part
28 ~~chapter~~ for any person to describe her or his services using
29 the following terms or any derivative thereof, unless such
30 person holds a valid, active license under this part ~~chapter~~
31 or chapter 490, or is certified under s. 464.012 as an

1 advanced registered nurse practitioner who has been determined
2 by the Board of Nursing as a specialist in psychiatric mental
3 health and the use of such terms is within the scope of her or
4 his practice based on education, training, and licensure:

5 (a) "Psychotherapy."

6 (b) "Sex therapy."

7 (c) "Sex counseling."

8 ~~(d) "Clinical social work."~~

9 ~~(e) "Psychiatric social work."~~

10 (d)(f) "Marriage and family therapy."

11 (e)(g) "Marriage and family counseling."

12 (f)(h) "Marriage counseling."

13 (g)(i) "Family counseling."

14 (h)(j) "Mental health counseling."

15 (3) Any person who violates any provision of
16 subsection (1) or subsection (2) commits a misdemeanor of the
17 first degree, punishable as provided in s. 775.082 or s.
18 775.083.

19 (4) The department may institute appropriate judicial
20 proceedings to enjoin violation of this section.

21 Section 21. Section 491.014, Florida Statutes, is
22 amended to read:

23 491.014 Exemptions.--

24 (1) No provision of this part ~~chapter~~ shall be
25 construed to limit the practice of physicians licensed
26 pursuant to chapter 458 or chapter 459, or psychologists
27 licensed pursuant to chapter 490, so long as they do not
28 unlawfully hold themselves out to the public as possessing a
29 license, provisional license or, ~~registration, or certificate~~
30 issued pursuant to this part ~~chapter~~ or use a professional
31 title protected by this part ~~chapter~~.

1 (2) No provision of this part ~~chapter~~ shall be
2 construed to limit the practice of nursing, school psychology,
3 or psychology, or to prevent qualified members of other
4 professions from doing work of a nature consistent with their
5 training and licensure, so long as they do not hold themselves
6 out to the public as possessing a license, provisional license
7 ~~or registration, or certificate~~ issued pursuant to this part
8 ~~chapter~~ or use a title protected by this part ~~chapter~~.

9 (3) No provision of this part ~~chapter~~ shall be
10 construed to limit the performance of activities of a rabbi,
11 priest, minister, or member of the clergy of any religious
12 denomination or sect, or use of the terms "Christian
13 counselor" or "Christian clinical counselor" when the
14 activities are within the scope of the performance of his or
15 her regular or specialized ministerial duties and no
16 compensation is received by him or her, or when such
17 activities are performed, with or without compensation, by a
18 person for or under the auspices or sponsorship, individually
19 or in conjunction with others, of an established and legally
20 cognizable church, denomination, or sect, and when the person
21 rendering service remains accountable to the established
22 authority thereof.

23 (4) No person shall be required to be licensed,
24 provisionally licensed, or registered, ~~or certified~~ under this
25 part ~~chapter~~ who:

26 (a) Is a salaried employee of a government agency;
27 developmental services program, mental health, alcohol, or
28 drug abuse facility operating pursuant to chapter 393, chapter
29 394, or chapter 397; subsidized child care program, subsidized
30 child care case management program, or child care resource and
31 referral program operating pursuant to chapter 402;

1 child-placing or child-caring agency licensed pursuant to
2 chapter 409; domestic violence center certified pursuant to
3 chapter 415; accredited academic institution; or research
4 institution, if such employee is performing duties for which
5 he or she was trained and hired solely within the confines of
6 such agency, facility, or institution.

7 (b) Is a salaried employee of a private, nonprofit
8 organization providing counseling services to children, youth,
9 and families, if such services are provided for no charge, if
10 such employee is performing duties for which he or she was
11 trained and hired.

12 (c) Is a student providing services regulated under
13 this part ~~chapter~~ who is pursuing a course of study which
14 leads to a degree in a profession regulated by this part
15 ~~chapter~~, is providing services in a training setting, provided
16 such services and associated activities constitute part of a
17 supervised course of study, and is designated by the title
18 "student intern."

19 (d) Is not a resident of this state but offers
20 services in this state, provided:

21 1. Such services are performed for no more than 5 days
22 in any month and no more than 15 days in any calendar year;
23 and

24 2. Such nonresident is licensed ~~or certified~~ to
25 practice the services provided by a state or territory of the
26 United States or by a foreign country or province.

27 (5) No provision of this part ~~chapter~~ shall be
28 construed to limit the practice of any individual who solely
29 engages in behavior analysis so long as he or she does not
30 hold himself or herself out to the public as possessing a
31

1 license issued pursuant to this part ~~chapter~~ or use a title
2 protected by this part ~~chapter~~.

3 (6) Nothing in subsections (2)-(4) shall exempt any
4 person from the provisions of s. 491.012(1)(a)-(b)~~(a)-(c)~~, (j)
5 ~~(i)~~, and (k)~~(m)~~.

6 (7) Except as stipulated by the board, the exemptions
7 contained in this section do not apply to any person licensed
8 under this part ~~chapter~~ whose license has been suspended or
9 revoked by the board or another jurisdiction.

10 (8) Nothing in this section shall be construed to
11 exempt a person from meeting the minimum standards of
12 performance in professional activities when measured against
13 generally prevailing peer performance, including the
14 undertaking of activities for which the person is not
15 qualified by training or experience.

16 Section 22. Section 491.0141, Florida Statutes, is
17 amended to read:

18 491.0141 Practice of hypnosis.--A person licensed
19 under this part ~~chapter~~ who is qualified as determined by the
20 board may practice hypnosis as defined in s. 456.32(1). The
21 provisions of this part ~~chapter~~ may not be interpreted to
22 limit or affect the right of any person qualified pursuant to
23 chapter 456 to practice hypnosis pursuant to that chapter or
24 to practice hypnosis for nontherapeutic purposes, so long as
25 such person does not hold herself or himself out to the public
26 as possessing a license issued pursuant to this part ~~chapter~~
27 or use a title protected by this part ~~chapter~~.

28 Section 23. Section 491.0143, Florida Statutes, is
29 amended to read:

30 491.0143 Practice of sex therapy.--Only a person
31 licensed by this part ~~chapter~~ who meets the qualifications set

1 by the board may hold herself or himself out as a sex
2 therapist. The board shall define these qualifications by
3 rule. In establishing these qualifications, the board may
4 refer to the sexual disorder and sexual dysfunction sections
5 of the most current edition of the Diagnostic and Statistical
6 Manual of the American Psychiatric Association or other
7 relevant publications.

8 Section 24. Section 491.0145, Florida Statutes, is
9 repealed.

10 Section 25. Section 491.0147, Florida Statutes, is
11 amended to read:

12 491.0147 Confidentiality and privileged
13 communications.--Any communication between any person licensed
14 ~~or certified~~ under this part chapter and her or his patient or
15 client shall be confidential. This secrecy may be waived
16 under the following conditions:

17 (1) When the person licensed ~~or certified~~ under this
18 part chapter is a party defendant to a civil, criminal, or
19 disciplinary action arising from a complaint filed by the
20 patient or client, in which case the waiver shall be limited
21 to that action.

22 (2) When the patient or client agrees to the waiver,
23 in writing, or, when more than one person in a family is
24 receiving therapy, when each family member agrees to the
25 waiver, in writing.

26 (3) When there is a clear and immediate probability of
27 physical harm to the patient or client, to other individuals,
28 or to society and the person licensed ~~or certified~~ under this
29 part chapter communicates the information only to the
30 potential victim, appropriate family member, or law
31 enforcement or other appropriate authorities.

1 Section 26. Section 491.0148, Florida Statutes, is
2 amended to read:

3 491.0148 Records.--Each psychotherapist who provides
4 services as defined in this part ~~chapter~~ shall maintain
5 records. The board may adopt rules defining the minimum
6 requirements for records and reports, including content,
7 length of time records shall be maintained, and transfer of
8 either the records or a report of such records to a subsequent
9 treating practitioner or other individual with written consent
10 of the client or clients.

11 Section 27. Section 491.0149, Florida Statutes, is
12 amended to read:

13 491.0149 Display of license; use of professional title
14 on promotional materials.--

15 (1)(a) A person licensed under this part ~~chapter~~ as a
16 ~~clinical social worker~~, marriage and family therapist, or
17 mental health counselor, ~~or certified as a master social~~
18 ~~worker~~ shall conspicuously display the valid license issued by
19 the department or a true copy thereof at each location at
20 which the licensee practices his or her profession.

21 ~~(b)1. A licensed clinical social worker shall include~~
22 ~~the words "licensed clinical social worker" or the letters~~
23 ~~"LCSW" on all promotional materials, including cards,~~
24 ~~brochures, stationery, advertisements, and signs, naming the~~
25 ~~licensee.~~

26 1.2. A licensed marriage and family therapist shall
27 include the words "licensed marriage and family therapist" or
28 the letters "LMFT" on all promotional materials, including
29 cards, brochures, stationery, advertisements, and signs,
30 naming the licensee.

31

1 2.3. A licensed mental health counselor shall include
2 the words "licensed mental health counselor" or the letters
3 "LMHC" on all promotional materials, including cards,
4 brochures, stationery, advertisements, and signs, naming the
5 licensee.

6 (2)(a) A person registered under this part ~~chapter~~ as
7 a ~~clinical social worker intern~~, marriage and family therapist
8 intern, or mental health counselor intern shall conspicuously
9 display the valid registration issued by the department or a
10 true copy thereof at each location at which the registered
11 intern is completing the experience requirements.

12 (b) ~~A registered clinical social worker intern shall~~
13 ~~include the words "registered clinical social worker intern,"~~
14 A registered marriage and family therapist intern shall
15 include the words "registered marriage and family therapist
16 intern," and a registered mental health counselor intern shall
17 include the words "registered mental health counselor intern"
18 on all promotional materials, including cards, brochures,
19 stationery, advertisements, and signs, naming the registered
20 intern.

21 (3)(a) A person provisionally licensed under this part
22 ~~chapter~~ as a ~~provisional clinical social worker licensee~~,
23 provisional marriage and family therapist licensee, or
24 provisional mental health counselor licensee shall
25 conspicuously display the valid provisional license issued by
26 the department or a true copy thereof at each location at
27 which the provisional licensee is providing services.

28 (b) ~~A provisional clinical social worker licensee~~
29 ~~shall include the words "provisional clinical social worker~~
30 ~~licensee,"~~ A provisional marriage and family therapist
31 licensee shall include the words "provisional marriage and

1 family therapist licensee~~7~~" and a provisional mental health
2 counselor licensee shall include the words "provisional mental
3 health counselor licensee" on all promotional materials,
4 including cards, brochures, stationery, advertisements, and
5 signs, naming the provisional licensee.

6 Section 28. Section 491.015, Florida Statutes, is
7 repealed.

8 Section 29. No later than January 1, 1999, the
9 Governor shall appoint the additional marriage and family
10 therapy member and the additional mental health counseling
11 member of the Board of Marriage and Family Therapy and Mental
12 Health Counseling, as provided for by the amendment of s.
13 491.004, Florida Statutes, by this act, for the remainder of
14 the term of the member the appointee is replacing, if any, or
15 otherwise for a full term.

16 Section 30. Any person who, on the effective date of
17 this act, holds an active, valid license or certificate to
18 practice social work under chapter 491, Florida Statutes, as
19 it existed immediately prior to the effective date of this
20 act, may continue to practice under such license or
21 certificate until the license or certificate expires or until
22 January 1, 1999, whichever occurs sooner, after which the
23 provisions of part II of chapter 491, Florida Statutes, as
24 created by this act, shall control.

25 Section 31. Paragraph (g) of subsection (3) of section
26 20.43, Florida Statutes, is amended to read:

27 20.43 Department of Health.--There is created a
28 Department of Health.

29 (3) The following divisions of the Department of
30 Health are established:

31

1 (g) Division of Medical Quality Assurance, which is
2 responsible for the following boards and professions
3 established within the division:

4 1. Nursing assistants, as provided under s. 400.211.

5 2. Health care services pools, as provided under s.
6 402.48.

7 3. The Board of Acupuncture, created under chapter
8 457.

9 4. The Board of Medicine, created under chapter 458.

10 5. The Board of Osteopathic Medicine, created under
11 chapter 459.

12 6. The Board of Chiropractic, created under chapter
13 460.

14 7. The Board of Podiatric Medicine, created under
15 chapter 461.

16 8. Naturopathy, as provided under chapter 462.

17 9. The Board of Optometry, created under chapter 463.

18 10. The Board of Nursing, created under chapter 464.

19 11. The Board of Pharmacy, created under chapter 465.

20 12. The Board of Dentistry, created under chapter 466.

21 13. Midwifery, as provided under chapter 467.

22 14. The Board of Speech-Language Pathology and
23 Audiology, created under part I of chapter 468.

24 15. The Board of Nursing Home Administrators, created
25 under part II of chapter 468.

26 16. Occupational therapy, as provided under part III
27 of chapter 468.

28 17. Respiratory therapy, as provided under part V of
29 chapter 468.

30 18. Dietetics and nutrition practice, as provided
31 under part X of chapter 468.

- 1 19. Athletic trainers, as provided under part XIV of
2 chapter 468.
- 3 20. Electrolysis, as provided under chapter 478.
- 4 21. The Board of Massage Therapy, created under
5 chapter 480.
- 6 22. The Board of Clinical Laboratory Personnel,
7 created under part III of chapter 483.
- 8 23. Medical physicists, as provided under part IV of
9 chapter 483.
- 10 24. The Board of Opticianry, created under part I of
11 chapter 484.
- 12 25. The Board of Hearing Aid Specialists, created
13 under part II of chapter 484.
- 14 26. The Board of Physical Therapy Practice, created
15 under chapter 486.
- 16 27. The Board of Psychology, created under chapter
17 490.
- 18 28. The Board of ~~Clinical Social Work~~, Marriage and
19 Family Therapy, and Mental Health Counseling, created under
20 part I of chapter 491.
- 21 29. The Board of Social Work Practice, created under
22 part II of chapter 491.
- 23
- 24 The department may contract with the Agency for Health Care
25 Administration who shall provide consumer complaint,
26 investigative, and prosecutorial services required by the
27 Division of Medical Quality Assurance, councils, or boards, as
28 appropriate.
- 29 Section 32. Subsection (2) of section 61.20, Florida
30 Statutes, is amended to read:
- 31

1 61.20 Social investigation and recommendations when
2 child custody is in issue.--

3 (2) A social investigation and study, when ordered by
4 the court, shall be conducted by qualified staff of the court;
5 a child-placing agency licensed pursuant to s. 409.175; a
6 psychologist licensed pursuant to chapter 490; or a ~~clinical~~
7 ~~social worker~~, marriage and family therapist, or mental health
8 counselor licensed pursuant to part I of chapter 491 or
9 clinical social worker licensed pursuant to part II of chapter
10 491. If a certification of indigence based on an affidavit
11 filed with the court pursuant to s. 57.081 is provided by an
12 adult party to the proceeding and the court does not have
13 qualified staff to perform the investigation and study, the
14 court may request that the Department of Health and
15 Rehabilitative Services conduct the investigation and study.

16 Section 33. Subsection (4) of section 394.455, Florida
17 Statutes, is amended to read:

18 394.455 Definitions.--As used in this part, unless the
19 context clearly requires otherwise, the term:

20 (4) "Clinical social worker" means a person licensed
21 as a clinical social worker under part II of chapter 491.

22 Section 34. Subsection (23) of section 397.311,
23 Florida Statutes, is amended to read:

24 397.311 Definitions.--As used in this chapter, except
25 part VIII:

26 (23) "Private practitioner" means a physician licensed
27 under chapter 458 or chapter 459, a psychologist licensed
28 under chapter 490, or a ~~clinical social worker~~, marriage and
29 family therapist, or mental health counselor licensed under
30 part I of chapter 491 or clinical social worker licensed under
31 part II of chapter 491.

1 Section 35. Section 397.405, Florida Statutes, is
2 amended to read:

3 397.405 Exemptions from licensure.--The following are
4 exempt from the licensing provisions of this chapter:

5 (1) A hospital or hospital-based component licensed
6 under chapter 395.

7 (2) A nursing home facility as defined in s.
8 400.021(11).

9 (3) A substance abuse education program established
10 pursuant to s. 233.061.

11 (4) A facility or institution operated by the Federal
12 Government.

13 (5) A physician licensed under chapter 458 or chapter
14 459.

15 (6) A psychologist licensed under chapter 490.

16 (7) A ~~social worker~~, marriage and family therapist, or
17 mental health counselor licensed under part I of chapter 491
18 or clinical social worker licensed under part II of chapter
19 491.

20 (8) An established and legally cognizable church or
21 nonprofit religious organization, denomination, or sect
22 providing substance abuse services, including prevention
23 services, which are exclusively religious, spiritual, or
24 ecclesiastical in nature. A church or nonprofit religious
25 organization, denomination, or sect providing any of the
26 licensable service components itemized under s. 397.311(19) is
27 not exempt for purposes of its provision of such licensable
28 service components but retains its exemption with respect to
29 all services which are exclusively religious, spiritual, or
30 ecclesiastical in nature.

31

1 (9) Facilities licensed under s. 393.063(7) that, in
2 addition to providing services to persons who are
3 developmentally disabled as defined therein, also provide
4 services to persons developmentally at risk as a consequence
5 of exposure to alcohol or other legal or illegal drugs while
6 in utero.

7 (10) DUI education and screening services required to
8 be attended pursuant to ss. 316.192, 316.193, 322.095,
9 322.271, and 322.291 are exempt from licensure under this
10 chapter. Treatment programs must continue to be licensed
11 under this chapter.

12
13 The exemptions from licensure in this section do not apply to
14 any facility or entity which receives an appropriation, grant,
15 or contract from the state to operate as a service provider as
16 defined in this chapter or to any substance abuse program
17 regulated pursuant to s. 397.406. No provision of this
18 chapter shall be construed to limit the practice of a
19 physician licensed under chapter 458 or chapter 459, a
20 psychologist licensed under chapter 490, or a psychotherapist
21 licensed under part I or part II of chapter 491, providing
22 outpatient or inpatient substance abuse treatment to a
23 voluntary patient, so long as the physician, psychologist, or
24 psychotherapist does not represent to the public that he or
25 she is a licensed service provider under this act. Failure to
26 comply with any requirement necessary to maintain an exempt
27 status under this section is a misdemeanor of the first
28 degree, punishable as provided in s. 775.082 or s. 775.083.

29 Section 36. Subsection (5) of section 400.609, Florida
30 Statutes, is amended to read:

1 400.609 Hospice services.--Each hospice shall provide
2 a continuum of hospice services which afford the patient and
3 the family of the patient a range of service delivery which
4 can be tailored to specific needs and preferences of the
5 patient and family at any point in time throughout the length
6 of care for the terminally ill patient and during the
7 bereavement period. These services must be available 24 hours
8 a day, 7 days a week, and must include:

9 (5) BEREAVEMENT COUNSELING.--The hospice bereavement
10 program must be a comprehensive program, under professional
11 supervision, that provides a continuum of formal and informal
12 supportive services to the family for a minimum of 1 year
13 after the patient's death. This subsection does not
14 constitute an additional exemption from chapter 490 or part I
15 or part II of chapter 491.

16 Section 37. Subsection (28) of section 408.07, Florida
17 Statutes, is amended to read:

18 408.07 Definitions.--As used in this chapter, with the
19 exception of ss. 408.031-408.045, the term:

20 (28) "Health care provider" means a health care
21 professional licensed under chapter 458, chapter 459, chapter
22 460, chapter 461, chapter 463, chapter 464, chapter 465,
23 chapter 466, part I, part III, part IV, part V, or part X of
24 chapter 468, chapter 483, chapter 484, chapter 486, chapter
25 490, or part I or part II of chapter 491.

26 Section 38. Paragraph (j) of subsection (2) of section
27 408.904, Florida Statutes, is amended to read:

28 408.904 Benefits.--

29 (2) Covered health services include:

30 (j) Outpatient mental health visits and substance
31 abuse treatment. Outpatient mental health visits provided by

1 community mental health centers as provided in chapter 394 and
2 by a mental health therapist licensed under chapter 490 or
3 part I or part II of chapter 491 and substance abuse treatment
4 provided by a center licensed under chapter 396 or chapter
5 397, up to a total of five visits per calendar year per
6 member.

7 Section 39. Subsection (8) of section 409.906, Florida
8 Statutes, is amended to read:

9 409.906 Optional Medicaid services.--Subject to
10 specific appropriations, the agency may make payments for
11 services which are optional to the state under Title XIX of
12 the Social Security Act and are furnished by Medicaid
13 providers to recipients who are determined to be eligible on
14 the dates on which the services were provided. Any optional
15 service that is provided shall be provided only when medically
16 necessary and in accordance with state and federal law.
17 Nothing in this section shall be construed to prevent or limit
18 the agency from adjusting fees, reimbursement rates, lengths
19 of stay, number of visits, or number of services, or making
20 any other adjustments necessary to comply with the
21 availability of moneys and any limitations or directions
22 provided for in the General Appropriations Act or chapter 216.
23 Optional services may include:

24 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
25 pay for rehabilitative services provided to a recipient by a
26 mental health or substance abuse provider licensed by the
27 agency and under contract with the agency or the Department of
28 Children and Family Services to provide such services. Those
29 services which are psychiatric in nature shall be rendered or
30 recommended by a psychiatrist, and those services which are
31 medical in nature shall be rendered or recommended by a

1 physician or psychiatrist. The agency must develop a provider
2 enrollment process for community mental health providers which
3 bases provider enrollment on an assessment of service need.
4 The provider enrollment process shall be designed to control
5 costs, prevent fraud and abuse, consider provider expertise
6 and capacity, and assess provider success in managing
7 utilization of care and measuring treatment outcomes.
8 Providers will be selected through a competitive procurement
9 or selective contracting process. In addition to other
10 community mental health providers, the agency shall consider
11 for enrollment mental health programs licensed under chapter
12 395 and group practices licensed under chapter 458, chapter
13 459, chapter 490, or part I or part II of chapter 491. The
14 agency is also authorized to continue operation of its
15 behavioral health utilization management program and may
16 develop new services if these actions are necessary to ensure
17 savings from the implementation of the utilization management
18 system. The agency shall coordinate the implementation of this
19 enrollment process with the Department of Children and Family
20 Services and the Department of Juvenile Justice. The agency is
21 authorized to utilize diagnostic criteria in setting
22 reimbursement rates, to preauthorize certain high-cost or
23 highly utilized services, to limit or eliminate coverage for
24 certain services, or to make any other adjustments necessary
25 to comply with any limitations or directions provided for in
26 the General Appropriations Act.

27 Section 40. Subsection (4) of section 455.501, Florida
28 Statutes, is amended to read:

29 455.501 Definitions.--As used in this part, the term:

30 (4) "Health care practitioner" means any person
31 licensed under chapter 457; chapter 458; chapter 459; chapter

1 460; chapter 461; chapter 462; chapter 463; chapter 464;
2 chapter 465; chapter 466; part I, part III, part V, or part X
3 of chapter 468; chapter 480; chapter 484; chapter 486; chapter
4 490; or part I or part II of chapter 491.

5 Section 41. Paragraph (a) of subsection (1) of section
6 455.597, Florida Statutes, is amended to read:

7 455.597 Requirement for instruction on domestic
8 violence.--

9 (1)(a) The appropriate board shall require each person
10 licensed or certified under chapter 458, chapter 459, chapter
11 464, chapter 466, chapter 467, chapter 490, or part I or part
12 II of chapter 491 to complete a 1-hour continuing education
13 course, approved by the board, on domestic violence, as
14 defined in s. 741.28, as part of biennial relicensure or
15 recertification. The course shall consist of information on
16 the number of patients in that professional's practice who are
17 likely to be victims of domestic violence and the number who
18 are likely to be perpetrators of domestic violence, screening
19 procedures for determining whether a patient has any history
20 of being either a victim or a perpetrator of domestic
21 violence, and instruction on how to provide such patients with
22 information on, or how to refer such patients to, resources in
23 the local community, such as domestic violence centers and
24 other advocacy groups, that provide legal aid, shelter, victim
25 counseling, batterer counseling, or child protection services.

26 Section 42. Subsection (4) of section 455.667, Florida
27 Statutes, is amended to read:

28 455.667 Ownership and control of patient records;
29 report or copies of records to be furnished.--

30 (4) Any health care practitioner licensed by the
31 department or a board within the department who makes a

1 physical or mental examination of, or administers treatment or
2 dispenses legend drugs to, any person shall, upon request of
3 such person or the person's legal representative, furnish, in
4 a timely manner, without delays for legal review, copies of
5 all reports and records relating to such examination or
6 treatment, including X rays and insurance information.
7 However, when a patient's psychiatric, chapter 490
8 psychological, or part I or part II of chapter 491
9 psychotherapeutic records are requested by the patient or the
10 patient's legal representative, the health care practitioner
11 may provide a report of examination and treatment in lieu of
12 copies of records. Upon a patient's written request, complete
13 copies of the patient's psychiatric records shall be provided
14 directly to a subsequent treating psychiatrist. The furnishing
15 of such report or copies shall not be conditioned upon payment
16 of a fee for services rendered.

17 Section 43. Section 455.677, Florida Statutes, is
18 amended to read:

19 455.677 Disposition of records of deceased
20 practitioners or practitioners relocating or terminating
21 practice.--Each board created under the provisions of chapter
22 457, chapter 458, chapter 459, chapter 460, chapter 461,
23 chapter 463, chapter 464, chapter 465, chapter 466, part I of
24 chapter 484, chapter 486, chapter 490, or part I or part II of
25 chapter 491, and the department under the provisions of
26 chapter 462, shall provide by rule for the disposition, under
27 that chapter, of the medical records or records of a
28 psychological nature of practitioners which are in existence
29 at the time the practitioner dies, terminates practice, or
30 relocates and is no longer available to patients and which
31 records pertain to the practitioner's patients. The rules

1 shall provide that the records be retained for at least 2
2 years after the practitioner's death, termination of practice,
3 or relocation. In the case of the death of the practitioner,
4 the rules shall provide for the disposition of such records by
5 the estate of the practitioner.

6 Section 44. Paragraph (a) of subsection (1) of section
7 468.505, Florida Statutes, is amended to read:

8 468.505 Exemptions; exceptions.--

9 (1) Nothing in this part may be construed as
10 prohibiting or restricting the practice, services, or
11 activities of:

12 (a) A person licensed in this state under chapter 457,
13 chapter 458, chapter 459, chapter 460, chapter 461, chapter
14 462, chapter 463, chapter 464, chapter 465, chapter 466,
15 chapter 480, chapter 490, or part I or part II of chapter 491,
16 when engaging in the profession or occupation for which he or
17 she is licensed, or of any person employed by and under the
18 supervision of the licensee when rendering services within the
19 scope of the profession or occupation of the licensee;

20 Section 45. Section 490.00515, Florida Statutes, is
21 amended to read:

22 490.00515 Exemptions from public records and meetings
23 requirements.--The exemptions from s. 119.07(1) provided by
24 ss. 455.621 ~~455.225~~(2) and (10) and 455.707 ~~455.261~~(3)(e) and
25 (5)(a) also apply to information concerning a provisional
26 psychologist regulated by the Agency for Health Care
27 Administration and the department ~~of Health~~ under this
28 chapter, ~~a registered clinical social worker intern, a~~
29 ~~registered marriage and family therapist intern, a registered~~
30 ~~mental health counselor intern, a provisional clinical social~~
31 ~~worker, a provisional marriage and family therapist, or a~~

1 ~~provisional mental health counselor regulated by the Agency~~
2 ~~for Health Care Administration and the Department of Health~~
3 ~~under chapter 491.~~ The exemption from s. 286.011 provided by
4 s. 455.621 ~~455.225(4)~~ also applies to the proceedings of a
5 probable cause panel with respect to an investigation
6 concerning a provisional psychologist, ~~a registered clinical~~
7 ~~social worker intern, a registered marriage and family~~
8 ~~therapist intern, a registered mental health counselor intern,~~
9 ~~a provisional clinical social worker, a provisional marriage~~
10 ~~and family therapist, or a provisional mental health counselor~~
11 regulated by the agency and department under this chapter ~~or~~
12 ~~chapter 491.~~ This section is subject to the Open Government
13 Sunset Review Act of 1995 in accordance with s. 119.15 and
14 shall stand repealed on October 2, 2002, unless reviewed and
15 saved from repeal through reenactment by the Legislature.

16 Section 46. Paragraph (b) of subsection (1) of section
17 490.012, Florida Statutes, is amended to read:

18 490.012 Violations; penalties; injunction.--

19 (1)

20 (b) No person shall hold herself or himself out by any
21 title or description incorporating the word, or a permutation
22 of the word, "psychotherapy" unless such person holds a valid,
23 active license under chapter 458, chapter 459, chapter 490, or
24 part I or part II of chapter 491, or such person is certified
25 as an advanced registered nurse practitioner, pursuant to s.
26 464.012, who has been determined by the Board of Nursing as a
27 specialist in psychiatric mental health.

28 Section 47. Section 627.4195, Florida Statutes, is
29 amended to read:

30 627.4195 Health insurance; claims for payment of
31 psychotherapeutic services; confidentiality.--An insurer must

1 maintain strict confidentiality against unauthorized or
2 inadvertent disclosure of confidential information to persons
3 inside or outside the insurer's organization regarding claims
4 for payment of psychotherapeutic services provided by
5 psychotherapists licensed under chapter 490 or part I or part
6 II of chapter 491 and psychotherapeutic records and reports
7 related to the claims. A report, in lieu of records, may be
8 submitted by a psychotherapist in support of a claim. Such
9 report must include clear statements summarizing the insured's
10 presenting symptoms, what transpired in any provided therapy,
11 what progress, if any, was made by the insured and results
12 obtained. However, the insurer may require the records upon
13 which the report is based, if the report does not contain
14 sufficient information for properly processing the claim. A
15 psychotherapist submitting records in support of a claim may
16 obscure portions to conceal the names, identities, or
17 identifying information of people other than the insured if
18 this information is unnecessary to utilization review, quality
19 management, discharge planning, case management, or claims
20 processing conducted by the insurer. An insurer may provide
21 aggregate data which does not disclose subscriber identities
22 or identities of other persons to entities such as payors,
23 sponsors, researchers and accreditation bodies. As used in
24 this section, "insurer" means an individual health insurance
25 policy subject to this chapter, an insurer issuing a group
26 health insurance policy or certificate pursuant to s. 627.651,
27 a plan of self-insurance providing the health coverage
28 benefits to residents of this state pursuant to s. 627.651, an
29 insurer delivering a group health policy issued or delivered
30 outside this state under which a resident of this state is
31 provided coverage pursuant to s. 627.6515, a preferred

1 provider organization as defined in s. 627.6471, an exclusive
2 provider organization as defined in s. 627.6472, and prepaid
3 health service organizations providing mental health services
4 pursuant to chapter 636.

5 Section 48. Subsection (5) of section 627.6471,
6 Florida Statutes, is amended to read:

7 627.6471 Contracts for reduced rates of payment;
8 limitations; coinsurance and deductibles.--

9 (5) If psychotherapeutic services are covered by a
10 policy issued by the insurer, the insurer shall provide
11 eligibility criteria for each group of health care providers
12 licensed under chapter 458, chapter 459, chapter 490, or part
13 I or part II of chapter 491, which include psychotherapy
14 within the scope of their practice as provided by law, or for
15 any person who is certified as an advanced registered nurse
16 practitioner in psychiatric mental health under s. 464.012.
17 When psychotherapeutic services are covered, eligibility
18 criteria shall be established by the insurer to be included in
19 the insurer's criteria for selection of network providers. The
20 insurer may not discriminate against a health care provider by
21 excluding such practitioner from its provider network solely
22 on the basis of the practitioner's license.

23 Section 49. Subsection (15) of section 627.6472,
24 Florida Statutes, is amended to read:

25 627.6472 Exclusive provider organizations.--

26 (15) If psychotherapeutic services are covered by a
27 policy issued by the insurer, the insurer shall provide
28 eligibility criteria for all groups of health care providers
29 licensed under chapter 458, chapter 459, chapter 490, or part
30 I or part II of chapter 491, which include psychotherapy
31 within the scope of their practice as provided by law, or for

1 any person who is certified as an advanced registered nurse
2 practitioner in psychiatric mental health under s. 464.012.
3 When psychotherapeutic services are covered, eligibility
4 criteria shall be established by the insurer to be included in
5 the insurer's criteria for selection of network providers. The
6 insurer may not discriminate against a health care provider by
7 excluding such practitioner from its provider network solely
8 on the basis of the practitioner's license.

9 Section 50. Paragraph (b) of subsection (2) of section
10 627.668, Florida Statutes, is amended to read:

11 627.668 Optional coverage for mental and nervous
12 disorders required; exception.--

13 (2) Under group policies or contracts, inpatient
14 hospital benefits, partial hospitalization benefits, and
15 outpatient benefits consisting of durational limits, dollar
16 amounts, deductibles, and coinsurance factors shall not be
17 less favorable than for physical illness generally, except
18 that:

19 (b) Outpatient benefits may be limited to \$1,000 for
20 consultations with a licensed physician, a psychologist
21 licensed pursuant to chapter 490, a mental health counselor
22 licensed pursuant to part I of chapter 491, a marriage and
23 family therapist licensed pursuant to part I of chapter 491,
24 and a clinical social worker licensed pursuant to part II of
25 chapter 491. If benefits are provided beyond the \$1,000 per
26 benefit year, the durational limits, dollar amounts, and
27 coinsurance factors thereof need not be the same as applicable
28 to physical illness generally.

29 Section 51. Subsection (6) of section 627.9404,
30 Florida Statutes, is amended to read:

31 627.9404 Definitions.--For the purposes of this part:

1 (6) "Licensed health care practitioner" means any
2 physician, nurse licensed under chapter 464, or
3 psychotherapist licensed under chapter 490 or part I or part
4 II of chapter 491, or any individual who meets any
5 requirements prescribed by rule by the department.

6 Section 52. Section 641.59, Florida Statutes, is
7 amended to read:

8 641.59 Psychotherapeutic services; records and
9 reports.--A health maintenance organization or prepaid health
10 clinic, as defined in this chapter, must maintain strict
11 confidentiality against unauthorized or inadvertent disclosure
12 of confidential information to persons inside or outside the
13 health maintenance organization or prepaid health clinic
14 regarding psychotherapeutic services provided to subscribers
15 by psychotherapists licensed under chapter 490 or part I or
16 part II of chapter 491 and psychotherapeutic records and
17 reports related to the services. A report, in lieu of records,
18 may be submitted by a psychotherapist in support of the
19 services. Such report must include clear statements
20 summarizing the subscriber's presenting symptoms, what
21 transpired in any provided therapy, what progress, if any, was
22 made by the subscriber, and results obtained. However, the
23 health maintenance organization or prepaid health clinic may
24 require the records upon which the report is based, if the
25 report does not contain sufficient information supporting the
26 services. A psychotherapist submitting records in support of
27 services may obscure portions to conceal the names,
28 identities, or identifying information of people other than
29 the subscriber if this information is unnecessary to
30 utilization review, quality management, discharge planning,
31 case management, or claims processing conducted by the health

1 maintenance organization or prepaid health clinic. A health
2 maintenance organization or prepaid health clinic may provide
3 aggregate data which does not disclose subscriber identities
4 or identities of other persons to entities such as payors,
5 sponsors, researchers, and accreditation bodies.

6 Section 53. This act shall take effect July 1 of the
7 year in which enacted.

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LEGISLATIVE SUMMARY

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12 Creates part II of chapter 491, F.S., to provide
13 regulatory provisions applicable to social work practice
14 that are separate from those applicable to marriage and
15 family therapy and mental health counseling. Amends and
16 repeals various provisions of chapter 491, F.S., and
17 creates part I of the remaining provisions of such
18 chapter, as amended, to conform. Creates the Board of
19 Social Work Practice and provides for appointment and
20 terms of members and location of headquarters. Provides
21 for different levels of licensure and practice. Revises
22 membership of and provides for appointments to the Board
23 of Marriage and Family Therapy and Mental Health
24 Counseling, to conform. Provides applicability to current
25 licensees and certificateholders. (See bill for details.)

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