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A bill to be entitled

An act relating to regulation of faith-based counseling; providing definitions; requiring registration of faith-based counselors; specifying nonapplication of certain licensing provisions to certain faith-based counselors under certain circumstances; providing registration procedures and requirements; providing for certification by examination; providing procedures; providing for a fee; providing for registration or certification by endorsement; providing criteria and requirements; providing for renewal of registrations or certificates; providing for a fee; providing criteria and requirements; providing for inactive status; providing requirements and criteria for reactivation of certification; providing fees; providing continuing education requirements; providing procedures and criteria; providing for certain status as a provider; providing for a fee; authorizing the Department of Health to adopt rules; providing for disciplinary actions for certain activities; providing for confidentiality of certain information; providing exceptions; requiring keeping and maintaining certain records; providing requirements for display of certificates and use of professional titles on certain materials; requiring a report to the department; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) DEFINITIONS.--For purposes of this

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30 section:

31 (a) "Department" means the Department of Health.

32 (b) "Faith-based counseling" means ministry to  
 33 individuals, families, couples, groups, organizations, and the  
 34 general public involving the application of principles and  
 35 procedures of counseling to assess and treat intrapersonal and  
 36 interpersonal problems and other dysfunctional behavior of a  
 37 social and spiritual nature and to assist in the overall  
 38 development and healing process of those served.

39 (c) "Faith-based counselor" means a person who provides  
 40 faith-based counseling.

41 (d) "Qualified association" means an association that is  
 42 certified by a statewide faith-based counseling organization in  
 43 this state which was in existence on January 1, 2004, and which  
 44 publishes, and requires compliance with, its standards and files  
 45 copies of such standards with the department as provided in  
 46 subparagraph (2)(b)1.

47 (2) REGISTRATION.--

48 (a) A faith-based counselor may not practice, and a person  
 49 may not commence his or her faith-based counselor professional  
 50 practicum, internship, or field experience, in this state unless  
 51 he or she has first registered with and been certified by a  
 52 qualified association as provided in this section.

53 (b) The licensing provisions of chapter 491, Florida  
 54 Statutes, do not apply to a faith-based counselor who:

55 1. Is certified by a statewide faith-based counseling  
 56 organization in this state which was in existence on January 1,  
 57 2004, and which publishes and requires compliance with the  
 58 organization's standards and files copies of such standards with

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59 the department. Such standards shall be in substantial compliance  
 60 with chapter 491, Florida Statutes, and the rules and minimum  
 61 standards adopted under that chapter, with the exception of those  
 62 standards of a curricular or religious nature. After the  
 63 department has determined that the standards for faith-based  
 64 counselors are in substantial compliance with minimum standards  
 65 that professionals licensed under chapter 491, Florida Statutes,  
 66 are required to meet, the standards need not be resubmitted to  
 67 the department unless a change in the standards occurs. If the  
 68 organization adopts any changes to the standards, the  
 69 organization shall provide such changes to the department within  
 70 10 days after their adoption.

71 2. Has been issued a certificate of registration by the  
 72 qualified association.

73 (c) The qualified association shall register as a faith-  
 74 based counselor intern an applicant who the qualified  
 75 association verifies has:

76 1. Completed the application form and remitted a  
 77 nonrefundable application fee as set by the qualified  
 78 association, such fee not to exceed \$200.

79 2. Completed the minimum education requirements of  
 80 obtaining a master's degree in faith-based counseling or a  
 81 related field from an accredited college or a faith-based  
 82 college and submitted an acceptable supervision plan, working  
 83 under a registered or certificated faith-based counselor for  
 84 meeting any practicum, internship, or field work required for  
 85 registration or certification that may not have been satisfied  
 86 in his or her graduate program.

87 3. Identified a qualified faith-based counselor to

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88 supervise his or her practicum, internship, or field experience.

89 (d) Upon verification that all requirements for  
 90 registration have been met, the qualified association shall  
 91 issue to an applicant, without charge, a certificate of  
 92 registration valid for 1 year. An applicant for certification  
 93 must remain under supervision until he or she receives his or  
 94 her certificate of registration from the qualified association.

95 (e) Faith-based counselors who have met the minimum  
 96 education requirements and commenced the minimum experience  
 97 requirements as set out in the qualified association's published  
 98 standards shall register with the qualified association before  
 99 July 1, 2004. Faith-based counselors who fail to comply with  
 100 this paragraph shall not be granted a certificate of  
 101 registration, and any time spent by the person completing the  
 102 experience requirement prior to registration as an intern shall  
 103 not count toward completion of such requirement.

104 (3) CERTIFICATION BY EXAMINATION.--

105 (a) Upon verification of documentation and payment of a  
 106 nonrefundable application fee as set by the qualified  
 107 association, such fee not to exceed \$200, plus the actual per-  
 108 applicant cost to the qualified association or its registration  
 109 agent for purchase of the examination from the state, a  
 110 professional licensure agency, or a similar national  
 111 professional organization, the qualified association shall issue  
 112 a certificate of registration as a clinical faith-based  
 113 counselor to an applicant who the qualified association  
 114 certifies has:

- 115 1. Completed the application form and remitted a
- 116 nonrefundable application fee as set by the qualified

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117 association, such fee not to exceed \$200.

118 2. Received the minimum of a master's degree in faith-  
119 based counseling, or a closely related field, from a regionally  
120 accredited college or has received the minimum of a master's  
121 degree in faith-based counseling from a faith-based theological  
122 seminary which the qualified association has determined was, at  
123 the time the applicant graduated, a program equivalent to  
124 programs approved by the Council on Faith-Based Counseling  
125 Education. An applicant who graduated from a university or  
126 college program outside the United States or Canada must present  
127 documentation of the equivalency determination from the council  
128 in order to qualify to sit for the examination. The master's  
129 level graduate program must have included direct clinical  
130 pastoral or faith-based patient or client counseling services  
131 and the coursework, casework, and experience as required by the  
132 qualified association's published standards.

133 3. Passed a theory and practice examination provided by  
134 the qualified association for this purpose.

135 4. Demonstrated, in a manner designated by the qualified  
136 association's published standards, knowledge of the laws and  
137 rules governing the practice of clinical faith-based counseling  
138 work.

139 5. Completed a minimum of 3 semester hours or 4 quarter  
140 hours of graduate-level coursework as required by the qualified  
141 association's published standards.

142 6. Completed the equivalent, as determined by the  
143 qualified association, of at least 1,000 hours of university-  
144 sponsored or seminary-supervised clinical practicum, internship,  
145 or field experience as required by the standards of the council.

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146 This experience may not be used to satisfy the postmaster's  
147 clinical experience requirement.

148 (4) CERTIFICATION BY ENDORSEMENT.--The qualified  
149 association shall issue a certificate of registration to a  
150 person in a profession to which this section applies who, upon  
151 applying to the qualified association and remitting the  
152 appropriate fee, demonstrates to the qualified association that  
153 he or she:

154 (a) Has knowledge of the laws and rules governing the  
155 practice of clinical faith-based counseling.

156 (b) Holds an active valid license to practice and has  
157 actively practiced the profession for which licensure is applied  
158 in another state for 3 of the last 5 years immediately preceding  
159 his or her application for registration with the qualified  
160 association.

161 (c) Meets the educational requirements of this section for  
162 the profession for which registration is applied.

163 (d) Has passed a substantially equivalent examination in  
164 another state or has passed the registration examination in this  
165 state in the profession for which the applicant seeks  
166 certification.

167 (e) Holds a certificate in good standing, is not under  
168 investigation for an act that would constitute a violation of  
169 this section, and has not been found to have committed any act  
170 that would constitute a violation of this section.

171 (5) RENEWAL OF REGISTRATION OR CERTIFICATION.--

172 (a) The qualified association shall prescribe by rule a  
173 method for the biennial renewal of registration or certification  
174 at a fee set by rule, not to exceed \$250.

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175 (b) Each applicant for renewal shall present satisfactory  
176 evidence that, in the period since the registration or  
177 certificate was issued, the applicant has completed continuing  
178 education requirements set by rule of the qualified association.  
179 Not more than 25 classroom hours of continuing education per  
180 year shall be required.

181 (c) The qualified association shall prescribe by rule a  
182 method for the biennial renewal of an intern registration at a  
183 fee set by rule, not to exceed \$100.

184 (6) INACTIVE STATUS; REACTIVATION OF CERTIFICATION;  
185 FEES.--

186 (a) Upon application to the qualified association and  
187 payment of a \$50 fee, a registered faith-based counselor may be  
188 placed on inactive status.

189 1. An inactive certificate may be renewed biennially for  
190 \$50.

191 2. An inactive certificate may be reactivated by submitting  
192 an application to the qualified association, completing the  
193 continuing education requirements, complying with any background  
194 investigation required, complying with other requirements  
195 prescribed by the qualified association, and paying a \$50  
196 reactivation fee plus the current biennial renewal fee at the  
197 time of reactivation.

198 (b) The qualified association may adopt rules relating to  
199 inactive certificates and the reactivation of certificates.

200 (7) CONTINUING EDUCATION AND LAWS AND RULES COURSES;  
201 APPROVAL OF PROVIDERS, PROGRAMS, AND COURSES; PROOF OF  
202 COMPLETION.--

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203 (a) Faith-based continuing education providers, programs,  
 204 and courses and laws and rules courses and their providers and  
 205 programs shall be approved by the qualified association.

206 (b) The qualified association may set a fee, not to exceed  
 207 \$200, for each applicant that applies for or renews provider  
 208 status.

209 (c) Proof of completion of the required number of hours of  
 210 continuing education and completion of the laws and rules course  
 211 shall be submitted to the qualified association in the manner and  
 212 time specified by rule and on forms provided by the qualified  
 213 association.

214 (d) The department or the qualified association shall adopt  
 215 rules and guidelines to administer and enforce the provisions of  
 216 this subsection.

217 (8) DISCIPLINE.--

218 (a) The following acts constitute grounds for denial of  
 219 certification or disciplinary action, as specified in s.  
 220 456.072(2), Florida Statutes:

221 1. Attempting to obtain, obtaining, or renewing a  
 222 registration or certification under this section by bribery or  
 223 fraudulent misrepresentation or through an error of the qualified  
 224 association or the department.

225 2. Having a registration or certification to practice a  
 226 comparable profession revoked, suspended, or otherwise acted  
 227 against, including the denial of certification or licensure by  
 228 another state, territory, or country.

229 3. Being convicted or found guilty of, regardless of  
 230 adjudication, or having entered a plea of nolo contendere to, a  
 231 crime in any jurisdiction which directly relates to the practice



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232 of his or her profession or the ability to practice his or her  
 233 profession. However, in the case of a plea of nolo contendere,  
 234 the qualified association shall allow the person who is the  
 235 subject of the disciplinary proceeding to present evidence in  
 236 mitigation relevant to the underlying charges and circumstances  
 237 surrounding the plea.

238 4. False, deceptive, or misleading advertising or obtaining  
 239 a fee or other thing of value on the representation that  
 240 beneficial results from any treatment will be guaranteed.

241 5. Advertising, practicing, or attempting to practice under  
 242 a name other than one's own.

243 6. Maintaining a professional association with any person  
 244 who the applicant, registered intern, or certificateholder knows,  
 245 or has reason to believe, is in violation of this section or a  
 246 rule of the department.

247 7. Knowingly aiding, assisting, procuring, or advising any  
 248 unregistered or uncertified person to hold himself or herself out  
 249 as registered or certified under this section.

250 8. Failing to perform any statutory or legal obligation  
 251 placed upon a person registered or certified under this section.

252 9. Willfully making or filing a false report or record,  
 253 failing to file a report or record required by state or federal  
 254 law, willfully impeding or obstructing the filing of a report or  
 255 record, or inducing another person to make or file a false report  
 256 or record or to impede or obstruct the filing of a report or  
 257 record. Such report or record means only a report or record which  
 258 requires the signature of a person registered or certified under  
 259 this section.

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260 10. Paying a kickback, rebate, bonus, or other remuneration  
 261 for receiving a patient or client, or receiving a kickback,  
 262 rebate, bonus, or other remuneration for referring a patient or  
 263 client to another provider of mental health care services or to a  
 264 provider of health care services or goods; referring a patient or  
 265 client to oneself for services on a fee-paid basis when those  
 266 services are already being paid for by some other public or  
 267 private entity; or entering into a reciprocal referral agreement.

268 11. Committing any act upon a patient or client which would  
 269 constitute sexual battery or which would constitute sexual  
 270 misconduct, as defined in s. 491.0111, Florida Statutes.

271 12. Making misleading, deceptive, untrue, or fraudulent  
 272 representations in the practice of any profession registered or  
 273 certified under this section.

274 13. Soliciting patients or clients personally, or through  
 275 an agent, through the use of fraud, intimidation, undue  
 276 influence, or a form of overreaching or vexatious conduct.

277 14. Failing to make available to a patient or client, upon  
 278 written request, copies of tests, reports, or documents in the  
 279 possession or under the control of the registered intern or  
 280 certificateholder which have been prepared for and paid for by  
 281 the patient or client.

282 15. Failing to respond within 30 days to a written  
 283 communication from the department or the qualified association  
 284 concerning any investigation by the department or the qualified  
 285 association or failing to make available any relevant records  
 286 with respect to any investigation about the registered intern's  
 287 or certificateholder's conduct or background.

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288       16. Being unable to practice the profession for which he or  
 289 she is registered or certified under this section with reasonable  
 290 skill or competence as a result of any mental or physical  
 291 condition or by reason of illness, drunkenness, or excessive use  
 292 of drugs, narcotics, chemicals, or any other substance. In  
 293 enforcing this subparagraph, upon a finding by the qualified  
 294 association that probable cause exists to believe that the  
 295 registered intern or certificateholder is unable to practice the  
 296 profession because of the reasons stated in this subparagraph,  
 297 the qualified association shall have the authority to compel a  
 298 registered intern or certificateholder to submit to a mental or  
 299 physical examination by faith-based counselors, psychologists,  
 300 physicians, or licensees under chapter 491, Florida Statutes,  
 301 designated by the qualified association. If the registered intern  
 302 or certificateholder refuses to comply with such order, the  
 303 qualified association may suspend or revoke the person's  
 304 registration or certification. A registered intern or  
 305 certificateholder affected under this paragraph shall at  
 306 reasonable intervals be afforded an opportunity to demonstrate  
 307 that he or she can resume the competent practice for which he or  
 308 she is registered or certified with reasonable skill and safety  
 309 to patients.

310       17. Performing any treatment or prescribing any therapy  
 311 which, by the prevailing standards of faith-based counselors in  
 312 the community, would constitute experimentation on human  
 313 subjects, without first obtaining full, informed, and written  
 314 consent.

315       18. Failing to meet the minimum standards of performance in  
 316 professional activities when measured against generally

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317 prevailing peer performance, including the undertaking of  
318 activities for which the registered intern or certificateholder  
319 is not qualified by training or experience.

320 19. Delegating professional responsibilities to a person  
321 who the registered intern or certificateholder knows or has  
322 reason to know is not qualified by training or experience to  
323 perform such responsibilities.

324 20. Violating a rule relating to the regulation of the  
325 profession or a lawful order of the qualified association  
326 previously entered in a disciplinary hearing.

327 21. Failure of the registered intern or certificateholder  
328 to maintain in confidence a communication made by a patient or  
329 client in the context of such services, except as provided in s.  
330 491.0147, Florida Statutes.

331 22. Making public statements which are derived from test  
332 data, client contacts, or behavioral research and which identify  
333 or damage research subjects or clients.

334 (b) The qualified association shall notify the department  
335 within 10 days after the suspension or revocation of the  
336 registration or certification of any faith-based counselor  
337 registered or certified under this subsection.

338 (c)1. The qualified association shall notify the department  
339 when the qualified association finds there is a violation of any  
340 of the provisions of this subsection which threatens harm to any  
341 patient or client.

342 2. The qualified association shall notify the department  
343 when the qualified association finds, within 30 days after  
344 written notification by registered mail of the requirement for  
345 registration, that a person continues to offer faith-based

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346 counseling services without a certificate of registration. The  
 347 department shall enforce the provisions of this subsection  
 348 pursuant to chapter 491, Florida Statutes.

349 (9) EXEMPTIONS.--No provision of this section shall be  
 350 construed to limit the performance of activities of a rabbi,  
 351 priest, minister, or member of the clergy of any religious  
 352 denomination or sect or use of the term "Christian counselor" or  
 353 "Christian clinical counselor" when the activities of such person  
 354 are within the scope of the performance of his or her regular or  
 355 specialized ministerial duties and no compensation is received by  
 356 him or her or when such activities are performed, with or without  
 357 compensation, by a person for or under the auspices or  
 358 sponsorship, individually or in conjunction with others, of an  
 359 established and legally cognizable church, denomination, or sect  
 360 and when the person rendering service remains accountable to the  
 361 established authority thereof.

362 (10) CONFIDENTIALITY AND PRIVILEGED COMMUNICATIONS.--Any  
 363 communication between any person registered or certified under  
 364 this section and his or her patient or client shall be  
 365 confidential. This secrecy may be waived under the following  
 366 conditions:

367 (a) When the person certified under this chapter is a party  
 368 defendant to a civil, criminal, or disciplinary action arising  
 369 from a complaint filed by the patient or client, in which case  
 370 the waiver shall be limited to that action.

371 (b) When the patient or client agrees to the waiver, in  
 372 writing, or when more than one person in a family is receiving  
 373 therapy and each family member agrees to the waiver, in writing.

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374 (c) When there is a clear and immediate probability of  
375 physical harm to the patient or client, to other individuals, or  
376 to society and the person registered or certified under this  
377 section communicates the information only to the potential  
378 victim, appropriate family member, or law enforcement or other  
379 appropriate authorities.

380 (11) RECORDS.--

381 (a) Each faith-based counselor who provides services as  
382 defined in this section shall give notice to all clients and  
383 patients on all intake documents and counseling agreements that  
384 he or she is not licensed by this state but is registered or  
385 certified by the qualified association pursuant to this section.  
386 All intake documents and counseling agreements shall contain the  
387 address and telephone number of the qualified association.

388 (b) Each faith-based counselor who provides services as  
389 defined in this section shall maintain records. The qualified  
390 association may adopt rules defining the minimum requirements for  
391 records and reports, including content, length of time records  
392 shall be maintained, and transfer of either the records or a  
393 report of such records to a subsequent treating practitioner or  
394 other individual, with written consent of the client or clients.

395 (12) DISPLAY OF REGISTRATION OR CERTIFICATE; USE OF  
396 PROFESSIONAL TITLE ON PROMOTIONAL MATERIALS.--

397 (a) A person registered or certified under this section as  
398 a faith-based counselor shall conspicuously display the valid  
399 registration certificate issued by qualified association or a  
400 true copy thereof at each location at which the certificateholder  
401 practices his or her profession.

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402       (b) A certified faith-based counselor shall include the  
403       words "certified faith-based counselor" on all promotional  
404       materials, including cards, brochures, stationery,  
405       advertisements, and signs, naming the certificateholder.

406       (13) FEES NONREFUNDABLE.--The fees paid by any applicant  
407       for certification as a registered faith-based counselor under  
408       this section are nonrefundable.

409       (14) REPORT.--The qualified association issuing  
410       certificates of registration under this section shall annually  
411       report to the department the number of faith-based counselors and  
412       interns registered during the most recent calendar year and the  
413       names and addresses of the counselors and interns.

414       Section 2. This act shall take effect upon becoming a law.