

1 A bill to be entitled
2 An act relating to regulation of faith-based counseling;
3 providing definitions; requiring registration of faith-
4 based counselors; specifying nonapplication of certain
5 licensing provisions to certain faith-based counselors
6 under certain circumstances; providing registration
7 procedures and requirements; providing for certification
8 by examination; providing procedures; providing for a fee;
9 providing for certification of registration by
10 endorsement; providing criteria and requirements;
11 providing for renewal of registrations or certificates;
12 providing for a fee; providing criteria and requirements;
13 providing for inactive status; providing requirements and
14 criteria for reactivation of certification; providing
15 fees; authorizing qualified associations to adopt rules;
16 providing continuing education requirements; providing
17 procedures and criteria; providing for certain status as a
18 provider; providing for a fee; authorizing the Department
19 of Health or the qualified association to adopt rules;
20 providing for disciplinary actions for certain activities;
21 providing exemptions; providing for confidentiality of
22 certain information; providing exceptions; requiring the
23 keeping and maintaining of certain records; providing
24 requirements for display of certificates and use of
25 professional titles on certain materials; specifying
26 certain fees as nonrefundable; requiring a report to the
27 department; providing an effective date.
28

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

30
 31 Section 1. (1) DEFINITIONS.--As used in this section, the
 32 term:

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

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

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

43 (d) "Qualified association" means an organization that
 44 uses a certification process that is endorsed by a statewide
 45 faith-based counseling organization in this state which was in
 46 existence on January 1, 2005, and which publishes, and requires
 47 compliance with, its standards and files copies of such
 48 standards with the department as provided in subparagraph

49 (2)(b)1.

50 (2) REGISTRATION.--

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

56 (b) The licensing provisions of chapter 491, Florida

57 Statutes, do not apply to a faith-based counselor who:

58 1. Is certified by a statewide faith-based counseling
 59 organization in this state which was in existence on January 1,
 60 2005, and which publishes and requires compliance with the
 61 organization's standards and files copies of such standards with
 62 the department. Such standards shall be in substantial
 63 compliance with chapter 491, Florida Statutes, and the rules and
 64 minimum standards adopted under that chapter, with the exception
 65 of those standards of a curricular or religious nature. After
 66 the department has determined that the standards for faith-based
 67 counselors are in substantial compliance with minimum standards
 68 that professionals licensed under chapter 491, Florida Statutes,
 69 are required to meet, the standards need not be resubmitted to
 70 the department unless a change in the standards occurs. If the
 71 organization adopts any changes to the standards, the
 72 organization shall provide such changes to the department within
 73 10 days after their adoption.

74 2. Has been issued a certificate of registration by the
 75 qualified association.

76 (c) The qualified association shall register as a faith-
 77 based counselor intern an applicant who the qualified
 78 association verifies has:

79 1. Completed the application form and remitted a
 80 nonrefundable application fee as set by the qualified
 81 association, not to exceed \$200.

82 2. Completed the minimum education requirements of
 83 obtaining a master's degree in faith-based counseling or a
 84 related field from an accredited college or a faith-based

85 college and submitted an acceptable supervision plan, working
 86 under a registered or certificated faith-based counselor, for
 87 meeting any practicum, internship, or field experience
 88 requirements for registration or certification that may not have
 89 been satisfied in his or her graduate program.

90 3. Identified a qualified faith-based counselor to
 91 supervise his or her practicum, internship, or field experience.

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

98 (e) Faith-based counselors who have met the minimum
 99 education requirements and commenced the minimum experience
 100 requirements as set out in the qualified association's published
 101 standards shall register with the qualified association before
 102 July 1, 2005. Faith-based counselors who fail to comply with
 103 this paragraph may not be granted a certificate of registration,
 104 and any time spent by the person completing the experience
 105 requirement prior to registration as an intern does not count
 106 toward completion of such requirement.

107 (3) CERTIFICATION BY EXAMINATION.--Upon verification of
 108 documentation and payment of a nonrefundable application fee as
 109 set by the qualified association, such fee not to exceed \$200,
 110 plus the actual per-applicant cost to the qualified association
 111 or its registration agent for purchase of the examination from
 112 the state, a professional licensure agency, or a similar

113 national professional organization, the qualified association
114 shall issue a certificate of registration as a clinical faith-
115 based counselor to an applicant who the qualified association
116 certifies has:

117 (a) Completed the application form and remitted a
118 nonrefundable application fee as set by the qualified
119 association, not to exceed \$200.

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

135 (c) Passed a theory and practice examination provided by
136 the qualified association for this purpose.

137 (d) Demonstrated, in a manner designated by the qualified
138 association's published standards, knowledge of the laws and
139 rules governing the practice of clinical faith-based counseling.

140 (e) Completed a minimum of 3 semester hours or 4 quarter

141 hours of graduate-level coursework as required by the qualified
 142 association's published standards.

143 (f) Completed the equivalent, as determined by the
 144 qualified association, of at least 1,000 hours of university-
 145 sponsored or seminary-supervised clinical practicum, internship,
 146 or field experience as required by the standards of the council.
 147 This experience may not be used to satisfy the postmaster's
 148 clinical experience requirement.

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

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

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

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

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

168 (e) Holds a certificate in good standing, is not under

169 investigation for an act that would constitute a violation of
 170 this section, and has not been found to have committed any act
 171 that would constitute a violation of this section.

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

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

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

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

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

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

190 1. An inactive certificate may be renewed biennially for
 191 \$50.

192 2. An inactive certificate may be reactivated by
 193 submitting an application to the qualified association,
 194 completing the continuing education requirements, complying with
 195 any background investigation required, complying with other
 196 requirements prescribed by the qualified association, and paying

197 a \$50 reactivation fee plus the current biennial renewal fee at
 198 the time of reactivation.

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

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

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

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

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

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

218 (8) DISCIPLINE.--

219 (a) The following acts constitute grounds for denial of
 220 certification or disciplinary action, as specified in section
 221 456.072(2), Florida Statutes:

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

225 qualified association or the department.

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

230 3. Being convicted or found guilty of, regardless of
 231 adjudication, or having entered a plea of nolo contendere to, a
 232 crime in any jurisdiction which directly relates to the practice
 233 of one's profession or the ability to practice one's profession.
 234 However, in the case of a plea of nolo contendere, the qualified
 235 association shall allow the person who is the subject of the
 236 disciplinary proceeding to present evidence in mitigation
 237 relevant to the underlying charges and circumstances surrounding
 238 the plea.

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

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

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

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

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

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

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

270 11. Committing any act upon a patient or client which
 271 would constitute sexual battery or which would constitute sexual
 272 misconduct, as provided by s. 491.0111, Florida Statutes.

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

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

279 14. Failing to make available to a patient or client, upon
 280 written request, copies of tests, reports, or documents in the

281 possession or under the control of the registered intern or
282 certificateholder which have been prepared for and paid for by
283 the patient or client.

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

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

309 that he or she can resume the competent practice for which he or
310 she is registered or certified with reasonable skill and safety
311 to patients.

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

317 18. Failing to meet the minimum standards of performance
318 in professional activities when measured against generally
319 prevailing peer performance, including the undertaking of
320 activities for which the registered intern or certificateholder
321 is not qualified by training or experience.

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

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

329 21. Failing to maintain in confidence a communication made
330 by a patient or client in the context of such services, except
331 as provided in section 491.0147, Florida Statutes.

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

335 (b) The qualified association shall notify the department
336 within 10 days after the suspension or revocation of the

337 registration or certification of any faith-based counselor
 338 registered or certified under this subsection.

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

343 2. The qualified association shall notify the department
 344 when the qualified association finds, within 30 days after
 345 written notification by registered mail of the requirement for
 346 registration, that a person continues to offer faith-based
 347 counseling services without a certificate of registration. The
 348 department shall enforce the provisions of this subsection
 349 pursuant to chapter 491, Florida Statutes.

350 (9) EXEMPTIONS.--This section does not limit the
 351 performance of activities of a rabbi, priest, minister, or
 352 member of the clergy of any religious denomination or sect or
 353 use of the term "Christian counselor" or "Christian clinical
 354 counselor" when the activities of such person are within the
 355 scope of the performance of his or her regular or specialized
 356 ministerial duties and no compensation is received by him or her
 357 or when such activities are performed, with or without
 358 compensation, by a person for or under the auspices or
 359 sponsorship, individually or in conjunction with others, of an
 360 established and legally cognizable church, denomination, or sect
 361 and when the person rendering service remains accountable to the
 362 established authority thereof.

363 (10) CONFIDENTIALITY AND PRIVILEGED COMMUNICATIONS.--Any
 364 communication between any person registered or certified under

365 this section and his or her patient or client is confidential.

366 This secrecy may be waived under the following conditions:

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

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 must 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
391 for records and reports, including content, length of time
392 records shall be maintained, and transfer of either the records

393 or a report of such records to a subsequent treating
 394 practitioner or other individual, with written consent of the
 395 client or clients.

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

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

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

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

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

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