

By Senator Fasano

11-717-04

See HB 707

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

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

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3 Section 1. (1) DEFINITIONS.--For purposes of this
4 section:

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

6 (b) "Faith-based counseling" means ministry to
7 individuals, families, couples, groups, organizations, and the
8 general public involving the application of principles and
9 procedures of counseling to assess and treat intrapersonal and
10 interpersonal problems and other dysfunctional behavior of a
11 social and spiritual nature and to assist in the overall
12 development and healing process of those served.

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

15 (d) "Qualified association" means an association that
16 is certified by a statewide faith-based counseling
17 organization in this state which was in existence on January
18 1, 2004, and which publishes, and requires compliance with,
19 its standards and files copies of such standards with the
20 department as provided in subparagraph (2)(b)1.

21 (2) REGISTRATION.--

22 (a) A faith-based counselor may not practice, and a
23 person may not commence his or her faith-based counselor
24 professional practicum, internship, or field experience, in
25 this state unless he or she has first registered with and been
26 certified by a qualified association as provided in this
27 section.

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

30 1. Is certified by a statewide faith-based counseling
31 organization in this state which was in existence on January

1 1, 2004, and which publishes and requires compliance with the
2 organization's standards and files copies of such standards
3 with the department. Such standards shall be in substantial
4 compliance with chapter 491, Florida Statutes, and the rules
5 and minimum standards adopted under that chapter, with the
6 exception of those standards of a curricular or religious
7 nature. After the department has determined that the standards
8 for faith-based counselors are in substantial compliance with
9 minimum standards that professionals licensed under chapter
10 491, Florida Statutes, are required to meet, the standards
11 need not be resubmitted to the department unless a change in
12 the standards occurs. If the organization adopts any changes
13 to the standards, the organization shall provide such changes
14 to the department within 10 days after their adoption.

15 2. Has been issued a certificate of registration by
16 the qualified association.

17 (c) The qualified association shall register as a
18 faith-based counselor intern an applicant who the qualified
19 association verifies has:

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

23 2. Completed the minimum education requirements of
24 obtaining a master's degree in faith-based counseling or a
25 related field from an accredited college or a faith-based
26 college and submitted an acceptable supervision plan, working
27 under a registered or certificated faith-based counselor for
28 meeting any practicum, internship, or field work required for
29 registration or certification that may not have been satisfied
30 in his or her graduate program.

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

4 (d) Upon verification that all requirements for
5 registration have been met, the qualified association shall
6 issue to an applicant, without charge, a certificate of
7 registration valid for 1 year. An applicant for certification
8 must remain under supervision until he or she receives his or
9 her certificate of registration from the qualified
10 association.

11 (e) Faith-based counselors who have met the minimum
12 education requirements and commenced the minimum experience
13 requirements as set out in the qualified association's
14 published standards shall register with the qualified
15 association before July 1, 2004. Faith-based counselors who
16 fail to comply with this paragraph shall not be granted a
17 certificate of registration, and any time spent by the person
18 completing the experience requirement prior to registration as
19 an intern shall not count toward completion of such
20 requirement.

21 (3) CERTIFICATION BY EXAMINATION.--

22 (a) Upon verification of documentation and payment of
23 a nonrefundable application fee as set by the qualified
24 association, such fee not to exceed \$200, plus the actual
25 per-applicant cost to the qualified association or its
26 registration agent for purchase of the examination from the
27 state, a professional licensure agency, or a similar national
28 professional organization, the qualified association shall
29 issue a certificate of registration as a clinical faith-based
30 counselor to an applicant who the qualified association
31 certifies has:

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

4 2. Received the minimum of a master's degree in
5 faith-based counseling, or a closely related field, from a
6 regionally accredited college or has received the minimum of a
7 master's degree in faith-based counseling from a faith-based
8 theological seminary which the qualified association has
9 determined was, at the time the applicant graduated, a program
10 equivalent to programs approved by the Council on Faith-Based
11 Counseling Education. An applicant who graduated from a
12 university or college program outside the United States or
13 Canada must present documentation of the equivalency
14 determination from the council in order to qualify to sit for
15 the examination. The master's level graduate program must have
16 included direct clinical pastoral or faith-based patient or
17 client counseling services and the coursework, casework, and
18 experience as required by the qualified association's
19 published standards.

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

22 4. Demonstrated, in a manner designated by the
23 qualified association's published standards, knowledge of the
24 laws and rules governing the practice of clinical faith-based
25 counseling work.

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

29 6. Completed the equivalent, as determined by the
30 qualified association, of at least 1,000 hours of
31 university-sponsored or seminary-supervised clinical

1 practicum, internship, or field experience as required by the
2 standards of the council. This experience may not be used to
3 satisfy the postmaster's clinical experience requirement.

4 (4) CERTIFICATION BY ENDORSEMENT.--The qualified
5 association shall issue a certificate of registration to a
6 person in a profession to which this section applies who, upon
7 applying to the qualified association and remitting the
8 appropriate fee, demonstrates to the qualified association
9 that he or she:

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

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

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

19 (d) Has passed a substantially equivalent examination
20 in another state or has passed the registration examination in
21 this state in the profession for which the applicant seeks
22 certification.

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

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

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

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1 (b) Each applicant for renewal shall present
2 satisfactory evidence that, in the period since the
3 registration or certificate was issued, the applicant has
4 completed continuing education requirements set by rule of the
5 qualified association. Not more than 25 classroom hours of
6 continuing education per year shall be required.

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

10 (6) INACTIVE STATUS; REACTIVATION OF CERTIFICATION;
11 FEES.--

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

15 1. An inactive certificate may be renewed biennially
16 for \$50.

17 2. An inactive certificate may be reactivated by
18 submitting an application to the qualified association,
19 completing the continuing education requirements, complying
20 with any background investigation required, complying with
21 other requirements prescribed by the qualified association,
22 and paying a \$50 reactivation fee plus the current biennial
23 renewal fee at the time of reactivation.

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

26 (7) CONTINUING EDUCATION AND LAWS AND RULES COURSES;
27 APPROVAL OF PROVIDERS, PROGRAMS, AND COURSES; PROOF OF
28 COMPLETION.--

29 (a) Faith-based continuing education providers,
30 programs, and courses and laws and rules courses and their
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1 providers and programs shall be approved by the qualified
2 association.

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

6 (c) Proof of completion of the required number of
7 hours of continuing education and completion of the laws and
8 rules course shall be submitted to the qualified association
9 in the manner and time specified by rule and on forms provided
10 by the qualified association.

11 (d) The department or the qualified association shall
12 adopt rules and guidelines to administer and enforce the
13 provisions of this subsection.

14 (8) DISCIPLINE.--

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

18 1. Attempting to obtain, obtaining, or renewing a
19 registration or certification under this section by bribery or
20 fraudulent misrepresentation or through an error of the
21 qualified association or the department.

22 2. Having a registration or certification to practice
23 a comparable profession revoked, suspended, or otherwise acted
24 against, including the denial of certification or licensure by
25 another state, territory, or country.

26 3. Being convicted or found guilty of, regardless of
27 adjudication, or having entered a plea of nolo contendere to,
28 a crime in any jurisdiction which directly relates to the
29 practice of his or her profession or the ability to practice
30 his or her profession. However, in the case of a plea of nolo
31 contendere, the qualified association shall allow the person

1 who is the subject of the disciplinary proceeding to present
2 evidence in mitigation relevant to the underlying charges and
3 circumstances surrounding the plea.

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

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

9 6. Maintaining a professional association with any
10 person who the applicant, registered intern, or
11 certificateholder knows, or has reason to believe, is in
12 violation of this section or a rule of the department.

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

16 8. Failing to perform any statutory or legal
17 obligation placed upon a person registered or certified under
18 this section.

19 9. Willfully making or filing a false report or
20 record, failing to file a report or record required by state
21 or federal law, willfully impeding or obstructing the filing
22 of a report or record, or inducing another person to make or
23 file a false report or record or to impede or obstruct the
24 filing of a report or record. Such report or record means only
25 a report or record which requires the signature of a person
26 registered or certified under this section.

27 10. Paying a kickback, rebate, bonus, or other
28 remuneration for receiving a patient or client, or receiving a
29 kickback, rebate, bonus, or other remuneration for referring a
30 patient or client to another provider of mental health care
31 services or to a provider of health care services or goods;

1 referring a patient or client to oneself for services on a
2 fee-paid basis when those services are already being paid for
3 by some other public or private entity; or entering into a
4 reciprocal referral agreement.

5 11. Committing any act upon a patient or client which
6 would constitute sexual battery or which would constitute
7 sexual misconduct, as defined in section 491.0111, Florida
8 Statutes.

9 12. Making misleading, deceptive, untrue, or
10 fraudulent representations in the practice of any profession
11 registered or certified under this section.

12 13. Soliciting patients or clients personally, or
13 through an agent, through the use of fraud, intimidation,
14 undue influence, or a form of overreaching or vexatious
15 conduct.

16 14. Failing to make available to a patient or client,
17 upon written request, copies of tests, reports, or documents
18 in the possession or under the control of the registered
19 intern or certificateholder which have been prepared for and
20 paid for by the patient or client.

21 15. Failing to respond within 30 days to a written
22 communication from the department or the qualified association
23 concerning any investigation by the department or the
24 qualified association or failing to make available any
25 relevant records with respect to any investigation about the
26 registered intern's or certificateholder's conduct or
27 background.

28 16. Being unable to practice the profession for which
29 he or she is registered or certified under this section with
30 reasonable skill or competence as a result of any mental or
31 physical condition or by reason of illness, drunkenness, or

1 excessive use of drugs, narcotics, chemicals, or any other
2 substance. In enforcing this subparagraph, upon a finding by
3 the qualified association that probable cause exists to
4 believe that the registered intern or certificateholder is
5 unable to practice the profession because of the reasons
6 stated in this subparagraph, the qualified association shall
7 have the authority to compel a registered intern or
8 certificateholder to submit to a mental or physical
9 examination by faith-based counselors, psychologists,
10 physicians, or licensees under chapter 491, Florida Statutes,
11 designated by the qualified association. If the registered
12 intern or certificateholder refuses to comply with such order,
13 the qualified association may suspend or revoke the person's
14 registration or certification. A registered intern or
15 certificateholder affected under this paragraph shall at
16 reasonable intervals be afforded an opportunity to demonstrate
17 that he or she can resume the competent practice for which he
18 or she is registered or certified with reasonable skill and
19 safety to patients.

20 17. Performing any treatment or prescribing any
21 therapy which, by the prevailing standards of faith-based
22 counselors in the community, would constitute experimentation
23 on human subjects, without first obtaining full, informed, and
24 written consent.

25 18. Failing to meet the minimum standards of
26 performance in professional activities when measured against
27 generally prevailing peer performance, including the
28 undertaking of activities for which the registered intern or
29 certificateholder is not qualified by training or experience.

30 19. Delegating professional responsibilities to a
31 person who the registered intern or certificateholder knows or

1 has reason to know is not qualified by training or experience
2 to perform such responsibilities.

3 20. Violating a rule relating to the regulation of the
4 profession or a lawful order of the qualified association
5 previously entered in a disciplinary hearing.

6 21. Failure of the registered intern or
7 certificateholder to maintain in confidence a communication
8 made by a patient or client in the context of such services,
9 except as provided in section 491.0147, Florida Statutes.

10 22. Making public statements which are derived from
11 test data, client contacts, or behavioral research and which
12 identify or damage research subjects or clients.

13 (b) The qualified association shall notify the
14 department within 10 days after the suspension or revocation
15 of the registration or certification of any faith-based
16 counselor registered or certified under this subsection.

17 (c)1. The qualified association shall notify the
18 department when the qualified association finds there is a
19 violation of any of the provisions of this subsection which
20 threatens harm to any patient or client.

21 2. The qualified association shall notify the
22 department when the qualified association finds, within 30
23 days after written notification by registered mail of the
24 requirement for registration, that a person continues to offer
25 faith-based counseling services without a certificate of
26 registration. The department shall enforce the provisions of
27 this subsection pursuant to chapter 491, Florida Statutes.

28 (9) EXEMPTIONS.--No provision of this section shall be
29 construed to limit the performance of activities of a rabbi,
30 priest, minister, or member of the clergy of any religious
31 denomination or sect or use of the term "Christian counselor"

1 or "Christian clinical counselor" when the activities of such
2 person are within the scope of the performance of his or her
3 regular or specialized ministerial duties and no compensation
4 is received by him or her or when such activities are
5 performed, with or without compensation, by a person for or
6 under the auspices or sponsorship, individually or in
7 conjunction with others, of an established and legally
8 cognizable church, denomination, or sect and when the person
9 rendering service remains accountable to the established
10 authority thereof.

11 (10) CONFIDENTIALITY AND PRIVILEGED
12 COMMUNICATIONS.--Any communication between any person
13 registered or certified under this section and his or her
14 patient or client shall be confidential. This secrecy may be
15 waived under the following conditions:

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

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

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

30 (11) RECORDS.--
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1 (a) Each faith-based counselor who provides services
2 as defined in this section shall give notice to all clients
3 and patients on all intake documents and counseling agreements
4 that he or she is not licensed by this state but is registered
5 or certified by the qualified association pursuant to this
6 section. All intake documents and counseling agreements shall
7 contain the address and telephone number of the qualified
8 association.

9 (b) Each faith-based counselor who provides services
10 as defined in this section shall maintain records. The
11 qualified association may adopt rules defining the minimum
12 requirements for records and reports, including content,
13 length of time records shall be maintained, and transfer of
14 either the records or a report of such records to a subsequent
15 treating practitioner or other individual, with written
16 consent of the client or clients.

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

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

24 (b) A certified faith-based counselor shall include
25 the words "certified faith-based counselor" on all promotional
26 materials, including cards, brochures, stationery,
27 advertisements, and signs, naming the certificateholder.

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

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1 (14) REPORT.--The qualified association issuing
2 certificates of registration under this section shall annually
3 report to the department the number of faith-based counselors
4 and interns registered during the most recent calendar year
5 and the names and addresses of the counselors and interns.
6 Section 2. This act shall take effect upon becoming a
7 law.
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