

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 884

INTRODUCER: Senator Baxley

SUBJECT: Clinical Social Workers, Marriage and Family Therapists, and Mental Health Counselors

DATE: March 29, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

I. Summary:

SB 884 makes numerous changes to multiple sections in ch. 491, F.S., to:

- Define the terms “certified master social worker” and the “practice of generalist social work”;
- Limit the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling (the board) to make a one-time exception for an additional intern registration;
- Require interns to complete an 8-hour, board-approved course on laws and rules;
- Revise the licensure requirements for Clinical Social Workers, Marriage and Family Therapists, and Licensed Mental Health Counselors;
- Correct a technical discrepancy in the number of years of clinical experience required for a marriage and family therapist applicant from 3 years to 2 years;
- Eliminate the requirement for marriage and family therapists to complete 12 specific content areas and 180 practicum hours;
- Reduce the number of practicum, internship, or field experience hours for mental health counseling applicants who graduated from a non-Council for Accreditation of Counseling and Related Educational Programs (CACREP) from 1,000 hours to 700 hours; to match CACREP accredited programs;
- Delete requirement that applicants for licensure under ch. 491, F.S., complete a course on human immunodeficiency virus and acquired immune deficiency syndrome;
- Remove the exemption for certified master social worker from the continuing education requirements for the first certificate renewal period;
- Change from the Department of Health (DOH), to the board, the authority to take certain actions, make rules, and take disciplinary action against Clinical Social Workers, Marriage and Family Therapists, Mental Health Counselors and Certified Master Social Workers;
- Require the use of applicable professional titles by licensees and certificate holders, provisional licensees, and registrants on social media and other specified materials; and,

- Delete obsolete language and make technical and conforming changes.

The bill has an insignificant negative impact on state revenues and expenditures, which can be absorbed within existing resources of the DOH.

The bill takes effect July 1, 2019.

II. Present Situation:

Clinical Social Workers, Marriage and Family Therapists, Mental Health Counselors and Certified Master Social Workers

The Board

Section 491.004, F.S., creates the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling (the board) within the DOH to ensure that every clinical social worker, marriage and family therapist, and mental health counselor practicing in this state meets minimum requirements for safe practice. The board is responsible for licensing, monitoring, disciplining, and educating clinical social workers, marriage and family therapists, and mental health counselors to assure competency and safety to practice in Florida.

Education and Examination

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements of s. 491.005, F.S., or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure, must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.¹

Interns

An individual who has not satisfied the postgraduate or post-master's level of experience requirements under s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.²

Section 491.0045(6), F.S., specifies the length of time an intern registration for clinical social work, marriage and family therapy, and mental health counseling is valid. A footnote to this section points out that, through multiple amendatory acts to s. 491.0045(6), F.S., during the same

¹ Section 491.0046, F.S.

² Section 491.0045, F.S.

legislative session, two irreconcilable versions of the section were created, and the editors were thus required to publish both versions of the amended provision.

Section 491.0045(6), F.S., states, “[a]n intern registration issued on or before March 31, 2017, expires March 31, 2022, and may not be renewed or reissued. A registration issued after March 31, 2017, expires 60 months after the date of issuance. No subsequent intern registration may be issued unless the candidate has passed the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d).” The footnote refers to an April 1, 2017, date, rather than the March 31, 2017 in the statute.

Clinical Social Worker

Section 491.005(1), F.S., directs the DOH to issue a license to a clinical social worker applicant whom the board certifies:

- Has submitted an application and paid the appropriate fee;
- Has received a doctoral degree in social work from an accredited graduate school of social work which:
 - Was accredited by the Council on Social Work Education;
 - Was accredited by the Canadian Association of Schools of Social Work; or
 - Was from an equivalent to programs approved by the Council on Social Work Education by the Foreign Equivalency Determination Service of the Council on Social Work Education.
- Has complete coursework in six content areas;
- Has complete a supervised field placement;
- Has complete 24 semester hours or 32 quarter hours in theory of human behavior and practice methods in clinically oriented services;
- Has completed at least 2 years of clinical social work experience, after completion of a graduate degree. An individual who intends to practice in Florida to satisfy clinical experience requirements must register as an intern before commencing practice.
- Has passed a theory and practice examination; and
- Has demonstrated knowledge of the Florida laws and rules governing the practice of clinical social work.

Marriage & Family Therapist

Section 491.005(3)(b), F.S., relating to licensure by examination for marriage and family therapists requires:

- A master’s degree with major emphasis in marriage and family therapy or a closely related field;
- Specific coursework in 12 content areas; and
- A practicum, internship, or field experience of 180 hours providing direct client contact hours of marriage and family services under the supervision of a licensed marriage and family therapist with at least 5 years of experience.

According to the DOH, the specific course work requirement must be an exact match. Lack of an exact match may significantly delay an applicant's licensure.³

Section 491.005(3)(c), F.S., is inconsistent as it requires both 2 years, and 3 years, of clinical experience for a marriage and family therapy licensure applicant. According to the DOH, the 3 years of clinical experience was a technical error and is inconsistent with other statutory requirements. Only 2 years of clinical experience for a marriage and family therapy applicant is required.⁴

Mental Health Counselor

Section 491.005(4), F.S., relating to licensure by examination for mental health counselors names the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors as the required examination for a mental health counselor. The correct name of the examination required for licensure as a mental health counselor is the National Clinical Mental Health Counseling Examination. The examination was developed by, and is administered by, the National Board for Certified Counselors.

Section 491.005(4), F.S., contains a 300-hour difference between the hours of practicum, internship, or field experience required for graduates from a CACREP and non-CACREP graduates. A mental health counselor applicant who graduated from a program not accredited by CACREP is required to complete 1,000 hours of practicum, internship, or field experience. An MHC applicant who graduated from a CACREP accredited program is required to meet the CACREP standards to complete 700 hours of practicum or internship.⁵

Section 491.006, F.S., relating to licensure or certification by endorsement requires an applicant for licensure by endorsement in the practice of clinical social work, marriage and family therapy, or mental health counseling to demonstrate to the board that he or she:

- Has knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling;
- Holds an active valid license to practice, and has actively practiced the profession in another state for three of the last 5 years immediately preceding licensure;
- Meets the education requirements of ch. 491, F.S., in the profession for which the applicant seeks licensure;
- Has passed a substantially equivalent licensure examination in another state, or has passed the licensure examination in this state in the profession for which the applicant seeks licensure;
- Holds a license in good standing; and
- Is not under investigation for, or been found to have committed, an act that would constitute a violation of ch. 491, F.S.

To satisfy the education requirements of s. 491.005, F.S., specific particular course work, rather than a degree from an accredited school or college, or proof of licensure in another state, is

³ *Supra* note 1.

⁴ *Id.*

⁵ Council for Accreditation of Counseling & Related Educational Programs, *2016 CACREP Standards*, available at <http://www.cacrep.org/wp-content/uploads/2018/05/2016-Standards-with-Glossary-5.3.2018.pdf> (last visited Feb. 1, 2019).

required of an applicant for licensure by endorsement under ch. 491, F.S. The endorsement applicant must show proof that he or she completed certain statutorily-specified courses, which may not have been available at the time he or she graduated. Current law places barriers on licensure by endorsement by requiring many applicants to complete additional courses often difficult to obtain when the applicant is not a full-time graduate student.

Certified Master Social Worker

Section 491.0145, F.S., permits the DOH to certify an applicant for a designation as a “certified master social worker” upon the following conditions:

- The applicant submits an application and nonrefundable fee to the DOH at least 60 days before the examination to qualify to take the exam;
- Submits an official transcript that the applicant has received:
 - A doctoral degree in social work, or
 - A master’s degree in social work with an emphasis on clinical practice or administration in seven content areas;
- Submit proof of at least 3 years’ experience in clinical services or administrative experience; and
- Has passed the national Advanced Generalist level examination developed by the Association of Social Work Boards required by the DOH.⁶

A certified master social worker is not licensed or authorized to provide clinical social work services.

License Renewal

Section 491.007(3), F.S., provides for the renewal of a license, registration, or certificate for clinical social workers, marriage and family therapists, and mental health counselors, and gives the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling rulemaking authority to prescribe the requirements for renewal of an intern registration. Section 491.0045(6), F.S., now addresses renewal of an intern registration; therefore, rulemaking authority is no longer necessary.

License Discipline

Section 491.009, F.S., sets out what acts by a clinical social worker, marriage and family therapist, or mental health counselor constitute grounds for discipline, or denial of licensure. However, s. 491.009(2), F.S., incorrectly references psychologists, who are not licensed under ch. 491, F.S., and does not include the certified master social worker profession regulated by the DOH.

III. Effect of Proposed Changes:

SB 884 amends s. 491.003, F.S., to define the terms “certified master social worker” and the “practice of generalist social work” for ch, 491, F.S. A “certified master social worker” is a

⁶The Department of Health, Board of Clinical Social work, Marriage & Family Therapy and Mental health Counseling, *Certified Master Social Worker*, available at <https://floridasmalhealthprofessions.gov/licensing/certified-master-social-worker/> (last visited Mar. 20, 2019).

person licensed under ch. 491, F.S., to practice generalist social work. “General social work” is the application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities. The term includes the application of specialized knowledge and advanced practice skills in non-diagnostic assessment, treatment planning, implementation and evaluation, case management, information and referral, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

The bill amends s. 491.0045, F.S., to clarify conflicting language passed in the same legislative session to permit the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling to make a one-time exception for an additional intern registration. For an intern seeking a second registration after March 31, 2022, that board may grant an additional intern registration in emergency or hardship cases, as defined by rule, if the candidate has passed the theory and practice examination described in ss. 491.055(1)(d), (3)(d), and (4)(d), F.S. The bill requires interns to complete an eight-hour board approved course on laws and rules.

The bill amends s. 491.005(1), F.S., to authorize the board to designate which theory and practice examination applicants must take and pass. It changes the entity from whom the DOH is to purchase the clinical social worker examinations from the American Association of State Social Worker’s Boards, to the Association of Social Work boards or its successor; and deletes the specific list of graduate courses necessary to be taken to be eligible for licensure. The bill requires the board, rather than the DOH, to designate the theory and practice examination to be passed by applicants for licensure.

The bill amends s. 491.005(2), F.S., to change the name of the Canadian social work graduate education accrediting body to the Canadian Social Work Education.

The bill amends s. 491.005(3), F.S., relating to licensure by examination for marriage and family therapists, to require:

- A master’s degree with major emphasis in marriage and family therapy from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education; or,
- A master’s degree with major emphasis in marriage and family therapy from a Florida university program accredited by the Counseling and Related Education Program; or
- Graduate courses approved by the board.

The bill eliminates the requirement for marriage and family therapists to complete 12 specific content areas and 180 practicum hours. This change will simplify the education review process, eliminate the course requirement review, and expedite licensure.

The bill amends s. 491.005(3)(c), F.S., to correct a technical discrepancy in the number of years of clinical experience required for a marriage and family therapist applicant from 3 years to 2 years.

The bill amends s. 491.005(3), F.S., to require applicants for licensure for Marriage and Family Therapists to pay actual cost of the exam and updates that the exam is to be purchased from the

Association of Marital and Family Therapy Regulatory Boards. The bill eliminates the specific course requirements to be included in a master's degree in marriage and family therapy and requires instead that the program be accredited by the commission on accreditation for Marriage and Family Therapy Education, or be a Florida university program accredited by the CACREP.

The bill amends s. 491.005(4), F.S., relating to mental health counseling applicants, to update the name of the examination to be taken by a mental health counselor applicant. The bill amends s. 491.005(4)(b)1.c., F.S., to reduce the number of practicum, internship, or field experience hours for those applicants who graduated from a non-CACREP accredited program, from 1,000 hours to 700 hours, bringing them in line with graduates from CACREP accredited programs. The bill deletes the requirement that master's degree courses include a course in human sexuality and substance abuse and adds a course in legal, ethical and professional standards. Amending this provision promotes regulatory efficiency and makes licensure requirements more balanced between the two programs.

The bill also updates the accrediting agencies for institutions of higher education and the mental health counseling graduate-level coursework to address diagnostic processes, differential diagnosis and the use of the current diagnostic tools, such as the most-recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. The graduate program must have emphasized the common core curricular experience. The bill mandates that by 2025 an applicant for a license for mental health counseling must have a master's degree from a program accredited by the CACREP which consist of 60 semester hours or 80 quarter hours to apply for licensure.

The bill amends s. 491.0057, F.S., to require the DOH to issue a dual license as a marriage and family therapist to anyone who demonstrates to the board that he or she has passed the examination designated provided by the board, rather than the department, for marriage and family therapy.

The bill amends s. 491.006, F.S., relating to licensure, or certification by endorsement, for applicants for licensure in clinical social work, marriage and family therapy, or mental health counseling. The bill removes the requirement for endorsement applicants to meet the same educational requirements required of new applicants, provided the applicant for endorsement meets the requirement to have an active, valid license and has actively practiced the profession in another state for three of the last 5 years. Amending this provision will increase licensure portability for applicants applying by endorsement for licensure as marriage and family therapists in Florida. The bill deletes the directive that the application fee for master social worker is non-refundable.

The bill repeals s. 491.0065, F.S., directing the board to require, as a condition of granting a license under ch. 491, F.S., that an applicant complete a course on human immunodeficiency virus and acquired immune deficiency syndrome.

The bill amends s. 491.007, F.S., relating to renewal of a license, registration, or certificate, to delete obsolete rulemaking authority regarding intern registration renewal. The bill also deletes the directive that a certified master social worker is exempt from the continuing education requirements for the first renewal of the certificate.

The bill amends s. 491.009(2), F.S., to delete an inaccurate reference to psychologists who are licensed under ch. 490, F.S. The bill changes from the DOH, to the board, who has the authority to take disciplinary action for certain violations.

The bill amends ch. 491.012, F.S., to add the “certified master social worker” to the list of titles that it is a violation of ch. 491, F.S., to use unless the individual holds a valid, active license as a clinical social worker under ch. 491, F.S.; and removes obsolete language.

The bill amends s. 491.0145, F.S., to require the DOH to license an applicant for the designation as a “certified master social worker” if the person submits an application to the DOH, and other required information, with the board, rather than the DOH, determining the amount of the non-refundable fee, the adequacy of the documents submitted, the examination to be passed, and making the rules to implement the section.

The bill amends s. 491.0149, F.S., adding to the list of promotional materials, “social media,” that all licensees and certificate holders, interns, and provisional licensees, must include their professional titles. The bill also requires a generalist social worker to include the words “certified master social worker” or the letters “CMSW” on all his or her promotional materials.

The bill repeals s. 491.015, F.S., which removes from the DOH the authority to make rules and regulate the certified master social worker.

The bill removes obsolete language in s. 491.004, F.S., and makes additional technical amendments to s. 414.065, F.S., to conform cross-references.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 491.003, 491.004, 491.0045, 491.005, 491.0057, 491.006, 491.007, 491.009, 491.012, 491.0145, 491.0149, and 414.065.

This bill repeals the following sections of the Florida Statutes: 491.0065 and 491.015.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.