

1 SB120
2 138670-4
3 By Senator Bussman
4 RFD: Governmental Affairs
5 First Read: 07-FEB-12
6 PFD: 01/30/2012

1 SB120

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4 ENROLLED, An Act,

5 Relating to the Alabama Sunset Law; to continue the
6 existence and functioning of the Alabama Board of Examiners in
7 Counseling until October 1, 2016, with certain modifications;
8 to amend Sections 34-8A-4 and 34-8A-6, Code of Alabama 1975,
9 so as to require that members of the board reside in different
10 congressional districts and to provide further for the
11 reinstatement of a license.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Pursuant to the Alabama Sunset Law, the
14 Sunset Committee recommends the continuance of the Alabama
15 Board of Examiners in Counseling until October 1, 2016, with
16 the additional recommendations for statutory change as set out
17 in Section 3.

18 Section 2. The existence and functioning of the
19 Alabama Board of Examiners in Counseling, created and
20 functioning pursuant to Sections 34-8A-1 to 34-8A-24,
21 inclusive, Code of Alabama 1975, is continued until October 1,
22 2016, and those code sections are expressly preserved.

23 Section 3. Sections 34-8A-4 and 34-8A-6, Code of
24 Alabama 1975, are amended to read as follows:

25 "§34-8A-4.

1 "(a) There is created an Alabama Board of Examiners
2 in Counseling, to consist of seven members who shall be
3 citizens of this state and appointed by the Governor pursuant
4 to the requirements of this section.

5 "(b) Within 30 days from July 18, 1979, the
6 Executive Committee of the Alabama Counseling Association, or
7 its successor organization, shall submit to the Governor a
8 list of qualified candidates for the board. The list shall
9 contain names of at least four citizens from the general
10 public, four qualified counselor educators, and six qualified
11 practicing counselors from which the Governor, within 60 days,
12 shall select the board. The board shall consist of two
13 citizens from the general public, two counselor educators, and
14 three counselors in private practice.

15 "(c) The initial appointments to the board shall be
16 for the following terms: The term of two members is one year,
17 the term of two members is two years, the term of three
18 members is three years.

19 "(d) The professional membership of the board
20 authorized under this section shall be licensed under this
21 chapter, except that the initial professional members shall be
22 members who have been rendering the private practice of
23 counseling services for at least one year, or who have been
24 giving instruction in counseling in a regionally accredited
25 institution of higher learning for at least three years.

1 "(e) The board shall perform those duties and
2 exercise those powers as this chapter prescribes and confers
3 upon it. No member of the board shall be liable to civil
4 action for any act performed in good faith for the performance
5 of his or her duty pursuant to this chapter.

6 "(f) Board members shall be ineligible for
7 reappointment for a period of three years following completion
8 of their terms. Subsequent appointments to the board shall be
9 made by the Governor in the following manner: Not later than
10 October 1, of each year the Executive Committee of the Alabama
11 Counseling Association, or its successor organization, shall
12 submit to the Governor the names of two qualified candidates
13 for the position on the board to be vacated by reason of
14 expiration of term of office. From the two candidates the
15 Governor shall appoint one member not later than January 1, to
16 serve on the board for a term of five years. Every reasonable
17 effort shall be made to insure that one member of the board be
18 a member of a cultural minority. Each board member shall hold
19 office until his or her successor is appointed and assumes
20 office. If the Governor fails to make an appointment by
21 January 1 for a successor to a member whose term has expired,
22 the Executive Committee of the Alabama Counseling Association,
23 or its successor organization, shall select a successor member
24 from among the two qualified candidates nominated to fill the
25 vacancy. Other vacancies occurring in the board shall be

1 filled for the unexpired term by appointment of the Governor
2 from two candidates for each vacancy submitted within 30 days
3 after the vacancy occurs by the Executive Committee of the
4 Alabama Counseling Association, or its successor organization.
5 The appointments shall be made within 45 days after the names
6 of the candidates have been submitted. If the Governor fails
7 to make the appointment within the 45-day period, the
8 Executive Committee of the Alabama Counseling Association, or
9 its successor organization, shall select a replacement member
10 from among the two qualified candidates nominated to fill the
11 unexpired term of a board member. Any board members may be
12 removed by the Governor, after notice and hearing, for
13 incompetence, neglect of duty, malfeasance in office, or moral
14 turpitude. Composition of the board shall always consist of
15 two citizens, two counselor educators, and three counselors in
16 private practice. The membership of the board shall be
17 inclusive and reflect the racial, gender, geographic,
18 urban/rural, and economic diversity of the state. After the
19 effective date of the act amending this subsection,
20 appointments shall be made so that not more than one board
21 member from any congressional district may be appointed to
22 serve at the same time. A college or university shall have
23 only one counselor educator representative as a member of the
24 board at any one time. In addition, no more than one

1 practitioner from the same practice setting or corporation
2 shall be members of the board at any one time.

3 "(g) Immediately and before entering public duties
4 of the office, the members of the board shall take the
5 constitutional oath of office and shall file the oath of
6 office in the office of the Governor, who upon receiving the
7 oath of office shall issue to each member a certificate of
8 appointment. The board shall have available for the Governor
9 or his or her representative detailed reports on proceedings
10 and shall make annual reports in the form as required by the
11 Governor.

12 "(h) The Alabama Board of Examiners in Counseling is
13 subject to the provisions of the Alabama Sunset Law of 1981,
14 and is classified as an enumerated agency pursuant to Section
15 41-20-3. The board shall automatically terminate on October 1,
16 2000, and every four years thereafter, unless a bill is passed
17 that it be continued, modified, or reestablished.

18 "§34-8A-6.

19 "(a) A licensee may request that the board designate
20 his or her license with inactive status at any point prior to
21 the date of renewal. Granting inactive status to a licensee
22 revokes all privileges associated with this chapter until
23 reactivation is requested by the licensee. Procedures for
24 reactivating a license for practice status will be established
25 by the board.

1 "(b) All fees from applicants seeking licensing or
2 certification for private practice under this chapter, and all
3 license, certificate, or renewal fees received under this
4 chapter shall be paid to the board. No part of any fee shall
5 be returnable under any conditions. All fees collected in this
6 manner plus renewal fees and all gifts or grants shall be
7 deposited in the State Treasury to the credit of the board.
8 There is appropriated from the Treasury funds to the credit of
9 the board to be used for printing, travel expenses of the
10 board, and for other necessary expenses as are necessary to
11 carry out the provisions of this chapter. Expenses shall be
12 paid under the written direction of the chair of the board, or
13 designee of the chair of the board, in accordance with normal
14 state procedure.

15 "(c) The board is required to charge an application
16 fee to be determined by the board. In addition to the
17 application fee, the board may establish by rule a reasonable
18 application package fee, supervising counselor approval
19 processing fee, examination fee, provisional licensure fee,
20 licensure reactivation fee, and fee for written verification
21 of licensee status to a third party. The board shall determine
22 and collect additional reasonable fees in amounts determined
23 by the board.

24 "(d) Every licensed professional counselor engaging
25 in private practice in this state is required to pay

1 biennially to the board by August 1 a renewal fee to be
2 determined by the board. The chair thereupon shall issue a
3 document renewing his or her license for a term of two years.
4 The license of any licensed professional counselor who fails
5 to have his or her license renewed biennially by August 1
6 shall lapse. Failure to renew a license, however, shall not
7 deprive the licensed professional counselor of the right of
8 renewal thereafter. A lapsed license may be renewed within a
9 period of two years after lapse upon payment of fees in
10 arrears, or thereafter, upon payment of a renewal fee as
11 determined by the board. Any licensed professional counselor
12 whose license has lapsed beyond six years must reapply under
13 the current regulations for initial licensure.

14 "(e) An associate licensed counselor engaging in
15 private practice under the supervision of a supervising
16 counselor in this state is required to pay annually to the
17 board by the anniversary of his or her initial license
18 issuance date a renewal fee to be determined by the board. The
19 chair thereupon shall issue a document renewing the license
20 for a term of one year. The license of any associate licensed
21 counselor who fails to have his or her license renewed
22 annually by the anniversary of the initial license issuance
23 date shall lapse. Failure to renew a license, however, shall
24 not deprive the associate licensed counselor of the right of
25 renewal thereafter. A lapsed license may be renewed within a

1 period of one year after lapse upon payment of fees in arrears
2 or thereafter, upon payment of a renewal fee as determined by
3 the board. Any associate licensed counselor whose license has
4 lapsed beyond six years must reapply under the current
5 regulations for initial licensure.

6 "(f) Any provision of law to the contrary
7 notwithstanding, the license of any person licensed as a
8 professional counselor who has allowed their license to lapse
9 for 15 years or less, and who has been in a profession for at
10 least eight years where counseling is a part of the daily
11 routine of the profession including, but not limited to,
12 service as a school principal, school vice principal, school
13 psychometrist, or school psychologist, shall be reinstated
14 upon the payment of a fee of five hundred dollars (\$500) and
15 the completion of 40 hours of continuing education."

16 Section 4. The Legislature concurs in the
17 recommendations of the Sunset Committee as provided in
18 Sections 1, 2, and 3.

19 Section 5. This act shall become effective
20 immediately upon its passage and approval by the Governor, or
21 its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB120

Senate 15-MAR-12

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 22-MAR-12

By: Senator Bussman