
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1861 Session of
1995

INTRODUCED BY MILLER, MUNDY, VANCE, ROBINSON, BARD, BEBKO-JONES,
BELARDI, BELFANTI, BOSCOLA, BROWNE, CHADWICK, CLYMER,
L. I. COHEN, COLAIZZO, CORNELL, CORRIGAN, COWELL, CURRY,
DeLUCA, DEMPSEY, DENT, DRUCE, FAIRCHILD, FICHTER, GORDNER,
HABAY, HENNESSEY, HERSHEY, HESS, KENNEY, KUKOVICH, LEVDANSKY,
MANDERINO, MARKOSEK, MARSICO, MASLAND, MELIO, NAILOR,
O'BRIEN, PETTIT, PHILLIPS, PICCOLA, PISTELLA, RICHARDSON,
ROONEY, RUBLEY, SATHER, SCHRODER, SHEEHAN, B. SMITH, STAIRS,
STEELMAN, STETLER, STURLA, SURRA, E. Z. TAYLOR, J. TAYLOR,
TRELLO, TULLI, VAN HORNE, VEON, WOGAN, WOZNIAK, YOUNGBLOOD,
ZUG AND GODSHALL, JUNE 21, 1995

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JUNE 21, 1995

AN ACT

1 Providing for the licensing of creative arts therapists,
2 marriage and family therapists, pastoral counselors and
3 professional counselors; establishing the Board of Mental
4 Health Professionals; further providing for the powers and
5 duties of the Bureau of Professional and Occupational
6 Affairs; imposing penalties; and making an appropriation.

7 TABLE OF CONTENTS

8 Chapter 1. General Provisions
9 Section 101. Short title.
10 Section 102. Definitions.
11 Chapter 3. Administration
12 Section 301. Board.
13 Section 302. Powers and duties of board.
14 Section 303. Administrative agency law.
15 Chapter 5. Licensure

1 Section 501. License required.
2 Section 502. Applicability.
3 Section 503. Qualifications.
4 Section 504. Examinations.
5 Section 505. License renewal and fees.
6 Section 506. Reporting of multiple licensure.
7 Section 507. Impaired practitioner.
8 Section 508. Professional accountability.
9 Section 509. Professional disclosure.

10 Chapter 7. Enforcement

11 Section 701. License penalties.
12 Section 702. Reinstatement of license.
13 Section 703. Administrative penalties.
14 Section 704. Injunction.

15 Chapter 9. Legal Matters

16 Section 901. Privileged communications.

17 Chapter 51. Miscellaneous Provisions

18 Section 5101. Appropriation.
19 Section 5102. Repayment.
20 Section 5103. Applicability.
21 Section 5104. Notice to profession.
22 Section 5105. Effective date.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 CHAPTER 1

26 GENERAL PROVISIONS

27 Section 101. Short title.

28 This act shall be known and may be cited as the Mental Health
29 Professionals Act.

30 Section 102. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Board." The Board of Mental Health Professionals
5 established in section 301.

6 "Bureau." The Bureau of Professional and Occupational
7 Affairs.

8 "Commissioner." The Commissioner of Professional and
9 Occupational Affairs.

10 "Creative arts therapist." An individual licensed to
11 practice creative arts therapy.

12 "Creative arts therapy." The evaluation and therapeutic
13 intervention, which may be primary, parallel or adjunctive
14 intervention, in the treatment of mental, emotional and
15 behavioral disorders through the use of the arts, which include
16 art, dance, drama, music, psychodrama and poetry by verbal,
17 nonverbal, symbolic, emotive and other communicative means.

18 "Marriage and family therapist." An individual licensed to
19 practice marriage and family therapy.

20 "Marriage and family therapy." The diagnosis and treatment
21 of nervous and mental disorders, whether affective, cognitive or
22 behavioral, in the context of significant interpersonal
23 relationships, including family relationships, marital-couple
24 relationships, parent/child relationships, premarital
25 relationships, work relationships and other personal
26 relationships.

27 "Mental health profession." The evaluation, diagnosis,
28 amelioration, treatment and modification of problems of
29 behavior, character, development, emotion, personality or
30 relationships by the use of verbal, nonverbal or behavioral

1 methods. The term includes creative arts therapy, marriage and
2 family therapy, pastoral counseling and professional counseling.

3 "Mental health professional." A creative arts therapist,
4 marriage and family therapist, pastoral counselor or
5 professional counselor.

6 "Pastoral counseling." The diagnosis and treatment of
7 emotional disorders which cause dysfunction in personal and
8 interpersonal relations within individuals, couples, families
9 and groups, using religious resources and counseling
10 intervention to facilitate adaptive behavior and behavioral
11 modification.

12 "Pastoral counselor." An individual licensed to practice
13 pastoral counseling.

14 "Professional counseling." The clinical assessment,
15 diagnosis and treatment of mental, emotional, developmental,
16 behavioral and mental dysfunctions or disorders, whether
17 cognitive, affective or behavioral in nature. The term includes
18 counseling, psychotherapy, assessment, crisis intervention,
19 guidance, educational and career development, utilization of
20 functional assessment and counseling for persons adjusting to a
21 disability or handicapping condition.

22 "Professional counselor." An individual licensed to practice
23 professional counseling.

24 "Recognized educational institution." An institution of
25 higher learning which grants a master's degree or doctoral
26 degree and which is approved by:

27 (1) the Board of Mental Health Professionals; and

28 (2) a regional or professional accrediting body
29 recognized by the commissioner.

30 "Supervision." Includes the review of case presentations,

1 audio tapes, video tapes and direct personal observation in
2 order to promote the development of the trainee's clinical
3 skills.

4 "Supervisor." A creative arts therapist, marriage and family
5 therapist, pastoral counselor or professional counselor who is
6 licensed under section 503(b).

7 "Supervisor-in-training." A creative arts therapist,
8 marriage and family therapist, pastoral counselor or
9 professional counselor who is licensed under section 503(c) and
10 who works under the direct supervision of a supervisor.

11 CHAPTER 3

12 ADMINISTRATION

13 Section 301. Board.

14 (a) Establishment.--The Mental Health Professional Board is
15 established as an administrative board in the bureau to regulate
16 the mental health profession.

17 (b) Membership.--The board shall consist of 11 members, as
18 follows:

19 (1) The Governor shall appoint ten members, subject to
20 the consent of a majority of the members elected to the
21 Senate, as follows:

22 (i) Two individuals who comply with all of the
23 following:

24 (A) Are not licensed to practice any other
25 profession in this Commonwealth.

26 (B) Are creative arts therapists.

27 (C) Have successfully completed a graduate
28 program of 60 semester hours or the equivalent
29 quarter hours in creative arts therapy. This clause
30 includes a 48-credit master's degree in creative arts

1 therapy from a recognized educational institution.

2 (D) Have a minimum of eight years of clinical
3 experience in creative arts therapy.

4 (E) Have knowledge of the established education
5 and training requirements in creative arts therapy.

6 (ii) Two individuals who comply with all of the
7 following:

8 (A) Are not licensed to practice any other
9 profession in this Commonwealth.

10 (B) Are marriage and family therapists.

11 (C) Have successfully completed a graduate
12 program of 60 semester hours or the equivalent
13 quarter hours in marriage and family therapy. This
14 clause includes a 48-credit master's degree in
15 marriage and family therapy from a recognized
16 educational institution.

17 (D) Have a minimum of eight years of clinical
18 experience in marriage and family therapy.

19 (E) Have knowledge of the established education
20 and training requirements in marriage and family
21 therapy.

22 (iii) Two individuals who comply with all of the
23 following:

24 (A) Are not licensed to practice any other
25 profession in this Commonwealth.

26 (B) Are pastoral counselors.

27 (C) Have successfully completed a graduate
28 program of 60 semester hours or the equivalent
29 quarter hours in pastoral counseling. This clause
30 includes a 48-credit master's degree in pastoral

1 counseling from a recognized educational institution.

2 (D) Have a minimum of eight years of clinical
3 experience in pastoral counseling.

4 (E) Have knowledge of the established education
5 and training requirements in pastoral counseling.

6 (iv) Two individuals who comply with all of the
7 following:

8 (A) Are not licensed to practice any other
9 profession in this Commonwealth.

10 (B) Are professional counselors.

11 (C) Have successfully completed a graduate
12 program of 60 semester hours or the equivalent
13 quarter hours in professional counseling. This clause
14 includes a 48-credit master's degree in professional
15 counseling from a recognized educational institution.

16 (D) Have a minimum of eight years of clinical
17 experience in professional counseling.

18 (E) Have knowledge of the established education
19 and training requirements in professional counseling.

20 (v) Two members of the public who have resided in
21 this Commonwealth for at least five years.

22 (2) The commissioner shall serve as an ex officio
23 member.

24 (c) Terms.--A member appointed under subsection (b)(1) shall
25 serve a term of four years. A member appointed under subsection
26 (b)(1) may not serve more than two consecutive terms.

27 (d) Vacancies.--A vacancy in membership shall be filled for
28 the remainder of the unexpired term in the same manner as an
29 original appointment.

30 (e) Officers.--The board shall elect a chair and vice chair

1 annually from among its membership. It shall annually elect a
2 secretary, who need not be a member of the board.

3 (f) Meetings.--The board shall meet in Harrisburg. It shall
4 meet at least four times a year. It may meet additionally to
5 conduct the business of the board.

6 (g) Meeting notices.--Reasonable notice of meetings shall be
7 given in conformity with the act of July 3, 1986 (P.L.388,
8 No.84), known as the Sunshine Act.

9 (h) Conduct of meetings.--Six members constitute a quorum.
10 Only members may vote at meetings.

11 (i) Attendance.--

12 (1) Except as provided in paragraph (2), a member shall
13 forfeit membership for any of the following:

14 (i) Failure to attend three consecutive meetings.

15 (ii) Failure to attend two consecutive statutorily
16 mandated training conferences under section 813(e) of the
17 act of April 9, 1929 (P.L.177, No.175), known as The
18 Administrative Code of 1929.

19 (2) Paragraph (1) shall not apply:

20 (i) To the commissioner.

21 (ii) If the chair determines, upon the member's
22 written request, that the absence was due to serious
23 illness or injury or due to the death, serious illness or
24 injury of a family member. Section 813(f) of The
25 Administrative Code of 1929 shall not apply to members of
26 the board.

27 (j) Compensation.--A member appointed under subsection
28 (b)(1) shall receive a per diem compensation to be set by the
29 commissioner.

30 (k) Start-up.--The board shall meet within 120 days after

1 the effective date of this act to set up operating procedures
2 and an application form for licensing the various specialties.
3 The board shall circulate these forms and educate the public on
4 the requirements of licensing for the mental health profession.

5 Section 302. Powers and duties of board.

6 The board has the following powers and duties in the
7 administration of this act:

8 (1) To promulgate regulations to implement this act.

9 Regulations shall include standards of professional practice
10 for mental health professionals; standards in the specialty
11 areas of creative arts therapy, marriage and family therapy,
12 pastoral counseling and professional counseling; and ethical
13 standards.

14 (2) To pass upon the qualifications and fitness of
15 applicants for licenses. This paragraph includes requiring
16 applicants to pass examinations relating to their
17 qualifications in a specialty as a prerequisite to the
18 issuance of a license. Examinations may be waived in
19 exceptional circumstances pursuant to board regulations.
20 Under this paragraph, the board may employ, with the approval
21 of the commissioner, a professional credentials evaluator to
22 review applications.

23 (3) To utilize counsel and investigative personnel of
24 the bureau to do all of the following:

25 (i) Investigate violations of this act, of
26 regulations promulgated under this act and of orders
27 issued under this act.

28 (ii) Prosecute criminal violations of this act.

29 (iii) Pursue enforcement under Chapter 7.

30 (4) To subpoena witnesses, to administer oaths, to

1 examine witnesses and to take testimony and to compel the
2 production of documents it deems necessary or proper in any
3 proceeding or investigation. Patient records may not be
4 subpoenaed without consent of each patient who is a party to
5 the therapeutic relationship being investigated or without
6 order of a court of competent jurisdiction on a showing that
7 the records are reasonably necessary for the conduct of the
8 investigation. The court may impose limitations on the scope
9 of the subpoena as necessary to prevent unnecessary intrusion
10 into patient confidential information. The board is
11 authorized to apply to Commonwealth Court to enforce its
12 subpoenas.

13 (5) To impose administrative sanctions under sections
14 701 and 703. Under this paragraph, the board may utilize
15 hearing examiners.

16 (6) To submit an annual report to the Consumer
17 Protection and Professional Licensure Committee of the Senate
18 and the Professional Licensure Committee of the House of
19 Representatives describing complaints, actions, case statuses
20 and times for resolution of problems.

21 Section 303. Administrative agency law.

22 Actions of the board are subject to 2 Pa.C.S. Ch. 5 Subch. A
23 (relating to practice and procedure of Commonwealth agencies and
24 Ch. 7 Subch. A (relating to judicial review of Commonwealth
25 agency action)).

26 CHAPTER 5

27 LICENSURE

28 Section 501. License required.

29 (a) Prohibition.--Except as provided in section 502(a), the
30 following shall apply:

1 (1) Unless an individual has a license under this act,
2 the individual may not do any of the following:

3 (i) Practice a mental health profession.

4 (ii) Advertise or use a term or title indicating
5 that the individual is a mental health professional.

6 (2) No corporation, partnership, association or other
7 business entity may advertise or use a term or title
8 indicating that any of its participants, employees, officers
9 or agents are mental health professionals.

10 (b) Penalty.--

11 (1) An individual who violates subsection (a)(1) commits
12 a misdemeanor of the third degree and shall, upon conviction,
13 be sentenced to pay a fine of not more than \$1,000 or to
14 imprisonment for not more than 120 days, or both.

15 (2) Any corporation, partnership, association or other
16 business entity that violates subsection (a)(2) commits a
17 misdemeanor of the third degree and shall, upon conviction,
18 be sentenced to pay a fine of not more than \$1,000.

19 Section 502. Applicability.

20 (a) Exceptions to licensure.--Section 501 shall not apply to
21 any of the following:

22 (1) An individual performing services under the direct
23 supervision of a mental health professional.

24 (2) An individual licensed to practice a healing art in
25 this Commonwealth.

26 (3) A psychologist licensed to practice in this
27 Commonwealth. This paragraph includes an employee or
28 individual working under the direct supervision of the
29 psychologist.

30 (4) An employee acting in the scope of employment of any

of the following:

(i) The Federal Government.

(ii) The Commonwealth.

(iii) A political subdivision.

(iv) A licensed hospital or long-term care facility.

(v) A nonprofit entity.

(5) An ordained member of the clergy providing family counseling in the course of fulfilling duties within the scope of ordination.

(6) A volunteer or paraprofessional counselor for a public or nonprofit organization when working for the organization. To qualify for exemption under this paragraph, the individual must be designated as a volunteer or paraprofessional counselor.

(b) Other professionals.--Nothing in this act shall restrict any of the following:

(1) Any professional licensed by the bureau from performing work of a mental health nature in accordance with the legislative, administrative and ethical standards of the profession.

(2) A volunteer from providing services in crisis or emergency situations.

(3) A certified school counselor who meets the standards prescribed by the Department of Education from practicing school counseling within the scope of employment by a public, private or parochial school.

(4) A school psychologist certified by the Department of Education from performing in private practice the acts which the individual is permitted to perform in public, private and parochial schools.

1 (c) Healing arts.--Nothing in this act shall be construed as
2 authorizing a mental health professional to practice a healing
3 art.

4 Section 503. Qualifications.

5 (a) Mental health professionals.--To qualify for a license
6 as a mental health professional, all of the following shall
7 apply:

8 (1) The applicant must submit an application and pay a
9 fee prescribed by the board.

10 (2) The applicant must have good moral character.

11 (3) The applicant must have done all of the following:

12 (i) Either:

13 (A) successfully completed a graduate program of
14 60 semester hours or 90 quarter hours, including a
15 48-credit or 72-quarter-hour master's degree from a
16 recognized educational institution in creative arts
17 therapy, marriage and family therapy, pastoral
18 counseling or professional counseling; or

19 (B) have a certificate from an accredited
20 postgraduate degree training program acceptable to
21 the board, and have at least three years of
22 supervised experience.

23 (ii) Have delivered at least 3,600 hours of clinical
24 experience under supervision of a supervisor while in the
25 practice of a mental health profession or be any of the
26 following:

27 (A) A graduate of a recognized educational
28 institution holding a doctor's degree in creative
29 arts therapy, marriage and family therapy, pastoral
30 counseling or professional counseling who has at

1 least two years of supervised experience acceptable
2 to the board in accordance with board regulations, at
3 least one year of which was obtained subsequent to
4 the granting of the doctor's degree.

5 (B) A graduate of a recognized educational
6 institution holding a doctor's degree in a field
7 related to creative arts therapy, marriage and family
8 therapy, pastoral counseling or professional
9 counseling who has at least two years of supervised
10 experience acceptable to the board in accordance with
11 board regulations, at least one year of which was
12 obtained subsequent to the granting of the doctor's
13 degree.

14 (4) The applicant must pass an examination adopted by
15 the board. Within six months of being notified of a failure
16 on an examination, and within two years of making the
17 application, an applicant may retake the examination.

18 (5) The applicant must not have had any professional
19 license, certification or membership revoked or suspended in
20 creative arts therapy, marriage and family therapy, pastoral
21 counseling or professional counseling, or an allied field, or
22 in a healing art profession.

23 (6) The applicant has not been sentenced for a felony
24 under the act of April 14, 1972 (P.L.233, No.64), known as
25 The Controlled Substance, Drug, Device and Cosmetic Act, or
26 of an offense under the laws of another jurisdiction which,
27 if committed in this Commonwealth, would be a felony under
28 The Controlled Substance, Drug, Device and Cosmetic Act
29 unless all of the following apply:

30 (i) At least ten years have elapsed from the date of

1 sentencing.

2 (ii) The applicant satisfactorily demonstrates to
3 the board that the applicant has made significant
4 progress in personal rehabilitation since the sentencing
5 such that licensure of the applicant should not be
6 expected to create a substantial risk of harm to the
7 health and safety of clients or the public or a
8 substantial risk of further criminal violations.

9 (7) The applicant must submit an affidavit to the verity
10 of the application.

11 (b) Supervisor.--A mental health professional shall be
12 licensed as a supervisor upon compliance with all of the
13 following:

14 (1) Payment of an application fee.

15 (2) Documentation to the board of five years of clinical
16 experience.

17 (3) Successful completion of a supervision course
18 acceptable to the board.

19 (4) Successful completion of 36 hours of supervision in
20 supervising by a supervisor.

21 (5) Submission of a statement detailing personal
22 supervision philosophy, orientation and experience.

23 (c) Supervisor-in-training.--A mental health professional
24 shall be licensed as a supervisor-in-training for a period of 12
25 to 24 months upon compliance with all of the following:

26 (1) Payment of an application fee.

27 (2) Submission of a signed agreement of supervision with
28 a supervisor.

29 (3) Documentation to the board of five years of clinical
30 experience.

(d) Reciprocal licenses.--The board shall issue a license by examination of credentials to an individual licensed as a creative arts therapist, marriage and family therapist, pastoral counselor or professional counselor and in another state whose requirements for licensure are equivalent to or exceed the requirements of this act. The board shall prescribe the application procedure.

Section 504. Examinations.

(a) General rule.--

(1) The board shall designate the appropriate specialty examination to test knowledge and skill.

(2) The examination in each specialty area shall be prepared and administered by a qualified professional testing organization in accordance with section 812.1(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(3) The board may charge a reasonable fee for examination.

(b) Exemption.--The board may issue a license without examination to an applicant who complies with all of the following:

(1) Is a resident of this Commonwealth.

(2) Submits an application under section 503(a)(1) within three years after the effective date of this section.

(3) Holds:

(i) a graduate degree in creative arts therapy, marriage and family therapy, pastoral counseling or professional counseling or in a related field, from a recognized educational institution; or

(ii) a certificate from an accredited postgraduate

1 degree training program acceptable to the board.

2 (4) Has at least five years of experience, which is
3 acceptable to the board, in creative arts therapy, marriage
4 and family therapy, pastoral counseling or professional
5 counseling.

6 (5) Has successfully completed a three-credit graduate-
7 level course in the most recent Diagnostic and Statistical
8 Manual of Mental Disorders.

9 Section 505. License renewal and fees.

10 (a) Renewal term.--Licenses shall be renewed on a biennial
11 basis.

12 (b) Continuing education.--The board may promulgate
13 regulations requiring continuing education as a condition of
14 license renewal. The board shall not accept credit for any
15 courses in office management or practice building.

16 (c) Records.--A record of mental health professionals shall
17 be kept in the office of the board and shall be open for public
18 inspection and copying upon payment of a reasonable fee.

19 Section 506. Reporting of multiple licensure.

20 A mental health professional who is also licensed to practice
21 in any other jurisdiction shall report this information to the
22 board on the biennial renewal application. Disciplinary action
23 taken in any other jurisdiction shall be reported to the board
24 on the biennial renewal application or within 90 days of
25 disposition, whichever is sooner. Multiple licensure shall be
26 noted by the board on the licensee's record. The board shall
27 notify the other jurisdiction of disciplinary action the board
28 takes against the licensee.

29 Section 507. Impaired practitioner.

30 (a) Consultant.--The board, with the approval of the

1 commissioner, shall appoint and fix the compensation of a
2 professional consultant who is a mental health professional or
3 such other professional as the board may determine, with
4 education and experience in the identification, treatment and
5 rehabilitation of persons with physical or mental impairments.
6 The consultant shall be accountable to the board and shall act
7 as a liaison between the board and treatment programs, such as
8 substance abuse treatment programs licensed by the Department of
9 Health and counseling and impaired professional support groups
10 which are approved by the board and which provide services to
11 mental health professionals.

12 (b) Deferred action.--

13 (1) The board may defer and ultimately dismiss license
14 penalties under section 701 for an impaired mental health
15 professional if the individual complies with all of the
16 following:

17 (i) Enrolls in a treatment program approved by the
18 board.

19 (ii) Enters into an agreement with the board under
20 which the practitioner's license is suspended or revoked,
21 but enforcement of the suspension or revocation is stayed
22 for the length of time the individual remains in the
23 program and makes satisfactory progress as set forth in
24 subsection (c), complies with the terms of the agreement
25 and adheres to any limitations on practice imposed by the
26 board to protect the public.

27 (2) This subsection shall not apply to a professional
28 sentenced for a felony under the act of April 14, 1972
29 (P.L.233, No.64), known as The Controlled Substance, Drug,
30 Device and Cosmetic Act, or under a similar statute of

1 another jurisdiction.

2 (c) Satisfactory progress.--If, in the opinion of the
3 consultant after consultation with the provider, an impaired
4 mental health professional who is enrolled in an approved
5 treatment program has not progressed satisfactorily, the
6 consultant shall disclose to the board all information in the
7 consultant's possession relevant to the issue of impairment. The
8 board shall institute proceedings to determine if the stay of
9 the enforcement under subsection (b)(1)(ii) should be vacated.

10 (d) Duty to report.--

11 (1) A hospital or health care facility, peer or
12 colleague who has substantial evidence that a mental health
13 professional has an active addictive disease for which the
14 individual is not receiving treatment, is diverting a
15 controlled substance or is mentally or physically incompetent
16 to carry out the duties of the profession shall make a report
17 to the board. This paragraph shall not apply to an individual
18 or facility that acts in a treatment capacity to an impaired
19 mental health professional in an approved treatment program.

20 (2) A person or facility that reports under paragraph
21 (1) in good faith and without malice shall be immune from
22 civil or criminal liability arising from the report.

23 Section 508. Professional accountability.

24 A mental health professional who believes, in the exercise of
25 professional judgment, that another mental health professional
26 is involved in unethical mental health practice has an
27 obligation to make the other mental health professional aware of
28 professional responsibility. If the other mental health
29 practitioner fails to take appropriate actions, the mental
30 health professional shall file a report to the board and an

1 ethical complaint to professional associations of which the
2 other mental health professional is a member.

3 Section 509. Professional disclosure.

4 A mental health professional or an employer of a mental
5 health professional may not charge or receive remuneration for
6 creative arts therapy, marriage and family therapy, pastoral
7 counseling or professional counseling unless, before the
8 performance of services, the client is furnished a copy of a
9 disclosure statement. The disclosure statement shall be
10 displayed in a conspicuous location at the place where the
11 services are performed, and a copy of the statement shall be
12 provided to the client on request. The statement shall include
13 the following:

14 (1) The name, title, business address and business
15 telephone number of the mental health professional providing
16 services.

17 (2) The formal professional education of the mental
18 health professional, including the institutions attended and
19 the degrees received.

20 (3) The mental health professional's philosophy and
21 approach to treatment, areas of specialization and services
22 provided.

23 (4) In the case of a mental health professional engaged
24 in a private individual practice, partnership or group
25 practice, the fee schedule, listed by type of service or
26 hourly rate.

27 (5) At the end of the disclosure statement, the words
28 "This information is required by the Mental Health
29 Professional Licensure Board, which regulates creative arts
30 therapists, marriage and family therapists, pastoral

counselors and professional counselors."

(6) Immediately beneath the statement required by paragraph (5), the name, address and telephone number of the board.

CHAPTER 7

ENFORCEMENT

Section 701. License penalties.

(a) Discretionary.--The board may suspend, revoke or refuse to renew a license issued under this act for any of the following:

(1) A conviction for a felony or crime of moral turpitude under the law of any jurisdiction.

(2) A finding of immoral or unprofessional conduct. This paragraph includes:

(i) Failure to conform to the ethical standards of the profession.

(ii) Making misleading, deceptive, untrue or fraudulent representations of the specialty.

(3) A violation of regulations of the board.

(4) Presentment of false credentials or documents in support of an application for licensure, including renewal.

(5) A disciplinary action by another jurisdiction.

(6) A physical or mental impairment preventing professional practice.

(b) Mandatory.--

(1) The board, subject to section 507(b), shall suspend a license issued under this act if the licensee is sentenced for any of the following:

(i) A felony under the act of April 14, 1972

(P.L.233, No.64), known as The Controlled Substance,

1 Drug, Device and Cosmetic Act.

2 (ii) An offense under 18 Pa.C.S. Ch. 31 (relating to
3 sexual offenses).

4 (iii) An offense under 18 Pa.C.S. § 4304 (relating
5 to endangering welfare of children).

6 (iv) An offense under the laws of another
7 jurisdiction equivalent to the offense listed in
8 subparagraphs (i) through (iii).

9 (2) The board shall temporarily suspend a license issued
10 under this act if the board finds an immediate and clear
11 danger to public health and safety.

12 (i) The board shall issue an order to this effect.
13 The order must include a written statement of the
14 allegations against the licensee and must be sent to the
15 licensee's registered address.

16 (ii) Within 30 days after issuing an order under
17 this paragraph, the board shall conduct a preliminary
18 hearing to determine that there is a prima facie case
19 supporting the suspension. The licensee may be present at
20 the preliminary hearing and may be represented by
21 counsel, cross-examine witnesses, inspect physical
22 evidence, call witnesses, offer evidence and testimony
23 and make a record of the proceedings.

24 (iii) If it is determined that there is not a prima
25 facie case, the suspended license shall be restored
26 immediately.

27 (iv) The temporary suspension shall remain in effect
28 until vacated by the board, but in no event longer than
29 180 days.

30 (c) Surrender.--A licensee whose license has been suspended

1 or revoked shall return the license to the board as the board
2 directs.

3 Section 702. Reinstatement of license.

4 (a) Suspension.--If a license is suspended, the terms of
5 suspension shall be at the discretion of the board. The license
6 shall be reinstated upon compliance with these terms.

7 (b) Revocation.--If a license has been revoked, the licensee
8 may apply for reinstatement after a period of at least five
9 years. The licensee must comply with sections 503 and 504.

10 Section 703. Administrative penalties.

11 (a) Licensees.--The board may levy an administrative penalty
12 of not more than \$1,000 per violation on a licensee who violates
13 this act, a regulation promulgated under this act or an order
14 issued under this act.

15 (b) Required reports.--The board may levy an administrative
16 penalty of not more than \$1,000 for a violation of section
17 507(d)(1).

18 Section 704. Injunction.

19 The board may bring an action in a court of competent
20 jurisdiction to enjoin a violation of this act, a regulation
21 promulgated under this act or an order issued under this act.
22 Actual injury need not be established.

23 CHAPTER 9

24 LEGAL MATTERS

25 Section 901. Privileged communications.

26 (a) Privileged communications.--A mental health
27 professional, including an employee or agent, may not disclose
28 information which is acquired in the course of working in a
29 therapeutic or counseling relationship unless one of the
30 following applies:

- (1) The disclosure is mandated by law.
- (2) Failure to disclose the information presents a clear and present danger to the health or safety of another.
- (3) The practitioner is a defendant in an action arising from the relationship. This paragraph is limited to that action.
- (4) The client is a defendant in a criminal proceeding, and imposition of the privilege violates the client's rights of process and rights to present testimony and witnesses.
- (5) A client agrees to waive the privilege.
- (i) If more than one family member is a party to the practitioner-client relationship and is participating directly in this relationship, each of the family members so participating must agree to waive the privilege; absent such waiver, a mental health professional may not disclose information received from any family member who is participating.
- (ii) If both parties to a marriage have obtained therapy or counseling from the same therapist or counselor, each party must agree to waive the privilege; absent such waiver, a mental health professional may not testify in alimony or divorce proceedings involving those parties. This subparagraph shall not apply to custody proceedings.
- (6) There is a duty to warn, as set forth in subsection (b).
- (b) Duty to warn.--
- (1) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises if a client has communicated to a mental health

professional any of the following:

(i) That the client harbors an intent to inflict physical violence against a reasonably identifiable victim.

(ii) That the client presents a serious threat of inflicting physical violence against a reasonably identifiable victim.

(2) The duty under paragraph (1) is discharged if the mental health professional makes a reasonable effort to reveal the communication to both the intended victim and to law enforcement personnel.

(3) In the absence of a duty to warn under paragraph (1), a mental health professional is not liable for any of the following:

(i) Failure to warn against violence.

(ii) Failure to protect a victim.

(iii) Failure to predict violence.

(4) A practitioner who complies with paragraph (1) may not be held liable by the client or law enforcement agents on account of such compliance.

CHAPTER 51

MISCELLANEOUS PROVISIONS

Section 5101. Appropriation.

The sum of \$300,000, or as much thereof as may be necessary, is hereby appropriated to the Board of Mental Health Professionals for the fiscal year July 1, 1995 to June 30, 1996, to carry out the provisions of this act.

Section 5102. Repayment.

The board shall, within three years, repay the appropriation under section 5101 to the General Fund from license and penalty

1 fees.

2 Section 5103. Applicability.

3 Section 301(b)(1)(i)(B), (ii)(B), (iii)(B) and (iv)(B) shall
4 not apply to initial members of the board.

5 Section 5104. Notice to profession.

6 When the board completes its internal procedures under
7 section 302(2), it shall publish in the Pennsylvania Bulletin a
8 notice that the board is in full operation.

9 Section 5105. Effective date.

10 This act shall take effect as follows:

11 (1) Section 501 shall take effect one year after
12 publication of the notice under section 5104.

13 (2) This section shall take effect immediately.

14 (3) The remainder of this act shall take effect in 60
15 days.