

1 Section 1. Terms used in this Act mean:

2 (1) "Board," the Board of Examiners for Counselors and Marriage and Family
3 Therapists;

4 (2) "Licensee," a person who holds a license to practice marriage and family
5 therapy; and

6 (3) "Practice of marriage and family therapy," the rendering of professional
7 marriage and family therapy services to individuals, family groups, and marital pairs, one-on-one or
8 in groups, whether the services are offered directly to the general public or through organizations,
9 either public or private, for compensation, including the diagnosis and treatment of nervous and
10 mental disorders through the application of systemic theory and technique, whether cognitive,
11 affective, or behavioral, within the context of marriage and family systems.

12 Section 2. Each license issued by the board under this Act shall be conspicuously displayed
13 by the licensee at the primary place of practice of the licensee. Each licensee shall post and keep
14 conspicuously displayed the annual renewal certificate issued by the board.

15 Section 3. It is a Class 2 misdemeanor for any person to engage or attempt to engage in the
16 practice of marriage and family therapy, without a license, unless exempted under this Act.

17 Section 4. Unless licensed in accordance with this Act, no person may represent himself or
18 herself as a marriage or family therapist by using the titles "marital therapist," "marriage counselor,"
19 "family therapist," "licensed marital therapist", "licensed marriage counselor," "licensed family
20 therapist," or "licensed marriage and family therapist," or any other similar title.

21 Section 5. No advertising regarding the practice of marriage and family therapy may be
22 fraudulent or misleading. A violation of this section is a Class 1 misdemeanor.

23 Section 6. No licensee may perform marriage and family therapy services that are outside
24 the scope of the licensee's relevant education, training, and experience.

1 Section 7. Nothing in this Act may be construed to prevent any other qualified professional,
2 including a clinical social worker, psychiatric nurse, professional counselor, clinical and counseling
3 psychologist, physician, or member of the clergy, from performing or advertising the performance
4 of marriage and family therapy consistent with the accepted standards of that person's profession,
5 provided the person does not use a title or description stating or implying that the person is licensed
6 to practice marriage and family therapy under this Act.

7 Section 8. The board may use its own staff or employ or contract with agents or
8 investigators to assist in the enforcement this Act, or any rule promulgated thereunder. If it appears
9 to the board that a person is violating any section of this Act or any rule promulgated thereunder,
10 the board may, in its own name or in the name of the state, in the circuit court in any county in
11 which jurisdiction is proper, bring an action to enjoin the act, practice, or violation and to enforce
12 compliance with sections of this Act, or any rule promulgated thereunder, as an alternative to
13 criminal proceedings. The proceedings shall be prosecuted by the Office of the Attorney General or
14 by a person designated by the attorney general and retained by the board as provided in this Act.

15 Section 9. The board and its members and officers shall assist any person charged with the
16 enforcement of this Act. The board, its members, agents, and officers shall furnish evidence to assist
17 in the prosecution of any violation or enforcement, and the board may make a reasonable
18 expenditure for that purpose. The board may determine it is best for the enforcement of this Act, or
19 in the conduct of its duties to employ an attorney designated by the attorney general. The board
20 shall fix and determine the compensation and period of service for the attorney to be paid out of the
21 board's funds.

22 Section 10. An applicant for a license as a marriage and family therapist shall file an
23 application, in the manner prescribed by the board, together with the application fee prescribed by

1 the board. The board shall issue a license as a marriage and family therapist to an applicant who pays
2 the license fee and demonstrates that:

3 (1) The applicant has received a master's or a doctoral degree, which consists of
4 at least forty-eight credit hours in marriage and family therapy, from an accredited marriage and
5 family therapy program recognized by the board, or an equivalent course of study approved by the
6 board;

7 (2) The applicant has passed a standardized national examination approved by
8 the board;

9 (3) Within the four-year period preceding the application, the applicant
10 completed one thousand seven hundred hours of supervised experience in marriage and family
11 therapy under a plan of supervision approved by the board subsequent to the applicant receiving an
12 acceptable degree;

13 (4) The applicant has no pending disciplinary proceeding or unresolved
14 disciplinary complaint;

15 (5) The applicant is of good moral character; and

16 (6) The applicant is not in violation of any section of this Act or any rules
17 promulgated thereunder.

18 The board may refuse to issue a license to an applicant who fails to meet the requirements of
19 this section.

20 Notwithstanding the provisions of subdivision (3), the board may grant a license, to an
21 applicant who does not complete the required postgraduate supervision within four years of the
22 application upon the applicant's show of good cause for exceeding the time.

23 Notwithstanding the provisions of subdivision (5), the board may grant a license, if the
24 applicant has been convicted of, or pled guilty to a felony, to any crime involving or relating to the

1 practice of counseling, or to any crime involving dishonesty or moral turpitude, if and the board
2 determines that the applicant does not constitute a risk to public safety. An applicant may appeal the
3 denial of a license in accordance with chapter 1-26.

4 Section 11. If the board suspects that the physical or mental health of an applicant may
5 jeopardize or endanger anyone who seeks assistance from the applicant, the board may require that
6 the applicant be examined by a competent healthcare provider selected by the board. The board
7 shall pay all costs of the examination.

8 If the healthcare provider confirms that the applicant's physical or mental health may
9 jeopardize or endanger anyone who seeks services from the applicant, the board may deny the
10 license until the applicant furnishes proof that the applicant's physical and mental health is sufficient
11 to practice marriage and family therapy.

12 Section 12. Notwithstanding any other provisions, the board may issue a license as a
13 marriage and family therapist to an applicant who is licensed to practice marriage and family therapy
14 in another state or territory of the United States, if the applicant demonstrates that:

15 (1) The applicant is currently licensed as a marriage and family therapist and has
16 been under the jurisdiction of the licensing authority in the other jurisdiction for at least three years
17 prior to the time of submitting an application to the board;

18 (2) The applicant is in good standing with the licensing authority in the other
19 jurisdiction;

20 (3) The applicant has been in an active practice during the three-year period
21 prior to the time of submitting an application to the board;

22 (4) The applicant passed a standard national examination approved by the board;
23 and

1 (5) The applicant has no record of unprofessional conduct or any pending
2 disciplinary complaints in the other jurisdiction.

3 For purposes of this section, the term, active practice, means at least one thousand five
4 hundred hours of clinical experience.

5 Section 13. If a marriage and family therapist licensed in another state or territory of the
6 United States has not passed the national examination required by the board for licensure by
7 endorsement, the board may provide the applicant with a temporary license to practice for up to
8 ninety days, provided the applicant demonstrates that:

9 (1) The applicant is currently licensed as a marriage and family therapist and has
10 been under the jurisdiction of the licensing authority in the other jurisdiction for at least three years
11 prior to the time of submitting an application to the board;

12 (2) The applicant is in good standing with the licensing authority in the other
13 jurisdiction;

14 (3) The applicant has been in an active practice during the three-year period
15 prior to the time of submitting an application to the board; and

16 (4) The applicant has no record of unprofessional conduct or any pending
17 disciplinary complaints in the other jurisdiction.

18 For purposes of this section, the term, active practice, means at least one thousand five
19 hundred hours of clinical experience.

20 An applicant for a temporary license shall submit an application on a form approved by the
21 board, along with the application fee and a temporary license fee prescribed by the board. The board
22 shall issue a temporary license as a marriage and family therapist to an applicant who meets the
23 requirements of this section and pays the required fees. A temporary license automatically expires
24 upon the applicant's passage of the required national examination or at the conclusion of the term

1 for which the license was issued, whichever occurs first. A temporary license may only be renewed
2 once.

3 Section 14. Any person practicing under a temporary license is subject to supervision and
4 discipline by the board, in the same manner as any other person licensed under this Act. A person
5 practicing under a temporary license submits to the jurisdiction of the board.

6 Section 15. A licensee shall furnish the board with updated information within thirty days,
7 upon a change in the licensee's name, place of employment, or place of business.

8 Section 16. Any license issued under this Act, other than a temporary license, is valid until
9 November thirtieth of the next even numbered year following the date of issuance. A license expires
10 automatically, unless it is renewed.

11 Section 17. Any licensee holding a license issued under this Act may renew that license by
12 submitting an application for renewal prior to the date of expiration, paying the required renewal fee,
13 and providing proof of compliance with the continuing education requirements prescribed by the
14 board. If a licensee fails to renew a license on or before the thirtieth day of November in an even
15 numbered year, the license is automatically suspended.

16 The board shall notify the licensee that a renewal application has not been received by the
17 board and that the licensee may not practice counseling. Any person who submits a license renewal
18 application and provides proof of compliance with the continuing education requirements set by the
19 board within thirty days after the expiration date may be granted a license renewal.

20 Section 18. Except as otherwise provided in this section, any person licensed under this Act
21 shall complete at least forty hours of continuing education every two years in a manner and with an
22 instructor approved by the board.

1 Any person whose initial license is granted for a period of less than two years shall, during
2 that initial licensure period, complete a prorated number of hours of continuing education, in a
3 manner and with an instructor approved by the board.

4 The required continuing education hours may be obtained through electronic means. The
5 board may extend or waive the continuing education requirements for a licensee upon a showing of
6 good cause, prior to expiration of the license.

7 Section 19. The board may place a license on inactive status at the request of a licensee and
8 the payment of a fee prescribed by the board. An inactive license expires four years after the date of
9 issuance. An inactive license may be reactivated by payment of the license renewal fee and proof of
10 having completed at least forty hours of continuing education during the two-year period
11 immediately preceding the reactivation request. If a license is not reactivated prior to its expiration,
12 all provisions applicable to an applicant for licensure apply in order for the license to be restored to
13 active status.

14 Any license that is on an inactive status, as of July 1, 2020, expires on November 30, 2022,
15 unless the licensee meets the requirements for restoration prior to that time.

16 Section 20. An expired license may be reactivated within the four-year period following its
17 expiration if the applicant:

- 18 (1) Pays all applicable renewal fees required for the period of expiration;
- 19 (2) Provides proof of all continuing education required for the period of
20 expiration; and
- 21 (3) Provides proof of passing a national examination approved by the board
22 after the date the license expired.

23 Section 21. This Act does not apply to the activities and services of a person practicing
24 marriage and family therapy as part of the person's duties if the person is:

1 (1) An employee of an accredited educational institution, or a federal, state,
2 county, or local governmental institution or agency;

3 (2) An employee of a not-for-profit entity that meets community needs; or

4 (3) A marriage and family therapy intern or person preparing for the practice of
5 marriage and family therapy under qualified supervision in a training institution or facility or
6 supervisory arrangement recognized and approved by the board.

7 Section 22. No cause of action may arise against any licensed marriage and family therapist
8 for failing to warn of and protect others from a client's threatened violent behavior or for failing to
9 predict, warn of and protect others from a client's violent behavior except if the client has
10 communicated to the marriage and family therapist a serious threat of physical violence against an
11 identifiable victim. The duty to warn or to take reasonable precautions to provide protection from
12 violent behavior arises only under the limited circumstances specified in this section.

13 Section 23. No licensee, or an employee of a licensee may disclose information acquired
14 from any person consulting the licensee in a professional capacity that was necessary to render
15 services in a professional capacity, except:

16 (1) If mandated by law or authorized to under the Health Insurance Portability
17 and Accountability Act of 1996, as amended through January 1, 2020;

18 (2) If the information is necessary to prevent or mitigate a serious and imminent
19 threat to the health or safety of a person or the public, provided the disclosure is made to a person
20 reasonably able to prevent or mitigate the threat, including the target of the threat;

21 (3) If the licensed marriage and family therapist is a party defendant to a civil,
22 criminal, or disciplinary action arising from such professional capacity, in which case any waiver of
23 the privilege accorded by this section is limited to that action;

1 (4) If the client is a defendant in a criminal proceeding and the use of the
2 privilege would violate the defendant's right to a compulsory process or right to present testimony
3 and evidence;

4 (5) With the written consent of the person or, in the case of the person's death
5 or disability, with the written consent of the person's personal representative, other person
6 authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical
7 condition, provided that if more than one person in a family is receiving therapy from the marriage
8 and family therapist, each family member shall agree to the waiver for the marriage and family
9 therapist to disclose information received from any family member;

10 (6) If the person waives the privilege by bringing charges against the licensee; or

11 (7) If there is a duty to warn under other limited circumstances set forth in this
12 Act.

13 Section 24. If both parties to a marriage have obtained marriage and family therapy by a
14 licensed marriage and family therapist, the therapist may not testify in an alimony or divorce action
15 concerning information acquired in the course of the therapeutic relationship. This section does not
16 apply to custody actions.

17 Section 25. The board shall receive complaints regarding the enforcement of this Act. A
18 record of each complaint shall be maintained by the board. An investigation shall be conducted by a
19 member, agent, or an appointee of the board to determine whether an alleged violation has been
20 committed. The investigator, if a member of the board, may dismiss a complaint if it appears to the
21 member, either with or without consulting of the board, that no violation has been committed. If
22 the investigator is an agent or an appointee of the board, dismissal of the complaint may only be
23 made by the board president. Any agreed disposition made between the investigator and the licensee
24 or permit holder shall be made known to and approved by the board.

1 If the complaint is not dismissed and an agreed disposition is not reached, the investigator
2 may request that the board set a date for a hearing on the complaint. All disciplinary proceedings
3 held under this Act shall be conducted in accordance with chapter 1-26. Any decision of the board
4 entered in a contested proceeding may be appealed to the circuit court within thirty days. A license
5 or permit shall remain in effect during the pendency of an appeal unless suspended under section 31
6 of this Act.

7 Section 26. Upon receiving a complaint regarding the health or safety of patients or the
8 public, any authorized board member, officer, agent, or employee may enter and inspect, during
9 business hours, any place where marriage and family therapy is practiced for the purpose of
10 enforcing this Act. Refusal to allow an inspection may constitute unprofessional or dishonorable
11 conduct.

12 Section 27. Testimony or documentary evidence of any kind obtained during the
13 investigation of a complaint is not subject to discovery or disclosure under chapter 15-6 or under
14 any other provision of law and is not admissible as evidence in any legal proceeding, until such time
15 as the complaint becomes a contested case, as defined in § 1-26-1. No person who has participated
16 in the investigation of a complaint may testify as an expert witness or be compelled to testify for any
17 party in any civil action, if the subject matter of the complaint investigated is a basis for the civil
18 action.

19 Section 28. The license of a marriage and family therapist may be suspended, revoked, or
20 canceled if:

21 (1) The licensee is found to be guilty of fraud in the practice of marriage and
22 family therapy or of fraud or deceit in the licensee's admission to the practice of marriage and family
23 therapy;

1 (2) The licensee has been convicted during the past five years of a felony, or of
2 any crime which, if committed within this state would constitute a felony;

3 (3) The licensee is engaged in the practice of marriage and family therapy under
4 a false or assumed name and has not registered that name under chapter 37-11, or is impersonating
5 another practitioner having a like or different name;

6 (4) The licensee is addicted to the habitual use of intoxicating liquors, narcotics,
7 or stimulants, to an extent that incapacitates the licensee from the performance of professional
8 duties;

9 (5) The physical or mental condition of the licensee is determined by a
10 competent healthcare provider to be at risk of jeopardizing or endangering those who seek services
11 from the licensee, provided that a majority of the board may demand an examination of the licensee
12 at the board's expense, and further provided that if the licensee fails to submit to the examination,
13 this constitutes grounds for the immediate suspension of the license;

14 (6) Obtaining or attempting to obtain a license, certificate, or renewal through
15 means of bribery or fraudulent representation;

16 (7) Knowingly making a false statement in connection with any application
17 under this Act;

18 (8) Knowingly making a false statement on any form required by the board in
19 accordance with sections 53 through 91 of this Act or any rules promulgated thereunder;

20 (9) The licensee has violated any section of this Act or any rule thereunder; or

21 (10) The licensee has been found to be in violation of ethical standards adopted
22 by the board.

23 Section 29. Proceedings for the suspension, revocation, or cancellation of a license may be
24 initiated when the board has information that any licensee may have committed any misconduct as

1 provided in section 28 of this Act or is guilty of gross incompetence or unprofessional or
2 dishonorable conduct.

3 Section 30. If the board finds that a person, entity, licensee, or permit holder has violated
4 any section of this Act or any rule promulgated thereunder, the board may:

- 5 (1) Revoke a license or permit for an indefinite period;
- 6 (2) Suspend a license or permit for a specific or an indefinite period;
- 7 (3) Place a limit or condition on a license or permit;
- 8 (4) Issue a censure or a letter of reprimand;
- 9 (5) Place a licensee or permit holder on probationary status and require that the

10 licensee or permit holder report regularly to the board on the matters that are the basis for the
11 probation, limit the licensee's or permit holder's practice to areas prescribed by the board, and
12 require professional education until a satisfactory degree of skill has been attained in those areas that
13 are the basis of the probation, provided the board may withdraw the probation if the board finds the
14 deficiencies that required disciplinary action have been remedied;

15 (6) Impose any other sanctions that the board determines is appropriate;

16 (7) Impose a fee to reimburse the board in an amount equal to some or all of
17 the costs incurred for the investigation and proceedings resulting in disciplinary action or for the
18 issuance of a cease and desist order; or

19 (8) Deny an application for a license or permit.

20 Section 31. The board may suspend a license or permit in advance of a final adjudication or
21 during the appeals process, if the board finds that allowing a licensee or permit holder to continue
22 practicing would represent a clear and immediate or imminent danger to public health and safety. A
23 licensee or permit holder whose license or permit is suspended under this section is entitled to a
24 hearing before the board within twenty days after the effective date of the suspension. The licensee

1 or permit holder may subsequently appeal the suspension to the circuit court in accordance with
2 chapter 1-26.

3 Section 32. All proceedings regarding the suspension, revocation, or cancellation of a license
4 shall conform to the procedure set forth in chapter 1-26.

5 A party may appeal any act, ruling, or decision regarding a license, in accordance with
6 chapter 1-26.

7 Section 33. At the board's discretion, the board may reinstate or issue a new license or
8 permit. The board may require the applicant to pay all costs of the proceedings resulting in the
9 suspension, revocation, reinstatement, or issuance of a license or permit.

10 Section 34. The board shall investigate and report an alleged violation of any section of this
11 Act. The board may employ special counsel subject to the supervision, control, and direction of the
12 attorney general to assist in the prosecution of alleged criminal violations and may expend the
13 necessary funds for this purpose.

14 Section 35. Any person violating any section of this Act, may be enjoined from further
15 violations at the suit of the state's attorney of the county where the violations occurred. In the
16 alternative, suit may be brought by any resident of this state.

17 Section 36. Any person who practices marriage and family therapy through electronic
18 means, and provides marriage and therapy services to a patient located in this state is engaged in the
19 practice of marriage and family therapy in this state regardless of the provider's physical location.
20 Any service provided by a licensee or supervision provided through electronic means shall comply
21 with this Act and rules promulgated thereunder.

22 Section 37. The board shall promulgate rules, pursuant to chapter 1-26, to establish:

- 23 (1) An application fee, not exceeding two hundred dollars;
24 (2) A biennial renewal fee, not exceeding five hundred dollars;

- 1 (3) A duplicate license fee, not exceeding fifteen dollars;
- 2 (4) An inactive license fee, not exceeding one hundred dollars;
- 3 (5) A temporary license fee, not exceeding two hundred dollars; and
- 4 (6) A license verification fee, not exceeding twenty-five dollars.

5 Section 38. The board may promulgate rules, pursuant to chapter 1-26, to:

- 6 (1) Set standards for professional practice; and
- 7 (2) Establish procedures for application, licensure, eligibility, renewals,
- 8 continuing education, supervision, and the examination of an applicant for and a holder of licensure
- 9 as a licensed marriage and family therapist.

10 Section 39. That §§ 36-33-1, 36-33-2, 36-33-4 to 36-33-9, inclusive, and 36-33-11 to 36-33-
11 33, inclusive be repealed.