

## PROFESSIONS AND BUSINESSES

### CHAPTER 8A.

#### COUNSELORS.

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**§ 34-8A-1. Board of Examiners in Counseling created; composition; powers and duties.**

There is hereby created a board to be known as the Alabama Board of Examiners in Counseling composed of seven members, appointed by the Governor of this state within 60 days after July 18, 1979, in the manner and for the term of office as hereinafter provided. Said board shall perform such duties and have such powers as this chapter prescribes and confers upon it.

**34-8A-2. Definitions.**

For the purposes of this chapter, unless the context requires otherwise, the following words and phrases shall have the respective meanings ascribed by this section:

- (1) ASSOCIATE LICENSED COUNSELOR. Any person that has been licensed by the board to offer counseling services as defined in this section while under the supervision of a board approved supervisor.
- (2) BOARD. The Alabama Board of Examiners in Counseling.
- (3) COUNSELING SERVICES. Those acts and behaviors coming within the private practice of counseling.
- (4) LICENSED PROFESSIONAL COUNSELOR. Any person who represents to the public by any title or description of services incorporating the words “licensed professional counselor” or “licensed counselor”; and who offers to render professional counseling services in private practice to individuals, groups, organizations, corporations, institutions, government agencies, or the general public in settings of individual or group practice for a fee, salary, or other compensation, implying licensure and training, experience, or expertise in counseling, and who holds a current, valid license to engage in the private practice of counseling, with the exception of those practitioners listed in Section 34-8A-3
- (5) PRIVATE PRACTICE OF COUNSELING. Rendering or offering to render to individuals, groups, organizations, or the general public counseling services, in settings of individual or group practice, for a fee, salary, or other compensation, involving the application of principles, methods, or procedures of the counseling profession which include, but are not restricted to:
  - a. Counseling. To render evaluation and therapy that includes, but is not limited to, providing individual counseling, family counseling, marital counseling, group therapy, school counseling, play therapy, rehabilitation counseling, art therapy, human growth and development counseling, couples counseling, chemical abuse or dependency counseling, career counseling, and vocational disability counseling. The use of specific methods, techniques, or modalities within the practice of a licensed professional counselor is restricted to counselors appropriately trained in the use of these methods, techniques, or modalities. A licensed professional counselor or associate licensed counselor may diagnose and develop treatment plans but shall not attempt to diagnose, prescribe for, treat, or advise a client with reference to problems or complaints falling outside the boundaries of counseling services.

- b. **Appraisal Activities.** Selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests and personal characteristics, but shall not include the use of projective techniques in the assessment of personality.
  - c. **Counseling, Guidance, and Personnel Consulting.** Interpreting or reporting upon scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving some current or potential problems of individuals, groups, or organizations.
  - d. **Referral Activities.** The evaluating of data to identify problems and to determine advisability of referral to other specialists.
  - e. **Research Activities.** The designing, conducting, and interpreting of research with human subjects.
- (6) **PROVISIONAL LICENSE.** A one-year, temporary licensure status equal to that of a licensed professional counselor or associate licensed counselor with specified stipulations for establishing substantial equivalency according to subdivision (4) of Section 34-8A-7.

**§ 34-8A-3. Activities exempt from chapter; limitations on rights of counselors.**

Nothing in this chapter shall be construed to apply to any of the following:

- (1) The activities, services, and use of an official title on the part of a person employed as a counselor by any federal, state, county, or municipal agency; public or private educational institution; medical personnel in a clinic or hospital that is certified by the Alabama Department of Public Health or any successor to such department or that is accredited by the Joint Commission on Accreditation of Health Care Organizations or any successor to such commission; law practice; or licensed private employment agencies, provided such persons are performing counseling or counseling-related activities within the scope of their employment.
- (2) The activities and services of a student, intern, or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if these activities and services constitute a part of the supervised course of study, provided that such person be designated a counselor intern.
- (3) The activities and services of a nonresident person rendered not more than 30 days during any year, provided such person is duly authorized to perform such activities and services under the laws of the state or county of his or her residence.

- (4) The activities and services of qualified members of other professions, such as physicians, psychologists, psychoanalysts, registered nurses, social workers, or ordained or licensed recognized religious practitioners performing counseling consistent with the laws of the state, their training, and any code of ethics of their professions, provided they do not represent themselves by any title or description in the manner prescribed in Section 34-8A-2. Nothing herein shall prohibit religious counselors performing counseling services without remuneration.
- (5) The activities, services, titles, and descriptions of qualified members of the law profession.
- (6) The activities, services, titles, and descriptions of persons employed, as professionals or as volunteers, in the practice of counseling for public and private nonprofit organizations or charities.

(b) Nothing in this chapter shall be construed as permitting counselors licensed under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

(c) Nothing in this chapter shall be construed as permitting a counselor licensed under this chapter to represent himself or herself in any manner to the public as an attorney as defined by the laws of this state.

(d) Nothing in this chapter shall be construed as permitting a counselor licensed under this chapter to represent himself or herself in any manner to the public as a psychologist as defined by the laws of this state.

(e) Lecturers from any school, college, agency, or training institution may utilize an academic or research title when invited to present lectures to institutions or organizations.

(f) Notwithstanding the exemptions provided in this section, those persons who file an application with the board or who are licensed as licensed professional counselors or associate licensed counselors shall comply with the regulations of the board and be subject to the disciplinary provisions of this chapter.

**§ 34-8A-4. Board of Examiners in Counseling – Creation; membership; Sunset provision.**

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

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

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

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

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

(f) Board members shall be ineligible for reappointment for a period of three years following completion of their terms. Subsequent appointments to the board shall be made by the Governor in the following manner: Not later than October 1, of each year the Executive Committee of the Alabama Counseling Association, or its successor organization, shall submit to the Governor the names of two qualified candidates for the position on the board to be vacated by reason of expiration of term of office. From the two candidates the Governor shall appoint one member not later than January 1, to serve on the board for a term of five years. Every reasonable effort shall be made to insure that one member of the board be a member of a cultural minority. Each board member shall hold office until his or her successor is appointed and assumes office. If the Governor fails to make an appointment by January 1 for a successor to a member whose term has expired, the Executive Committee of the Alabama Counseling Association, or its successor organization, shall select a successor member from among the two qualified candidates nominated to fill the vacancy. Other vacancies occurring in the board shall be filled for the unexpired term by appointment of the Governor from two candidates for each vacancy submitted within 30 days after the vacancy occurs by the Executive Committee of the Alabama Counseling Association, or its successor organization. The appointments shall be made within 45 days after the names of the candidates have been submitted. If the Governor fails to make the appointment within the 45-day period, the Executive Committee of the Alabama Counseling Association, or its successor organization, shall select a replacement member from among the two qualified candidates nominated to fill the unexpired term of a board member. Any board members may be removed by the Governor, after notice and hearing, for incompetence, neglect of duty, malfeasance in office, or moral turpitude. Composition of the board shall always consist of two citizens, two counselor educators, and three counselors in private practice. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. After the effective date of the act amending this subsection, appointments shall be made so that not more than one board member from any congressional district may be appointed to serve at the same time. A college or university shall have only one counselor educator representative as a member of the board at any one time. In addition, no more than one practitioner from the same practice setting or corporation shall be members of the board at any one time.

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

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

**§ 34-8A-5. Board of examiners in counseling – Officers; compensation; meetings, seal; rules and regulations; grants.**

- (a) The board shall elect annually a chair and a vice chair. Each member shall receive daily compensation as established by the board for each day actively engaged in the duties of the board and the same travel expense allowance as is paid to state employees for travel in the service of the board. At the request of the executive director, a board member may work additional days on behalf of the board. For such activities, the board member shall be compensated at the same daily rate for scheduled board meetings and shall receive the same travel expense allowance as is paid to state employees for travel in the service of the board. The amounts shall in no case exceed funds available to the board. The board shall hold at least one regular meeting each year. Additional meetings may be held at the discretion of the chair or at the written request of any three members of the board. The board shall adopt a seal which shall be affixed to all licenses and certificates issued by the board. The board shall from time to time adopt those rules and regulations as the board may deem necessary for the performance of the duties of the board. The board may appoint and employ a qualified person possessing a high degree of professional skill, not subject to the State Merit System, to serve as executive director. The compensation of the executive director shall be established by the board. Four members of the board shall be empowered to accept grants from foundations and institutions to carry on the functions of the board.
- (b) Notwithstanding any other contrary provision of law, the executive director employed by the board may be a practicing licensee of the board.

**§ 34-8A-6. Inactive status; collection and disposition of fees, etc.; reactivation; renewal.**

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

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

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

(d) Every licensed professional counselor engaging in private practice in this state is required to pay biennially to the board by August 1 a renewal fee to be determined by the board. The chair thereupon shall issue a document renewing his or her license for a term of two years. The license of any licensed professional counselor who fails to have his or her license renewed biennially by August 1 shall lapse. Failure to renew a license, however, shall not deprive the licensed professional counselor of the right of renewal thereafter. A lapsed license may be renewed within a period of two years after lapse upon payment of fees in arrears, or thereafter, upon payment of a renewal fee as determined by the board. Any licensed professional counselor whose license has lapsed beyond six years must reapply under the current regulations for initial licensure.

(e) An associate licensed counselor engaging in private practice under the supervision of a supervising counselor in this state is required to pay annually to the board by the anniversary of his or her initial license issuance date a renewal fee to be determined by the board. The chair thereupon shall issue a document renewing the license for a term of one year. The license of any associate licensed counselor who fails to have his or her license renewed annually by the anniversary of the initial license issuance date shall lapse. Failure to renew a license, however, shall not deprive the associate licensed counselor of the right of renewal thereafter. A lapsed license may be renewed within a period of one year after lapse upon payment of fees in arrears or thereafter, upon payment of a renewal fee as determined by the board. Any associate licensed counselor whose license has lapsed beyond six years must reapply under the current regulations for initial licensure.

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

**§ 34-8A-7. Qualifications for licensed professional counselor; specialty designation.**

The Board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in a manner as the board prescribes, accompanied by a fee as is required in this chapter, and who furnishes satisfactory evidence of the following to the board:

- (1) The applicant is at least 19 years of age.
- (2) The applicant is of good moral character.
- (3) The applicant is not in violation of any of the provisions of this chapter and the rules and regulations adopted hereunder.

- (4) The applicant has received a master's degree from a regionally accredited institution of higher learning which is primarily professional counseling in content based on national standards, or the substantial equivalent in both subject matter and extent of training. The board shall use the standards of nationally recognized professional counseling associations as guides in establishing the standards for counselor licensure.
- (5) The applicant submits documentation of completion of 3,000 hours of supervised experience in professional counseling acceptable to the board. An applicant may subtract 1,000 hours of the required professional experience for every 15 graduate semester hours obtained beyond the master's degree, provided that those hours are clearly related to the field of professional counseling and are acceptable to the board. In no case may the applicant have less than 1,000 hours of the required professional supervised experience.
- (6) The applicant demonstrates competence and knowledge in professional counseling by passing an examination, as the board prescribes. A specialty designation may be added upon demonstration to the board that the applicant has met the recognized minimum standards as established by nationally recognized certification agencies. Upon successful passage of an examination, and upon receipt of credentials from certifying agencies the board may, by a majority of the board members present and voting, consider the credentials adequate evidence of professional competence and recommend to the chair of the board that a license with appropriate specialty designation, if any, be approved. A licensed professional counselor cannot claim or advertise a counseling specialty unless the qualifications of that specialty have been met and have been approved by the board.
- (7) The applicant is a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.

**§ 34-8A-8. Qualifications for associate licensed counselor.**

The board shall issue a license as an associate licensed counselor to each applicant who files an application upon a form and in such manner as the board prescribes accompanied by such fees as are required by this chapter, and who furnishes satisfactory evidence of the following to the board:

- (1) The applicant has complied with provisions outlined in subdivisions (1), (2), (3), and (4) of Section 34-8A-7;
- (2) The associate licensed counselor may not practice without direct supervision by a licensed professional counselor. The plan for supervision of the associate licensed counselor is to be approved by the board prior to any actual performance of counseling on the part of the associate licensed counselor.
- (3) Any associate licensed counselor after meeting the requirements specified in subdivisions (5) and (6) of Section 34-8A-7 may petition the board for licensure as a professional counselor.

**§ 34-8A-9. Application investigation; acceptance or rejection.**

After investigation of the application and other evidence submitted, the board shall notify each applicant that the application and evidence submitted is satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for such rejection.

**§ 34-8A-10. Examination.**

The place of examination shall be designated in advance by the board, and such examination shall be given annually at such time and place and under the supervision as the board may determine, and specifically at such other times as in the opinion of the board the number of applicants warrants.

**§ 34-8A-11. Focus of examination.**

The examination shall require that the applicant demonstrate his or her knowledge and application thereof in those areas deemed relevant to his or her specialty and those services he or she intends to offer to the public.

**§ 34-8A-12. Reexamination.**

In the event an applicant fails to receive a passing grade on the entire examination, the applicant may register and shall be allowed to take a subsequent examination.

**§ 34-8A-13. Preservation of examination scores.**

The board is required to preserve an examination score of each candidate, as part of its records for a period of two years following the date of examination.

**§ 34-8A-14. Renewal; fees; continuing education; practice in a specialty.**

(a) Counselors licensed as a licensed professional counselor by the board shall be required to submit biennially at the time of renewal a license renewal fee to be established by the board. No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous 24 months of relevant professional and continued educational experience.

(b) Counselors licensed as an associate licensed counselor by the board shall be required to submit annually at the time of renewal a license renewal fee to be established by the board. No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the board of the completion during the previous 12 months of relevant professional and continued educational experience.

(c) If any professional counselor or counselor associate duly licensed under this chapter, by virtue of additional training and experience, is qualified to practice in a specialty other than that for which he or she was deemed competent at the time of initial licensing, and wishes to offer such service under the provisions of this chapter, he or she is required to submit at the time of biennial renewal of licenses, additional credentials and he or she is to be given the opportunity to demonstrate his or her knowledge and application thereof in areas deemed relevant to his or her

specialty. This procedure is considered a necessary part of the renewal process. No charge in addition to the renewal fee is levied.

**§ 34-8A-15. Applicants qualified out-of-state; provisional license.**

Upon application accompanied by fee the board may issue a license to any person who furnishes upon a form and in such manner as the board prescribes, evidence satisfactory to the board that he or she is licensed as a professional counselor or as a counselor associate by another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico if the requirements for such licensure or certification are substantially equivalent to those of this chapter.

In the event the board determines that requirements are not substantially equivalent to those of this chapter, the board may issue a provisional license. A provisional license may be renewed for an additional one-year period. Rules concerning the qualifications for provisional licensure shall be established by the board.

**§ 34-8A-16. Disciplinary actions; discovery.**

- (a) The board by a majority of the board members present and voting is authorized to withhold, deny, revoke, or suspend any license or certificate issued or applied for in accordance with this chapter or otherwise discipline a licensed professional counselor or associate licensed counselor upon proof by proper hearing that the applicant, licensed professional counselor or associate licensed counselor:
  - (1) Has been convicted, within or without the jurisdiction of this state, of a felony, or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.
  - (2) Has violated the current code of ethics adopted by the board.
  - (3) Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that it impairs his or her ability to perform the work of a licensed professional counselor or associate licensed counselor with safety to the public.
  - (4) Has impersonated another person holding a professional counselor license or associate licensed counselor license or allowed another person to use his or her license or certificate.
  - (5) Has used fraud or deception in applying for a license or certificate or in taking an examination provided for in this chapter.
  - (6) Has allowed his or her name or license or certificate issued under this chapter to be used in connection with any person or persons who perform counseling services in private practice outside the area of their training, experience, or competence.

- (7) Is legally adjudicated mentally incompetent, the record of the adjudication being conclusive evidence thereof.
  - (8) Has willfully or negligently violated any of the provisions of this chapter or any of the rules and regulations adopted thereunder.
  - (9) Has been practicing as a counselor without a license.
- (b)
- (1) Notice of denial, revocation, suspension or disciplinary action is required to be sent by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than 30 days nor more than 60 days from the date of the mailing or service, at which time the applicant, licentiate, or associate shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the last known address of the person, but the nonappearance of the person shall not prevent the hearing. The hearing shall be conducted by the board by means of sworn, recorded testimony. Parties have the right to be represented by counsel and to conduct cross-examination of witnesses.
  - (2) On the basis of any hearing or upon default of applicant, licentiate, or associate, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of the determination shall be sent by registered mail or served personally upon the applicant, licentiate, or associate. The decision of the board denying, revoking, or suspending the license or certificate shall become final 30 days after so mailed or served unless within that period the applicant, licentiate, or associate appeals the decision to the courts of this state in the same manner and subject to the same powers and conditions as now provided by law in regard to rulings, orders, and findings of other quasi-judicial bodies in Alabama, where not otherwise specifically provided. No appeal, while pending appropriate court action, shall supersede the denial, revocation, or suspension. All proceedings and evidence, together with exhibits presented at the hearings before the board in the event of appeal, are admissible in evidence in the court.
  - (3) Every order and judgment of the board shall take effect immediately on its promulgation unless the board in the order or judgment fixes a probationary period for applicant, licentiate, or associate. The order and judgment shall continue in effect unless upon appeal the courts by proper order or decree terminate it earlier. The board may make public its order and judgments in the manner and form as it deems proper.
  - (4) The board may suspend the license of a licensed professional counselor or of an associate licensed counselor for a period of one year. At the end of this period, the board shall reevaluate the suspension and may recommend to the chair the extension of the suspension not to exceed one additional year, the reinstatement, or revocation of the license. A person whose license has been revoked under this section may apply for reinstatement after a period of not less than three years from the date the

denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend reinstatement.

- (c) In addition to any other disciplinary action, the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not to exceed one thousand dollars (\$1,000) for each violation. In addition to fines, the board may assess all legal costs for the preparation and execution of a disciplinary action against a licensee.
- (d) The board may issue written reprimands to licensees as an alternative to a formal hearing before the board. The board shall determine the procedures for a written reprimand that shall authorize the investigative committee and members of the board to deliberate and issue written reprimands. No less than two members of the board, along with the investigative committee, shall participate in deliberations leading to a written reprimand. All other members of the board shall remain available for possible appeal. The written reprimand shall not be published by the board, unless required by law, though a copy of the reprimand will be entered into the permanent file of the licensee for a period of time determined by the investigative committee and the members of the board issuing the reprimand. Licensees wishing to appeal the written reprimand may demand a formal hearing before the board members who were not involved in the original reprimand decision. The result of such an appeal may lead to withdrawal of the reprimand, retention of the reprimand, or imposition of additional penalties on the licensee by the board.
- (e)
  - (1) Except as provided in subdivision (2), (3), and (4), all records, reports, documents, photographs, and information contained in complaint and investigation files shall be confidential, shall not be public record, and shall not be available for court subpoena or for discovery in civil proceedings.
  - (2) The board shall release all of the following information to the public regarding complaint files and disciplinary action proceedings:
    - (a) A settlement agreement adopted and ratified by the board that closes a complaint file and represents the board's final decision in the disciplinary action proceedings.
    - (b) The formal charges or orders to show cause against an associate licensed counselor or a licensed professional counselor filed by the board's executive director and any amendments thereto.
    - (c) The Board's final decision in disciplinary action proceedings entered after a formal disciplinary action hearing.
  - (3) Notwithstanding any other provisions of this subsection, all complaint and investigation files shall be available to the Department of Examiners of Public Accounts for the purposes of any audit, examination, or review authorized by law.
  - (4) A party to any civil or administrative proceeding may discover documents, reports, or other tangible items under Act 2009-587 upon a showing that the party seeking discovery has need of the materials in the preparation of

the party's case and that party is unable without undue hardship and expense to obtain the substantial equivalent of the documents, reports, or other tangible items by other means.

**§ 34-8A-17. Injunction, mandamus, etc.**

When it shall appear to the board that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the board in its discretion and in its own name may bring an action in any court of competent jurisdiction to enjoin such acts or practices, and to enforce compliance with this chapter or any rule or order hereunder, regardless of whether criminal proceedings have been or may be instituted. Upon a proper showing, a permanent or temporary injunction, restraining order to writ of mandamus shall be granted.

**§ 34-8A-18. Penalties; review; disciplinary oversight of licensees; legal counsel.**

- (a) In addition to any other powers and functions which may be conferred upon it by law, the board may issue an order assessing a civil penalty not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000) against any person who holds himself or herself out to the public as a licensed professional counselor or associate licensed counselor or who uses any title or description as prescribed in subdivisions (1) and (4) of Section 34-8A-2, or who shall engage in the private practice of counseling and does not then possess in full force and virtue a valid license to engage in private practice as a licensed professional counselor or associate licensed counselor under this chapter.
- (b) In determining the amount of any penalty, the board shall consider the seriousness of the violation, including any threat to the health, safety, or welfare of the public, the unlawful gain or economic benefit gained by the violation, the person's history of previous violations, and the person's efforts to mitigate and comply with this chapter.
- (c) Civil penalties assessed in an order under this section and not paid within 60 days from the effective date of the order may be recovered in a civil action brought by the board in the Circuit Court of Montgomery County or the county in which the defendant does business.
- (d) Judicial review of an order entered by the board under this section shall be conducted in accordance with the pertinent provisions for the judicial review of contested cases as provided under the Alabama Administrative Procedure Act.

- (e) The board shall exercise its jurisdiction for disciplinary oversight of licensees during the period of their licensure. The board shall not accept voluntary surrender of a license on the part of a licensee to avoid possible disciplinary actions by the board. Securing inactive status of a license shall not negate jurisdiction of the board for a licensee's actions during any period of active licensure. If a former licensee or a licensee with inactive status is found to be in violation of the relevant state law or regulations, a public announcement of the decision of the board shall be proffered in a manner to be determined by the board.
- (f) The Attorney General shall be the attorney of the board, but the board may employ other counsel.

**§34-8A-19. Board's quasi-judicial authority; sole licensing authority.**

The Alabama Board of Examiners in Counseling shall have authority to administer oaths, to summon witnesses, to issue subpoenas, and to take testimony in all matters relating to its duties. Said board shall be the sole agency in this state empowered to certify concerning competence in the private practice of counseling, and the sole board empowered to license for the private practice of counseling.

**§ 34-8A-20. All qualified applicants licensed; signatures.**

The Alabama Board of Examiners in Counseling shall license to engage in private practice all persons who shall present satisfactory evidence of attainments and qualifications under provisions of this chapter and the rules and regulations of the board. Such licensure shall be signed by the Chairman of the Board of Examiners in Counseling under the board's adopted seal.

**§ 34-8A-21. Privileged communications and confidential relations between practitioner and client.**

For the purpose of this chapter, the confidential relations and communications between licensed professional counselor or associate licensed counselor and client are placed upon the same basis as those provided by law between attorney and client, and nothing in this chapter shall be construed to require any such privileged communication to be disclosed.

**§ 34-8A-22. Code of ethics.**

The Alabama Board of Examiners in Counseling shall adopt a code of ethics to govern appropriate practice or behavior as referred to in Section 34-8A-16 and Section 34-8A-17 and shall file such code with the Secretary of State within 30 days prior to effective date of such code.

**§ 34-8A-23. Waiver of requirement for prior practitioners.**

For a period of one year from July 25, 1983, the board shall waive the requirements of subdivisions (5) and (6) of Section 34-8A-7, and shall grant the appropriate license upon payment of the required fee to any person submitting an application for licensure and proof of practice to the board who is qualified by experience to practice counseling, and who was engaged in such private practice of counseling as of July 18, 1979 in Alabama. Proof of private practice shall be verified by a valid business license in force on or before July 18, 1979, and financial documents which clearly indicate that a fee, monetary or otherwise, was charged for counseling services rendered.

The Board of Examiners in Counseling shall be required to provide at least one legal notice of this provisions in the daily newspapers of this state.

**§ 34-8A-24. Liability.**

There shall be no monetary liability on the part of, and no cause of action shall arise against a licensed professional counselor or associate licensed counselor in failing to warn of and protect from a client who has communicated to the licensed professional counselor or associate licensed counselor a serious threat of physical violence against a reasonably identifiable victim or victims. If there is a duty to warn and protect under the limited circumstances specified above, the duty shall be discharged by the licensed professional counselor or associate license counselor making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency. No monetary liability and no cause of action may arise against a licensed professional counselor or associate licensed counselor who breaches confidentiality or privileged communication in the discharge of their duty as specified in this chapter.