Sunset Report

Alabama Board of Examiners in Counseling

Montgomery, Alabama

October 1, 2022 through September 30, 2024

ALABAMA DEPARTMENT OF
EXAMINERS of Public Accounts

Rachel Laurie Riddle, *Chief Examiner* | 334-777-0500 | www.alexaminers.gov

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Rachel Laurie Riddle
Chief Examiner

September 24, 2025

Sunset Committee
Alabama State House
Montgomery, Alabama 36130

Dear Members:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Board of Examiners in Counseling in accordance with the ***Code of Alabama 1975***, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Board of Examiners in Counseling in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle

Rachel Laurie Riddle
Chief Examiner

Examiners
Kierra Burston
Ashleigh Wynn
Kory LeMaster

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PROFILE

Purpose/Authority

The Alabama Board of Examiners in Counseling (the "Board") was created by Act Number 1979-423, Acts of Alabama, to license and regulate the professional practice of counseling. Current statutory authority for the Board can be found in the ***Code of Alabama 1975***, Sections 34-8A-1 through 34-8A-86.

Characteristics	
Members and Selection	Seven members appointed by the Governor from a list of candidates selected by the executive committee of the Alabama Counseling Association (ALCA) or its successor agency. • Two counselor educators. • Three counselors in private practice. • Two citizens from the general public. If the Governor fails to make an appointment by January 1 for a successor to a member whose term expired, the Executive Committee of the ALCA, or its successor organization, shall select a successor member from among the two qualified candidates nominated to fill the vacancy. ***Code of Alabama 1975***, Section 34-8A-4
Term	Five-year terms. Board members shall be ineligible for reappointment for a period of three years following completion of their terms. ***Code of Alabama 1975***, Section 34-8A-4
Qualifications	The professional membership of the Board shall be licensed. ***Code of Alabama 1975***, Section 34-8A-4
Consumer Representation	Two citizens from the general public. Two citizen members currently serving. ***Code of Alabama 1975***, Section 34-8A-4

Racial Representation	Every reasonable effort shall be made to ensure that one member of the Board is a member of a cultural minority. Four minority members currently serving. ***Code of Alabama 1975***, Section 34-8A-4
Geographical Representation	Appointments shall be made so that no more than one Board member from any congressional district may be appointed to serve at the same time. ***Code of Alabama 1975***, Section 34-8A-4
Other Representation	The membership of the Board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. ***Code of Alabama 1975***, Section 34-8A-4
Compensation	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. The Board has set the daily compensation at $300.00. ***Code of Alabama 1975***, Section 34-8A-5
Attended Board Member Training	Five current Board members Three past Board members Two staff members of Smith Warren Management Services
<u>**Operations**</u>	
Administrator	The Board has an emergency contract with Smith Warren Management Services for administrative, management and facility services. Keith Warren, president of Smith Warren Management Services, serves as the Board's executive director. The contract is for $31,500.00 per month beginning April 4, 2025 until a new contract is awarded and has received all the necessary signatures. ***Code of Alabama 1975***, Section 34-8A-5(a)
Location	2740 Zelda Road Third Floor Montgomery, AL 36106 Office Hours: M-F 8:30 – 4:30

Real Property Ownership	The Board does not own any real property.
Employees	The Board employs one exempt employee and one retired state employee. Additionally, the Board contracts with Smith Warren Management Services for administrative, management and facility services.
Legal Counsel	Vania Hosea, Assistant Attorney General, an employee of the Attorney General's Office, provides legal services to the Board.
Subpoena Power	The Board has the authority to administer oaths, to summon witnesses, to issue subpoenas, and to take testimony in all matters relating to its duties. ***Code of Alabama 1975***, Section 34-8A-19
Internet Presence	www.abec.alabama.gov The website contains a list of the Board members, staff, Board meeting times and minutes of Board meetings. The Board's administrative rules, statutes, requirements for licensure, complaint filing instructions and information on the wellness program are also available. There is a link for a public records request and contact information.
<u>Financial</u>	
Source of Funds	Licensing fees, fines, and penalties.
State Treasury	Yes ***Code of Alabama 1975***, Section 34-8A-6
Required Distributions	There are no required distributions.
Unused Funds	The Board retains unused funds at fiscal year-end.

<table>
<tr><td colspan="2"><u>Licensure</u></td></tr>
<tr><td>Licensees</td><td>Active Licensees as of February 18, 2025:
<table>
<tr><th colspan="2">License Type:</th></tr>
<tr><td>Licensed Professional Counselor</td><td>3,331</td></tr>
<tr><td>Associate Licensed Counselor</td><td>1,108</td></tr>
<tr><td>Supervisor Counselor</td><td>789</td></tr>
<tr><td>Provisional Associate Licensed Counselor</td><td>5</td></tr>
<tr><td>Total</td><td>5,233</td></tr>
</table>
Source: Board staff</td></tr>
<tr><td>Licensure Qualifications</td><td>Licensed Professional Counselor:

At least 19 years of age and a citizen of the United States or legally present.
Of good moral character and not in violation of any law or rules of the Board.
Possesses 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.
Has completed 3,000 hours of supervised experience in professional counseling.
Successfully passes the examination.

Supervising Counselor:

Shall be a Licensed Professional Counselor and have adequate training, knowledge and skill to render competent clinical supervision.
To be able to provide virtual supervision for licensure, the Supervising Counselor must complete, in the Supervising Counselor training or in other independent continuing education trainings, two continuing education contact hours in the practices and ethics of providing virtual supervision.
Licensed professional counselors applying for supervising counselor status must comply with the following requirements:

Document experience with one of the following:

A minimum of five years of full time (20+ hours per week) clinical practice as an ABEC approved Licensed Professional Counselor (LPC).
Successful completion of an ABEC approved supervisory training programs completed not more than three (3) years prior to submitting the application for Supervising Counselor status.

Has completed an Alabama Board of Examiners in Counseling approved supervisory training event, for a minimum of twenty-four contact hours.
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</table>

Licensure Qualifications (continued)	**Associate Licensed Counselor:**
	• At least 19 years of age.
	• Of good moral character and not in violation of any law or rules of the Board.
	• 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.
	• May not practice without direct supervision by a licensed professional counselor.
	
	Provisional License
	• May be issued to an applicant who is currently licensed by a counseling licensure Board in another state and who has been found to be deficient in meeting academic, supervised experience or examination requirements of this Board.
	• Applicant must provide to the Board a written proposal for addressing areas of deficiency.
	  ♦ If the proposal for addressing areas of deficiency is unacceptable, the Board will identify areas of concern and may offer recommendations. The Board will inform the applicant in writing regarding the reasons for denial of the proposal.
	  ♦ If the proposal is acceptable, the Board will approve the proposal and inform the applicant in writing.
	• Any provisional license will only be valid for one (1) year from the date of issuance.
	
	Code of Alabama 1975, Sections 34-8A-7, 34-8A-8, 34-8A-15
	Administrative Rule 255-X-3-.03 and 255-X-10-.03

<table>
<tr><td>Examinations</td><td>
The Board utilizes the National Counselor Examination for Licensure and Certification (NCE), a national computerized exam developed by the National Board for Certified Counselors (NBCC).

Applicants have the option to take the exam in-person authorized by the Center for Credentialing & Education (CCE) or online. Both are administered through Pearson Vue’s platform, OnVUE. The online exam may be taken at home or at a Pearson Vue test center. Testing Centers are located in Montgomery, Mobile, Hoover, Dothan, Decatur, and Tuscaloosa.

Exam fees are paid directly to NCE.

Examination Results
<table>
<tr><th>Calendar Year</th><th># Taken</th><th># Passed</th><th>% Passed</th></tr>
<tr><td>2023</td><td>242</td><td>123</td><td>51%</td></tr>
<tr><td>2024</td><td>246</td><td>109</td><td>44%</td></tr>
</table>

Code of Alabama 1975, Sections 34-8A-7, 34-8A-10, and 34-8A-11
Source: Board staff
</td></tr>
<tr><td>Reciprocity</td><td>
The Board may issue a license to any person who furnishes 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 the Code of Alabama 1975 Chapter 34-8A-1, et seq.

In the event the Board determines that requirements are not substantially equivalent to those of the Code of Alabama 1975, Chapter 34-8A-1, et. seq., the Board may issue a provisional license. A provisional license may be renewed for an additional one-year period.

There are no state-specific agreements.

Code of Alabama 1975, Section 34-8A-15
</td></tr>
</table>

Renewals	**Licensed Professional Counselor** • Licenses expire biennially on July 31 of the renewal year. Any license not renewed biennially by August 1 shall lapse. • Failure to pay the biennial renewal fee by August 1 of the renewal year shall automatically suspend the right to practice while delinquent. • 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 LPC whose license has lapsed beyond six years must reapply under the current regulations. • No license will be renewed without evidence of satisfactory completion of the required continuing education. **Associate Licensed Counselor** • Licenses expire annually on the anniversary of their license issuance date. Any license not renewed annually by the anniversary date of the initial license issuance date shall lapse. • A lapsed license may be renewed within a period of six years after lapse upon payment of fees in arrears or thereafter upon payment of a renewal fee and lapsed license fee. • No license will be renewed without evidence of satisfactory completion of the required continuing education. **Supervisor Renewal** • Expire biennially and on July 31 of the renewal year with the Licensed Professional Counselor ("LPC") license they are attached to. • Recertification/renewal of this certification will be a part of the LPC license it is based upon. A separate renewal is not necessary. • Maintenance of this certification requires completion of certain professional and continuing education devoted to supervision. 95% of Licensed Professional Counselors renewed online. Online renewal for Associate Licensed Counselors was not yet available. ***Code of Alabama 1975***, Section 34-8A-6 ***Administrative Rule*** 255-X-7-.01, 255-X-7-.02, 255-X-7-.03 ***Source:*** Board staff
Licensee Demographics	Data not collected by agency.

Continuing Education	**Licensed Professional Counselor** – A minimum of 40 formal contact clock hours of relevant professional and continued education experience shall be required for renewal. The hours must contain a minimum of 6 clock hours devoted to ethical concerns for practice, assessment, supervision, or research in counseling. **Associate Licensed Professional Counselor** – A minimum of 10 formal contact clock hours of relevant professional and continued education experience shall be required for renewal. The hours of must contain a minimum of 2 clock hours devoted to ethical concerns for practice, assessment, supervision, or research in counseling. **Supervisor Counselor** – A minimum of 5 formal contact hours devoted to supervision during the two-year renewal period. These 5 hours can count as part of the required 40 hours for the Licensed Professional Counselor renewal. A minimum of seventy-five percent of the continuing education activities required for any licensure renewal period must consist of real-time interactive participation in seminars, classes, workshops, presentations, training programs, or similar activities. Such real-time interactive participation must involve licensee presence in the location of the activity as it occurs or use of interactive technology by the licensee for the activity as it occurs. Self-contained or asynchronous activities (e.g., recorded presentations, reading, online study) that do not feature opportunities for dialogue and interaction for the licensee as the activity occurs do not qualify as real-time interactive participation in continuing education.. ***Code of Alabama 1975***, Section 34-8A-14 ***Administrative Rule*** 255-X-7.01(4), 255-X-7-.02(3), and 255-X-7-.03(3)

SIGNIFICANT ISSUES

No new significant issues.

SIGNIFICANT ISSUES FROM QUESTIONNAIRES

No new significant issues from questionnaires.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Five of the six prior findings/significant issues have been resolved. The following prior significant issue remains outstanding:

Prior Significant Issue 2023-02: The Board entered into multiple emergency contracts following the sudden resignation of the Board's prior Executive Director in August 2020, and the Board's subsequent decision to move their offices to Montgomery in September 2020. The Board is still under an emergency contract for administrative, management and facility services.

The Board entered into an emergency contract with Keith Cates to serve as Executive Director with a cost of $15,000.00 for services and travel reimbursement not to exceed $5,000.00 for sixty days beginning October 1, 2020 through November 30, 2020. This emergency was estimated to last no longer than sixty days and consisted of the resignation of the Board's previous Executive Director leaving a vacancy in leadership.

The Board entered into an emergency contract with Charlotte Daughhetee to serve as an Academic Reviewer with a cost of $100 per hour, not to exceed $10,000.00 for services and travel reimbursement not to exceed $5,000.00 for sixty days beginning October 1, 2020 through November 30, 2020. This emergency was estimated to last no longer than sixty days and consisted of the Board's previous academic reviewer no longer being available to review academic files leaving a vacancy in the position and many applicant files to be reviewed for licensure.

The Board entered into an initial emergency contract beginning October 1, 2020 with Smith Warren Management Services for administrative services with an annual cost of $150,000.00 to be paid in monthly installments of $12,500.00. This emergency was estimated to last no longer than 12 months, concluding on September 30, 2021, related to the transition between Executive Directors and the move of operations to Montgomery.

The Board entered into a second emergency contract with Smith Warren Management Services with an estimated total cost of $15,000.00 per month plus costs, for the months of October and November 2021. This is an increase in monthly costs of $2,500.00 per month. This emergency was estimated to last no longer than twelve months and consisted of the Board not having an administrative services contract to provide administrative, management and facility services until proper bidding procedures are in place for these services.

The Board entered into a third emergency contract with Smith Warren Management Services with an estimated total cost of $23,500.00 per month plus costs, beginning December 1, 2021 through September 30, 2022. This is an increase of $8,500.00 per month. This emergency was estimated to last no longer than twelve months and consisted of the Board not having an administrative services contract to provide administrative, management and facility services until proper bidding procedures are in place for these services.

The Board entered into a fourth emergency contract with Smith Warren Management Services with an estimated total cost of $23,500.00 per month, beginning October 1, 2022 through September 30, 2023. This emergency was estimated to last no longer than twelve months and consisted of the Board not having an administrative services contract to provide administrative, management and facility services until proper bidding procedures are in place for these services.

Current Status: **Unresolved.** The Board had a contract for administrative, management, and facility services with Smith Warren Management Services approved by the Contract Review Permanent Legislative Oversight Committee (the "Committee"), beginning October 1, 2023 through September 30, 2024.

The Board failed to send the renewal of the contract to the Committee before it expired September 30, 2024. This caused the Board to be required to start the Request for Proposal (RFP) process again. In the meantime, the Board entered into an emergency contract with Smith Warren Management Services with a maximum amount to be paid of $35,000.00 per month. The emergency contract was approved October 16, 2024 by the Chief Procurement Officer of the Department of Finance (the "CPO") with an expiration date of January 31, 2025. The Board paid Smith Warren Management Service $35,000.00 for the month of October 2024 despite the emergency contract not being signed until October 16, 2024.

The Board completed the RFP process, awarded a contract, and submitted a contract with Smith Warren Management Services to the Committee in February 2025. This contract was pulled before being reviewed by the Committee due to a protest filed with the CPO's office and therefore did not become effective.

The Board entered into another emergency contract with Smith Warren Management Services with a maximum amount to be paid of $31,500.00 per month, approved on February 28, 2025 by the CPO for the period of February 1, 2025 through April 30, 2025. On April 4, 2025, the Board received an extension of this emergency contract to allow the CPO time to resolve the protest filed over the intent to award of the RFP for management services. The term of the emergency contract was extended to May 31, 2025 or until a new contract is awarded and has received all the necessary signatures to become effective. As of September 8, 2025, the Board is still operating under this emergency contract.

QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to all seven members of the Alabama Board of Examiners in Counseling requesting participation in our survey. Five participated in our survey. The percentages are based on the number who responded to the question.

1. **What do you consider the most significant issue(s) currently facing the Alabama Board of Examiners in Counseling and how is the Board addressing these issues?**

   Board Member #1 – "I think licensed counselors feeling they are getting something out of their renewal cost. We are working toward having more free events for licensed counselors and providing CE credits. We are working more closely with the Counseling Association and listening to what our counselors concerns and complaints are and addressing them as they come up."
   Board Member #2 – "Management of the Board (submitting legislative request on a timely basis). Supervision of staff to assure they are following licensing rules. Completing Compact requirements on a timely basis. A Board member submitted an action due sheet to aid administration and to assure accountability of task to be completed. Assignment of a Board member to monitor quality of licensure requirements (proposed) Staying in touch with Compact representative."
   Board Member #3 – "None at this time."
   Board Member #4 – "The most significant challenge is ensuring that licensees fully understand the current rules and code, which empowers Supervising Counselors to offer effective guidance and support, and allows licensees to deliver the highest quality care to their clients. To address this, the board is offering ethics training for licensees and has planned an upcoming workshop specifically for Supervising Counselors."
   Board Member #5 – "Issue: Completion of Request For Proposal (RFP) and award process.
   The board submitted the required documents for an emergency contract with current management service. The board is receiving guidance from legal counsel to move the process forward and finalize awarding the management service contract."

2. **What, if any, changes to the Board's laws are needed?**

   Board Member #1 – "no."
   Board Member #2 – "Changes have been submitted to administration."
   Board Member #3 – "None at this time."
   Board Member #4 – "At this time, I do not see any necessary changes to the laws governing the board."
   Board Member #5 – "None."

3. **Do you think the Board is adequately funded?**

Yes	**5**	**100%**

4. **Do you think the Board is adequately staffed?**

Yes	**4**	**80%**
Unknown	1	20%

5. **Does the Board receive regular reports on its operations from the Executive Director?**

Yes	**5**	**100%**

6. **Has the Board experienced any significant change to its operations?**

Yes	**2**	**40%**
No	**2**	**40%**
Unknown	1	20%

7. **Does the Board plan to make any significant changes to its operations?**

No	**5**	**100%**

8. **Do you have any additional comments you would like to make?**

Board Member #1 – "no."
Board Member #2 – "Under an emergency contract, the S/W company agreed to honoring 2 prior commitments (submitting legislation in a timely manner; presenting a free workshop on ethics to all ABEC licensees).
ABEC unanimously voted against my suggestion to renew the S/W contract despite S/W financial difficulties with several other boards, reports of failure to license applications according to all laws, overall poor performance of administration these past 2 years.
Reviews of finances should be held every 6 months by a Board member that understand finances. In other words, a Board members that can assure bills are paid in a timely manner."
Board Member #3 – "The significant changes to board operations were related to staffing changes."
Board Member #4 – "There was a shift in the board's management company that raised concerns among both board members and licensees. However, these concerns have been addressed, and a plan has been developed between the current management company and the board moving forward."
Board Member #5 – "None."

APPENDICES

Appendix I - Applicable Statutes

Article 1 General Provisions

Section 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. The board shall perform such duties and have such powers as this chapter prescribes and confers upon it.
(Acts 1979, No. 79-423, p. 649, §1.)

Section 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.
(Acts 1979, No. 79-423, p. 649, §2; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1; Act 2009-587, p. 1724, §1.)

Section 34-8A-3 Construction and application of chapter.
(a) 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 person 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.
(Acts 1979, No. 79-423, p. 649, §3; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1.)

Section 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 March 26, 2012, 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.

(Acts 1979, No. 79-423, p. 649, §4; Acts 1997, No. 97-154, p. 196, §3; Act 2000-810, p. 1925, §1; Act 2008-175, p. 288, §3; Act 2009-587, p. 1724, §1; Act 2012-107, p. 180, §3.)

<u>Section 34-8A-5</u> 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.

(Acts 1979, No. 79-423, p. 649, §5; Acts 1997, No. 97-154, p. 196, §3; Act 2004-69, p. 86, §3; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-6</u> 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 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 his or her 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.

(Acts 1979, No. 79-423, p. 649, §6; Acts 1997, No. 97-154, p. 196, §3; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1; Act 2009-587, p. 1724, §1; Act 2012-107, p. 180, §3.)

Section 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.

(Acts 1979, No. 79-423, p. 649, §7; Acts 1997, No. 97-154, p. 196, §3; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1; Act 2008-175, p. 288, §3.)

Section 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.

(Acts 1979, No. 79-423, p. 649, §8; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-9</u> 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.
(Acts 1979, No. 79-423, p. 649, §9; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-10</u> 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.
(Acts 1979, No. 79-423, p. 649, §10.)

<u>Section 34-8A-11</u> 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.
(Acts 1979, No. 79-423, p. 649, §11; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-12</u> 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.
(Acts 1979, No. 79-423, p. 649, §12; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-13</u> 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.
(Acts 1979, No. 79-423, p. 649, §13; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-14</u> 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.
(Acts 1979, No. 79-423, p. 649, §14; Act 2006-566, p. 1314, §1; Act 2009-587, p. 1724, §1.)

<u>Section 34-8A-15</u> 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.
(Acts 1979, No. 79-423, p. 649, §15; Act 2006-566, p. 1314, §1.)

<u>Section 34-8A-16</u> 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 subdivisions (2), (3), and (4), all records, reports, documents, photographs, and information contained in complaint and investigation files shall be confidential, shall not be a 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.
(Acts 1979, No. 79-423, p. 649, §16; Acts 1997, No. 97-154, p. 196, §3; Act 2000-810, p. 1925, §1; Act 2006-566, p. 1314, §1; Act 2009-587, p. 1724, §1; Act 2010-545, p. 954, §1.)

Section 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 or writ of mandamus shall be granted.
(Acts 1979, No. 79-423, p. 649, §17.)

Section 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.
(Acts 1979, No. 79-423, p. 649, §17; Act 2006-566, p. 1314, §1.)

Section 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. The 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.
(Acts 1979, No. 79-423, p. 649, §17; Act 2006-566, p. 1314, §1.)

Section 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.
(Acts 1979, No. 79-423, p. 649, §17.)

Section 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 certified counselor associate 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.
(Acts 1979, No. 79-423, p. 649, §18.)

Section 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.
(Acts 1979, No. 79-423, p. 649, §19.)

Section 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 these provisions in the daily newspapers of this state.
(Acts 1979, No. 79-423, p. 649, §22; Acts 1983, No. 83-591, p. 924, §1.)

Section 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 licensed 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.
(Act 2000-810, p. 1925, §2.)

Article 2 Counseling Compact

Section 34-8A-50 Purpose.
(a) The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.
(b) This compact is designed to achieve the following objectives:
(1) Increase public access to professional counseling services by providing for the mutual recognition of other member state licenses.
(2) Enhance the states' ability to protect the public's health and safety.
(3) Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors.

(4) Support spouses of relocating active duty military personnel.
(5) Enhance the exchange of licensure, investigative, and disciplinary information among member states.
(6) Allow the use of telehealth technology to facilitate increased access to professional counseling services.
(7) Support the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits.
(8) Invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses.
(9) Eliminate the necessity for licenses in multiple states.
(10) Provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.
(Act 2022-89, §1.)

Section 34-8A-51 Definitions.
As used in this compact, the following terms have the following meanings:
(1) ACTIVE DUTY MILITARY. Full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.
(2) ADVERSE ACTION. Any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.
(3) ALTERNATIVE PROGRAM. A non-disciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.
(4) CONTINUING COMPETENCE/EDUCATION. A requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
(5) COUNSELING COMPACT COMMISSION OR COMMISSION. The national administrative body whose membership consists of all states that have enacted the compact.
(6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION:
a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
b. Investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.
(7) DATA SYSTEM. A repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

(8) ENCUMBERED LICENSE. A license in which an adverse action restricts the practice of licensed professional counseling by the licensee and the adverse action has been reported to the National Practitioners Data Bank (NPDB).
(9) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.
(10) EXECUTIVE COMMITTEE. A group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.
(11) HOME STATE. The member state that is the licensee's primary state of residence.
(12) IMPAIRED PRACTITIONER. An individual who has a condition or conditions that may impair his or her ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.
(13) INVESTIGATIVE INFORMATION. Information, records, and documents received or generated by a professional counseling licensing board pursuant to an investigation.
(14) JURISPRUDENCE REQUIREMENT. If required by a member state, the assessment of an individual's knowledge of the laws and rules governing the practice of professional counseling in a state.
(15) LICENSED PROFESSIONAL COUNSELOR. A counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.
(16) LICENSEE. An individual who currently holds an authorization from the state to practice as a licensed professional counselor.
(17) LICENSING BOARD. The agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.
(18) MEMBER STATE. A state that has enacted the compact.
(19) PRIVILEGE TO PRACTICE. A legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.
(20) PROFESSIONAL COUNSELING. The assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.
(21) REMOTE STATE. A member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.
(22) RULE. A regulation adopted by the commission that has the force of law.
(23) SINGLE STATE LICENSE. A licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.
(24) STATE. Any state, commonwealth, district, or territory of the United States that regulates the practice of professional counseling.
(25) TELEHEALTH. The application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.
(26) UNENCUMBERED LICENSE. A license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.
(Act 2022-89, §2.)

Section 34-8A-52 State of Participation in the Compact.

(a) To participate in the compact, a state must currently:

(1) License and regulate licensed professional counselors;

(2) Require licensees to pass a nationally recognized exam approved by the commission;

(3) Require licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work, including the following topic areas:

a. Professional counseling orientation and ethical practice.

b. Social and cultural diversity.

c. Human growth and development.

d. Career development.

e. Counseling and helping relationships.

f. Group counseling and group work.

g. Diagnosis and treatment; assessment and testing.

h. Research and program evaluation.

i. Other areas as determined by the commission.

(4) Require licensees to complete a supervised postgraduate professional experience as defined by the commission; and

(5) Have a mechanism in place for receiving and investigating complaints about licensees.

(b) A Member State shall:

(1) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(3) Implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the FBI and the agency responsible for retaining that state's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the FBI record search and shall use the results in making licensure decisions.

b. Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the FBI relating to a federal criminal records check performed by a member state under Public Law 92-544.

(4) Comply with the rules of the commission;

(5) Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(6) Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

(7) Provide for the attendance of the state's commissioner to the counseling compact commission meetings.
(c) Member states may charge a fee for granting the privilege to practice.
(d) Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.
(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.
(f) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.
(Act 2022-89, §3.)

Section 34-8A-53 Privilege to Practice.
(a) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:
(1) Hold a license in the home state;
(2) Have a valid United States Social Security number or national practitioner identifier;
(3) Be eligible for a privilege to practice in any member state in accordance with subsections (d), (g), and (h);
(4) Have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;
(5) Notify the commission that the licensee is seeking the privilege to practice within a remote state or states;
(6) Pay any applicable fees, including any state fee, for the privilege to practice;
(7) Meet any continuing competence/education requirements established by the home state;
(8) Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a privilege to practice; and
(9) Report to the commission any adverse action, encumbrance, or restriction on the license taken by any non-member state within 30 days from the date the action is taken.
(b) The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (a) to maintain the privilege to practice in the remote state.
(c) A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.
(d) A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state, in accordance with due process and that state's laws, may remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its residents. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.
(e) If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until the following occur:
(1) The home state license is no longer encumbered; and

(2) The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.
(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) to obtain a privilege to practice in any remote state.
(g) If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:
(1) The specific period of time for which the privilege to practice was removed has ended;
(2) All fines have been paid; and
(3) The licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.
(h) Once the requirements of subsection (g) have been met, the licensee must meet the requirements in subsection (a) to obtain a privilege to practice in a remote state.
(Act 2022-89, §4.)

Section 34-8A-54 Obtaining a New Home State License Based on a Privilege to Practice.
(a) A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.
(b) If a licensed professional counselor changes primary state of residence by moving between two member states:
(1) The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.
(2) Upon receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in Section 34-8A-53 via the data system, without need for primary source verification except for:
a. An FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;
b. Other criminal background check as required by the new home state; and
c. Completion of any requisite jurisprudence requirements of the new home state.
(3) The former home state shall convert the former home state license into a privilege to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.
(4) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in Section 34-8A-53, the new home state may apply its requirements for issuing a new single state license.
(5) The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home state license.
(c) If a licensed professional counselor changes primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria shall apply for issuance of a single state license in the new state.
(d) Nothing in this compact shall interfere with a licensee's ability to hold a single state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.
(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.
(Act 2022-89, §5.)

Section 34-8A-55 Active Duty Military Personnel or Their Spouses.
Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change his or her home state through application for licensure in the new state, or through the process outlined in Section 34-8A-54.
(Act 2022-89, §6.)

Section 34-8A-56 Compact Privilege to Practice Telehealth.
(a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 34-8A-52 and under rules adopted by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules adopted by the commission.
(b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.
(Act 2022-89, §7.)

Section 34-8A-57 Adverse Actions.
a) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:
(1) Take adverse action against a licensed professional counselor's privilege to practice within that member state;
(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located; and
(3) Only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the home state.
(b) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.
(c) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.
(d) A member state, if otherwise permitted by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.
(e) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(f) Joint Investigations:
(1) In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.
(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
(g) If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.
(h) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.
(i) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.
(Act 2022-89, §8.)

<u>Section 34-8A-58</u> Establishment of Counseling Compact Commission.
(a) The compact member states hereby create and establish a joint public agency known as the Counseling Compact Commission:
(1) The commission is an instrumentality of the compact states.
(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.
(b) Membership, Voting, and Meetings.
(1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.
(2) The delegate shall be either:
a. A current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or
b. An administrator of the licensing board.
(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
(4) The member state licensing board shall fill any vacancy occurring on the commission within 60 days.
(5) Each delegate shall be entitled to one vote with regard to the adoption of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.
(6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
(8) The commission shall by rule establish a term of office for delegates and may by rule establish term limits.
(c) The commission shall have the following powers and duties:
(1) Establish the fiscal year of the commission;
(2) Establish bylaws;
(3) Maintain its financial records in accordance with the bylaws;
(4) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;
(5) Adopt rules which shall be binding to the extent and in the manner provided for in the compact;
(6) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;
(7) Purchase and maintain insurance and bonds;
(8) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
(9) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
(10) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;
(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;
(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
(13) Establish a budget and make expenditures;
(14) Borrow money;
(15) Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
(16) Provide and receive information from, and cooperate with, law enforcement agencies;
(17) Establish and elect an executive committee; and
(18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.
(d) The Executive Committee.
(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.
(2) The executive committee shall be composed of up to 11 members:
a. Seven voting members who are elected by the commission from the current membership of the commission; and
b. Up to four ex-officio, nonvoting members from four recognized national professional counselor organizations.
c. The ex-officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive committee as provided in bylaws.
(4) The executive committee shall meet at least annually.
(5) The executive committee shall have the following duties and responsibilities:
a. Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fees charged to licensees for the privilege to practice;
b. Ensure compact administration services are appropriately provided, contractual or otherwise;
c. Prepare and recommend the budget;
d. Maintain financial records on behalf of the commission;
e. Monitor compact compliance of member states and provide compliance reports to the commission;
f. Establish additional committees as necessary; and
g. Other duties as provided in rules or bylaws.
(e) Meetings of the commission.
(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 34-8A-60.
(2) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:
a. Non-compliance of a member state with its obligations under the compact;
b. The employment, compensation, discipline or other matters, practices, or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;
c. Current, threatened, or reasonably anticipated litigation;
d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
e. Accusing any person of a crime or formally censuring any person;
f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
h. Disclosure of investigative records compiled for law enforcement purposes;
i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or
j. Matters specifically exempted from disclosure by federal or member state statute.
(3) If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
(f) Financing of the Commission.
(1) The commission shall pay, or provide for the payment of, the reasonable expense of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.
(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.
(g) Qualified Immunity, Defense, and Indemnification.
(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit, liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.
(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.
(Act 2022-89, §9.)

<u>Section 34-8A-59</u> Data System.
(a) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.
(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable, as required by the rules of the commission, including:
(1) Identifying information;
(2) Licensure data;
(3) Adverse actions against a license or privilege to practice;
(4) Non-confidential information related to alternative program participation;
(5) Any denial of application for licensure, and the reason or reasons for the denial;
(6) Current significant investigative information; and
(7) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.
(c) Investigative information pertaining to a licensee in any member state will only be available to other member states.
(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.
(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.
(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.
(Act 2022-89, §10.)

<u>Section 34-8A-60</u> Rulemaking.
(a) The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force or effect.
(b) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
(c) If a majority of the Legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then the rule shall have no further force and effect in any member state.
(d) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.
(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:
(1) On the website of the commission or other publicly accessible platform; and
(2) On the website of each member state professional counseling licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) The notice of proposed rulemaking shall include:
(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
(2) The text of the proposed rule or amendment and the reason for the proposed rule;
(3) A request for comments on the proposed rule from any interested person; and
(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and submit any written comments.
(g) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.
(h) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
(1) At least 25 persons;
(2) A state or federal governmental subdivision or agency; or
(3) An association having at least 25 members.
(i) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.
(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.
(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
(3) All hearings will be recorded. A copy of the recording will be made available on request.
(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.
(j) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
(k) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with adoption of the proposed rule without a public hearing.
(l) The commission, by majority vote of all members, shall take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
(m) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
(1) Meet an imminent threat to public health, safety, or welfare;
(2) Prevent a loss of commission or member state funds;
(3) Meet a deadline for the adoption of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.
(n) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revision shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.
(Act 2022-89, §11.)

Section 34-8A-61 Oversight, Dispute Resolution, and Enforcement.
(a) Oversight.
(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted hereunder shall have standing as statutory law.
(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
(3) The commission shall be entitled to receive service of process in any proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or adopted rules.
(b) Default, Technical Assistance, and Termination.
If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall:
(1) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and
(2) Provide remedial training and specific technical assistance regarding the default.
(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the Governor, the majority and minority leaders of the defaulting state's Legislature, and each of the member states.
(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.
(g) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.
(h) Dispute Resolution.
(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.
(2) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.
(i) Enforcement.
(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
(2) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney fees.
(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.
(Act 2022-89, §12.)

Section 34-8A-62 Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment.
(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions which become effective at that time shall be limited to the powers granted to the commission relating to assembly and the adoption of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.
(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.
(c) Any member state may withdraw from this compact by enacting a statute repealing the same.
(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.
(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.
(d) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with this compact.
(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.
(Act 2022-89, §13.)

<u>Section 34-8A-63</u> Construction and Severability.
This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.
(Act 2022-89, §14.)

<u>Section 34-8A-64</u> Binding Effect of Compact and Other Laws.
(a) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.
(b) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with the compact.
(c) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.
(d) Any lawful actions of the commission, including all rules and bylaws properly adopted by the commission, are binding upon the member states.
(e) All permissible agreements between the commission and the member states are binding in accordance with their terms.
(f) In the event any provision of the compact exceeds the constitutional limits imposed on the Legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.
(Act 2022-89, §15.)

<u>Section 34-8A-65</u> Judicial Proceedings by Individuals.
Except as to judicial proceedings for the enforcement of this compact among member states, individuals may pursue judicial proceedings related to this compact in any Alabama state or federal court that would otherwise have competent jurisdiction.
(Act 2022-89, §16.)

<u>Article 3 Alabama Licensed Counselor Wellness Committee and Treatment Program</u>

<u>Section 34-8A-80</u> Definitions.
For the purposes of this article, the following terms have the following meanings:
(1) IMPAIRED. An inability to practice counseling with reasonable skill and safety to clients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition.
(2) LICENSEE. A licensed professional counselor or associate licensed counselor as defined in Section 34-8A-2.
(Act 2023-473, §1.)

Section 34-8A-81 Creation of Committee.
(a) The board shall promote the early identification, intervention, treatment, and rehabilitation of licensees who may be impaired.
(b) The board may contract with any nonprofit corporation or medical professional association for the purpose of creating, supporting, and maintaining the Alabama Licensed Counselor Wellness Committee. The committee shall consist of not less than three nor more than nine licensees. Committee members shall be appointed by the board for terms of three years and shall be eligible for reappointment. The board, for just cause, may remove a committee member before the expiration of his or her term.
(c) The board may expend any available funds as necessary to cover the operational expenses of the committee including, but not limited to, the actual cost of travel, office overhead, personnel expenses, and compensation of committee members and staff. Funds expended pursuant to this subsection are not subject to competitive bid laws.
(Act 2023-473, §1.)

Section 34-8A-82 Alabama Licensed Counselor Wellness Program.
The Alabama Licensed Counselor Wellness Program is created to develop, maintain, and make available treatment programs for all licensees who voluntary seek medical intervention, treatment, and rehabilitation for an impairment. The program shall operate under the direction of the Alabama Licensed Counselor Wellness Committee.
(Act 2023-473, §1.)

Section 34-8A-83 Functions and Duties of Committee.
The Alabama Licensed Counselor Wellness Committee may perform all of the following functions and duties:
(1) Receive and evaluate reports of suspected impairment from any source, including referrals from the board.
(2) Intervene in the case of a verified impairment.
(3) Refer impaired licensees to appropriate treatment programs.
(4) Monitor the treatment and rehabilitation of impaired licensees.
(5) Provide post-treatment monitoring and aftercare support for rehabilitated impaired licensees.
(6) Submit an annual statistical report to the board on the activities of the committee in a form approved by the board.
(7) Report to the board any licensee who, in the opinion of the committee, satisfies all of the following:
a. Is unable to continue in the practice of counseling with reasonable skill and safety to his or her clients.
b. Appears to be in need of intervention, treatment, or rehabilitation.
c. Has failed or refused to participate in treatment programs or rehabilitation as recommended by the committee.
(8) Develop outreach and awareness programs that promote and publicize the services available through the wellness program.
(9) Upon request of the board, do any of the following:
a. Develop standards for the evaluation of treatment facilities to be used by licensees referred by the committee for treatment.
b. Evaluate and recommend to the board the approval of treatment and rehabilitation facilities or programs, or both, to be used by licensees referred by the committee for treatment.
(10) Other functions and duties mutually agreed on by the committee and the board.
(Act 2023-473, §1.)

<u>Section 34-8A-84</u> Disciplinary Sanction Alternatives; Reporting Requirements.

(a) The wellness program is a confidential non-punitive alternative to disciplinary sanction for an impaired licensee who voluntarily seeks medical intervention, evaluation, treatment, counseling, or rehabilitation for his or her impairment.

(b)(1) A licensee who does all of the following may not be reported by the Alabama Licensed Counselor Wellness Committee to the board for violating Section 34-8A-24:

a. Voluntarily commits to the committee for treatment of an impairment.

b. Successfully completes the recommended course of treatment and therapy.

c. Abides by the terms and conditions of any recommended aftercare agreements for the period of time specified.

d. Continues the private practice of counseling with reasonable skill and safety and free from impairment.

(2) A licensee who completes treatment or rehabilitation, or both, and aftercare as recommended by the committee shall truthfully respond to all inquiries by employers, state or federal licensing or regulatory agencies, credentialing bodies, courts, malpractice insurance carriers, and specialty boards concerning his or her treatment, rehabilitation, and aftercare, and the committee shall advocate on behalf of and provide support for the licensee before those entities.

(3) A licensee who knows or has reason to know that another licensee is impaired, shall report that information to the committee. A report to the committee shall be deemed to be a report to the board for the purpose of mandatory reporting requirements.

(4) If the board has reasonable cause to believe that a licensee is impaired, the board may order an evaluation of the licensee by an appropriate medical professional to determine if an impairment exists. The committee shall report its findings to the board.

(5) If the board, as a result of an investigation or an evaluation, finds that a licensee may be impaired, the board may administratively report that finding to the committee and request that the licensee be evaluated by an appropriate medical professional. The board shall provide information to the committee as necessary to perform an intervention and evaluation. The committee shall report its findings and recommendations to the board and provide follow-up reports upon request of the board.

(6) The committee shall report to the board the name of any licensee who the committee believes may be impaired and who also satisfies any of the following:

a. Has failed or refused to follow the recommendations of the committee for evaluation, treatment, or rehabilitation.

b. Has discontinued an evaluation, treatment, or rehabilitation against medical advice.

c. Has failed to abide by the terms and conditions of an aftercare agreement with the committee.

d. Whose continuation in practice, in the opinion of the committee, constitutes a threat to the safety of his or her clients or to the public.

(7) Any report to the board made by the committee pursuant to this section may include reports, evaluations, treatment records, medical records, documents, or other information relevant to the licensee, unless specifically prohibited by federal law, and notwithstanding any state law that provides the reports, evaluations, treatment records, medical records, documents, or other information are confidential or privileged. All reports, evaluations, treatment records, medical records, documents, or other information received by the board in a committee report submitted pursuant to this subsection is privileged and confidential and shall not be a public record nor available for court subpoena or for discovery proceedings, unless the impaired licensee's impairment was the conduct at issue in a civil or criminal action and the court determines through an in camera review that the evidence of the licensee's impairment is substantially more probative than prejudicial. Such information may be used by the board in the course of its investigations and may be introduced as evidence in administrative hearings conducted by the board. Records otherwise available from original sources may not be construed as immune from discovery or use in any civil proceeding merely because the records were presented during a proceeding of the committee.
(8) A licensee may be disciplined or sanctioned by the board with a voluntary or involuntary restriction on his or her license to practice counseling, which requires the licensee to enter into and comply with an aftercare agreement proposed by the committee. The committee shall report to the board any violation or deviation by the licensee of the terms and conditions of his or her aftercare agreement.
(Act 2023-473, §1.)

Section 34-8A-85 Confidentiality of Records, Proceedings, Etc.
(a) All information, interviews, reports, statements, memorandum, or other documents furnished to or produced by the Alabama Licensed Counselor Wellness Committee and any findings, conclusions, interventions, treatment, or rehabilitation, and related actions of the committee are privileged and confidential and not subject to subpoena or discovery, unless the impaired licensee's impairment was the conduct at issue in a civil or criminal action and the court determines through an in camera review that the evidence of the licensee's impairment is substantially more probative than prejudicial.
(b) All records and proceedings of the committee are confidential and may only be used by the committee and the members of the committee for the specific purposes of the committee.
(c) The committee may only disclose wellness, treatment, or disciplinary information relating to an impaired licensee in the following circumstances:
(1) When essential to further the intervention, treatment, counseling, or rehabilitation needs of the licensee, and then only to those individuals or entities with a need to know.
(2) When the release is authorized in writing by the licensee.
(3) When the committee is required to make a report to the board.
(4) When ordered by a court after an in camera review that the evidence of an impaired licensee's impairment was the conduct at issue in a civil or criminal action and the evidence is substantially more probative than prejudicial.
(Act 2023-473, §1.)

<u>Section 34-8A-86</u> Liability.

Any licensee appointed to serve as a member of the Alabama Licensed Counselor Wellness Committee and any auxiliary personnel, consultants, attorneys, or other volunteers or employees of the committee taking any action authorized by this article, engaging in the performance of any functions or duties on behalf of the committee, or participating in any administrative or judicial proceeding resulting therefrom, in the performance and operation thereof, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed while acting within the scope of his or her duties as a committee member. Any nonprofit corporation or medical professional association or state or county medical association that contracts with or receives funds from the board for the creation, support, and operation of the committee, in so doing, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed while acting within the scope of his or her duties as a committee member.

(Act 2023-473, §1.)

Appendix II: Board Members

Alabama Board of Examiners in Counseling

2777 Zelda Road • Montgomery, Alabama 36106

January 29,2025

Mr. Kory Lemaster
Examiners of Public Accounts
Post Office Box 302251
Montgomery, AL 36130-2251

Dear Mr. Lemaster,

Please find the attached list of members of the Board who served during the examination period.

Should you have any questions or need any additional information, please let me know at your convenience.

Sincerely,

Keith E. Warren
Acting Executive Director

Board Member	Appointed	Expiration	Position(s)
Anjanette Burkett Robinson Irondale, Alabama 35210 Representing: Private Practitioners Sixth Congressional District Black – Female	10/21/2022	12/31/2026	Chair
Dr. William-Glenn Hollingsworth Mobile, Alabama Representing: Counseling Educators First Congressional District White - Male	10/21/2022	12/31/2026	Vice-Chair
DeAnna R. Tidwell Florence, Alabama Representing: Private Practitioners Fifth Congressional District White - Female	01/06/2022	12/31/2026	
Dr. Sherrionda Crawford Auburn, Alabama Representing: Counselor Educators Third Congressional District Black – Female	01/01/2023	12/31/2027	
Jessie Bowie Montgomery, Alabama Representing: Citizen Member Second Congressional District Black – Female	01/01/2023	12/31/2027	
Cynthia Hooper New Market, Alabama Representing: Citizen Member Fifth Congressional District White – Female	01/01/2025	12/31/2029	
Jacques Austin Helena, Alabama Representing: Private Practitioners Seventh Congressional District Black - Male	01/01/2025	12/31/2029	

Appendix III: Board's Response

Alabama Board of Examiners in Counseling

2740 Zelda Road Box #5 • Montgomery, Alabama 36106

August 15, 2025

Dixie B. Thomas
Director of Operational Audits
Examiners of Public Accounts
Post Office Box 302251
Montgomery, Alabama 36130-2251

Dear Mrs. Thomas,

Please find the Board's response to the prior significant issue provided in your August 1, 2025 letter regarding the Sunset Audit conducted by your department.

Status of Prior Findings/Significant Issue

Prior Significant Issue 2023-02:
The Board will meet on August 22, 2025 to determine if an RFP for administrative services will proceed or if the Board will work with State Personnel to hire an Executive Director or negotiate an interagency agreement with another agency for an Executive Director and staff.

The Board will be able to provide further information at the September Sunset Committee meeting.

Thank you for departments hard work conducting this audit and the legal compliance audit simultaneously. The assigned staff did an outstanding job and worked very well with the Board's Executive Director and staff.

Please let me know if you have any questions or need any additional information. The Board and I look forward to meeting with you and the Committee in September.

Sincerely,

Keith E. Warren
Executive Director

KEW/kh
Enclosure