

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



A Review of the Board of Examiners for Licensed Professional Counselors

Regulation of the practice of counseling is necessary to reduce the public's risk from unqualified or unscrupulous practitioners. During this cycle review of the Board of Examiners for Licensed Professional Counselors, PEER found the following deficiencies in the board's regulatory practices:

- *Licensure*—Because one of the board's most recently added educational requirements is not based on the results of sound research such as a formal job analysis, the board cannot ensure that this requirement is necessary to ensure competence as an entry-level counselor. The current process for utilizing supervisors' recommendations does not ensure that applicants possess the minimum competencies needed to practice counseling. Also, the board does not employ the most rigorous process available (i.e., a validated examination, published by a nationally recognized organization, that was designed to measure clinical expertise) to help ensure that an applicant is fully prepared for unsupervised practice.
- *Monitoring of continuing education*—Continuing education policies do not ensure that licensees remain current in professional knowledge, skills, and issues in counseling.
- *Complaints*—The board's management of complaints against licensed professional counselors does not track or maintain complete, confidential records of complaints that have been filed, investigated, or resolved. Also, the board has insufficient standards for investigating complaints.
- *Disciplinary actions*—The board's practice of not publicizing information on disciplinary sanctions limits the public's and licensed counselors' awareness of rules infractions and their consequences.
- *Financial management*—The board has not established a proper internal control environment and, as a result, does not have assurance that its financial information is accurate or complete.

PEER also identified problem areas in state law that reduce the board's ability to protect the public: no explicitly stated authority for the board to specify certain education requirements for licensure or to conduct background checks on applicants, lack of provisions preventing compromises of the board's independence, and exemptions that allow individuals employed in any of numerous professions to engage in the practice of counseling without holding a license as a professional counselor.

June 12, 2007

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

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PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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June 12, 2007

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On June 12, 2007, the PEER Committee authorized release of the report entitled **A Review of the Board of Examiners for Licensed Professional Counselors.**

A handwritten signature in black ink that reads "Harvey Moss". The signature is written in a cursive style and is positioned above a horizontal line.

Representative Harvey Moss, Chair

This report does not recommend increased funding or additional staff.

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A Review of the Board of Examiners for Licensed Professional Counselors

Executive Summary

Introduction

PEER reviewed the Mississippi Board of Examiners for Licensed Professional Counselors (hereafter referred to as “the board”) pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972). This review is a “cycle review,” which is not driven by specific complaints or allegations of misconduct.

PEER first established the public need for regulation of the counseling profession in order to reduce risks to the public, then evaluated how well the board carries out its two primary regulatory functions: licensing counselors to protect the public and handling complaints/investigations. PEER also reviewed the board’s monitoring of licensees’ fulfillment of continuing education requirements and the board’s financial management practices.

Background

The Legislature created the Board of Examiners for Licensed Professional Counselors to protect the public by regulating the practice of counseling, as well as use of the title “Licensed Professional Counselor” for those who offer services to the public for a fee. The typical regulatory functions of licensure and enforcement of applicable laws, rules, and regulations provide a safeguard, without which the likelihood of untrained or unethical counselors placing the public at risk could occur.

The board is composed of five licensed professional counselors, three of whom are primarily engaged as licensed counselors in private or institutional practice, and two who are primarily engaged in teaching, training, or research in counseling at the corporate or university level. For its staff, the board currently contracts for a full-time

Executive Director and utilizes an accountant part-time. The board retains legal assistance from a representative of the Attorney General's office.

As a special fund agency, the board's revenues come from fees charged for licensure application, examination, and license renewal. For four of the past five fiscal years, the board's revenues have exceeded expenditures. FY 2006 revenues were \$98,695 and FY 2006 expenditures were \$80,948.

Conclusions

Potential for Compromised Independence of the Process for Nominating Board Members

Because state law requires the Mississippi Counseling Association to provide nominations to the Governor for his consideration in appointing persons to fill vacancies on the Board of Examiners for Licensed Professional Counselors, the opportunity exists for the independence of the nominating process to be compromised when the association's officers also serve as board members.

MISS. CODE ANN. Section 73-30-5 (1972) requires that the Mississippi Counseling Association (MCA) provide nominations to the Governor for his consideration in filling vacancies on the Board of Examiners for Licensed Professional Counselors. Currently, three members of the board are also officers of the MCA. The Executive Director of MCA (who is responsible for submitting nominations for board replacements) contacts members of the board, as well as other MCA officers and other interested persons, for recommendations on who should serve on the board.

When members of the current board participate in the process of nominating individuals to fill board vacancies, the independence of the board's nominating process could be compromised and allow the opportunity for persons currently serving on the board to perpetuate their regulatory philosophies.

Needed Improvements in the Licensure Process

Educational Requirements for Licensure

The Board of Examiners for Licensed Professional Counselors has specified certain coursework that applicants must complete when meeting their educational requirements. Some uncertainty exists as to whether the board has legal authority to specify such education requirements, particularly for applicants with pertinent doctoral degrees. Also, because one of the board's most recently added educational requirements is not based on the results of sound research such as a formal job

analysis, the board cannot ensure that this requirement is necessary to ensure competence as an entry-level counselor.

For licensure as a professional counselor, MISS. CODE ANN. Section 73-30-9 (f) (1972) requires that an applicant possess:

- a doctoral degree primarily in counseling, guidance, or related counseling field; **or**,
- an educational specialist's degree or a master's degree in counselor education or related counseling program subject to board approval.

The master's degree or education specialist's degree must consist of a program of not less than sixty acceptable semester hours or ninety acceptable quarter hours. Board regulations specify that a graduate program related to counselor education contain course work in ten listed areas and that each applicant for licensure must have completed course work in all ten areas.

A 1995 Attorney General's opinion has raised questions about the board's statutory authority to define related counseling fields, acceptable hours, or coursework that relate to the licensure applicant's degree program and the board's statutory authority to establish educational requirements for applicants with pertinent doctoral degrees. If the board does not have the power to define "related counseling field" or "acceptable coursework or hours," then the board cannot ensure protection of the public health, safety and welfare through the requirement for attainment of specific knowledge needed to practice counseling competently.

Also, when asked for research to support the addition of one of its recently added coursework requirements, the board was unable to produce sufficient evidence to validate that this requirement is necessary to ensure competence as an entry-level counselor. If the board cannot ensure that its educational requirements are actually necessary to ensure entry-level competence, the requirements might actually limit entry to the profession unnecessarily, thereby restricting qualified counselors from practicing.

Experience Requirements for Licensure

The board requires supervisors of applicants' post-master's clinical experience to submit verification of supervision, including a recommendation to the board that the applicant be considered for licensure. However, the board's current process for utilizing supervisors' recommendations does not ensure that applicants possess the minimum competencies needed to practice counseling.

MISS. CODE ANN. Section 73-30-9 (h) (1972) requires the applicant for licensure to have two years of supervised experience in professional counseling, or its equivalent, acceptable to the board, one year of which may be obtained during pursuit of the master's degree program.

A board regulation (Chapter 4, Section 3) specifies that the applicant's experience must consist of 3,500 supervised hours of counseling in a clinical setting post-bachelor's degree, with certain stipulations regarding the type and number of supervised hours.

Prior to granting a license to applicants, the board requires verification of an applicant's post-master's supervised clinical experience. However, the board does not provide supervisors of post-master's clinical experience with objective criteria by which to make their recommendations, thus allowing for subjective judgments of applicants' competence. Also, the board does not require any documentation from supervisors of internships or post-master's clinical experience that the applicants they recommend without reservations have demonstrated competencies necessary to perform as a competent, entry-level counselor.

The board relies on the self-reporting of hours by the applicant and the supervisor and on supervisors' brief descriptions of supervised practice without specifically requesting information related to actual content of the supervised experience. This places the public at risk of receiving counseling services from an unqualified individual.

Examination Requirements for Licensure

Although the board requires that licensure applicants pass an examination that measures academic knowledge of counseling information and skills, it does not employ the most rigorous process available (i.e., a validated exam, published by a nationally recognized organization, that was designed to measure clinical expertise) to help ensure that an applicant is fully prepared for unsupervised practice.

The board requires that licensure applicants pass the National Counselor Examination for Licensure and Certification (NCE). The National Board for Certified Counselors (NBCC) publishes this exam, as well as the National Clinical Mental Health Counseling Examination (NCMHCE).

The NCE consists of 200 multiple-choice questions that measure academic knowledge in each of the five relevant content domains. The NCMHCE consists of ten clinical mental health counseling cases and assesses clinical problem solving ability, which includes identifying, analyzing, diagnosing, and treating clinical problems.

The only exam that the board requires, the NCE, is intended to measure only academic knowledge, as opposed to clinical skills. Individuals who take and pass only the NCE have demonstrated academic knowledge but have not demonstrated through taking and passing the appropriate validated examination that they have the needed clinical skills to practice in an unsupervised setting, which could ultimately place the public at increased risk.

Exemptions from Licensure

Because the board's enabling legislation exempts thirteen professional categories from licensure and several of the categories encompass multiple professions, the number of individuals practicing counseling without a license could potentially be much higher than the number of those practicing counseling who actually hold a license as a professional counselor. Due to the nature of these exemptions, the board is not able to protect large numbers of Mississippians from receiving counseling services from individuals who might not be qualified.

The board's enabling legislation allows individuals employed in any of numerous professions and occupations to engage in the practice of counseling without holding a license as a professional counselor. The number of individuals whose employment or credentials are represented by the exempted categories could be quite large. Because the board cannot regulate the individuals in the exempt occupations and professions, the board cannot

protect the public from these individuals within these occupations or professions who practice counseling but might not have the necessary knowledge and skills.

Applications for Licensure

Because state law does not specifically authorize the Board of Examiners for Licensed Professional Counselors to perform background checks on applicants for licensure, the board accepts applicants' self-reporting of criminal history rather than initially utilizing background check resources available to it. As a result, the board may not be able to protect the public from applicants who do not disclose criminal histories and subsequently obtain counseling licenses.

MISS. CODE ANN. Section 73-30-9 (1972) does not require the board to conduct background checks on licensure applicants, but it does state that applicants be "of good moral character" in order to be licensed as a counselor. The board utilizes self-reporting of criminal history on its licensing application as the sole determinant of whether an applicant is of "good moral character."

Due to the nature of the counseling profession, use of criminal background checks and offender registry checks would be justified. The board's attorney has advised that the board lacks specific statutory authority to conduct or obtain criminal background checks on applicants.

Relying on self-reporting of criminal history potentially allows unethical applicants with serious criminal histories to be licensed. These licensees would be obvious threats to public safety, particularly to the counseling profession, as they could take advantage of a vulnerable population.

Inadequate Monitoring of Continuing Education of Licensees

The Legislature has recently amended the board's enabling legislation to require continuing education hours for all licensed professional counselors. However, the board's continuing education policies do not ensure that licensees remain current in professional knowledge, skills, and issues in counseling.

MISS. CODE ANN. Section 73-30-29 (2) (1972) states that as of January 1, 2004, licensed professional counselors must complete twelve hours of continuing education each year before their licenses are renewed. These hours must be in the field in which the counselor practices.

Rather than requiring annual verification of continuing education for all licensees, the board's policy requires that only ten percent of licensees' continuing education hours be audited each year. Also, the board conducts these audits after licenses have been renewed, rather than prior to renewal. Thus the board does not ensure that all

licensees receive the necessary continuing education to remain professionally competent prior to having their licenses renewed.

Also, even though state law requires that a licensee's continuing education hours be taken in the field in which the licensee practices, because the board does not require licensees to demonstrate how continuing education relates to their particular fields of practice, the board does not ensure that licensees further the knowledge and skills needed to remain current in those fields of practice.

Inadequacy of Complaints Process

The board's management of complaints against licensed professional counselors is inadequate because it does not track or maintain complete, confidential records of complaints that have been filed, investigated, or resolved. Also, the board has insufficient standards for investigating complaints.

The enforcement of the licensed professional counseling law and regulations is greatly dependent on how well the regulatory body administers processes for receiving and handling complaints against counselors and the expediency and uniformity with which it takes disciplinary action against violators. PEER examined the complaint and disciplinary processes of the board and found the following:

- *The board does not maintain a master record or log of complaints that shows important information such as to which board member the complaint was assigned or the status/disposition of the complaint.* Thus the board is unable to report accurately the number of complaints within any given period, effectively monitor the status of complaints to ensure timeliness of resolution, analyze trends in complaint information that might provide rationale for potential statutory or policy changes, track licensees' competence over time, or ultimately assess its own performance in protecting the public.
- *Neither state law nor the board's Rules and Regulations provide adequate standards for investigating complaints to determine jurisdiction or merit.* Because of the lack of clear procedures for handling complaints, the board is not able to ensure appropriate or consistent action, which affects both the public and the licensee.

- *The board does not store complaint files in a central, secure location.* Thus the information is not easily accessible to other board members and staff should they need to refer to the files. Also, storing such files in homes or individuals' offices raises questions about violation of confidentiality regarding the information in the files.
- *The board does not ensure that all complaint files contain certain specified types of documentation.* When the board does not maintain complete documentation that is uniform for all complaints, it does not have a basis for consistently administering timely and reasonable disciplinary actions against incompetent or unscrupulous licensees.

PEER also found that the board's minutes do not contain sufficient record of the disposition of complaints.

Failure to Publicize Disciplinary Actions

The board's current practice of not publicizing information on disciplinary sanctions limits the public's and licensed counselors' awareness of rules infractions and their consequences.

The board should provide information that is easily accessible to the public regarding sanctions against licensees so that the public can make informed choices when obtaining counseling services. However, the only method currently used is responding to requests from the public. As noted in the previous section, because the board does not maintain general information on complaints and/or resolutions of complaints, it cannot ensure that an accurate response is given.

Problems with Financial Management

The board has not established a proper internal control environment and, as a result, does not have assurance that any of its financial information is accurate or complete.

The management of an organization is responsible for establishing proper internal controls for financial management. During its review, PEER found deficiencies in four areas of the board's financial management: separation of accounting duties, cash management, financial reporting, and service contracts.

The board's lack of separation of accounting duties violates state agency accounting policies and procedures set forth by the Department of Finance and Administration and compromises the accuracy and completeness of the board's accounting records. Because of this condition, the board cannot ensure the public that its operations are reasonably free from fraud.

Also, contrary to MISS. CODE ANN. Section 7-9-21 (1972) and state agency accounting policies and procedures, the board does not immediately account for collections received or deposit such collections in the State Treasury in a timely manner.

Rather than requiring its staff to submit reports regarding the agency's financial condition for each of its quarterly meetings, the board requires only an annual financial report that is limited because of its method of presenting expenditures. Because the board has a fiduciary responsibility regarding receipt and disbursement of public funds, prudent financial management principles require that the board stay abreast of the agency's financial condition.

Additionally, the board has not formalized its relationship with its part-time accountant through a written contract. Without a written contract, the board could be exposed to a future liability without documentation of that liability. A written contract would also serve guide future board members in the expectations for service providers.

Recommendations

1. The Legislature should amend MISS. CODE ANN. Section 73-30-5 (1972) to include a provision that no sitting member of the Board of Examiners for Licensed Professional Counselors may advise the Mississippi Counseling Association regarding board replacements. The board should also implement a rule mandating that if an individual is an officer of the Mississippi Counseling Association as well as a sitting member of the Board of Examiners for Licensed Professional Counselors, he or she should recuse himself/herself from the nominating process.
2. Prior to the 2009 legislative session, the board should request an official opinion from the Attorney General's office to review the 1995 *Opinion to Reeves* regarding the board's power to define acceptable coursework that relates to the licensure applicant's degree program.

If the opinion is not changed to state that the board's regulatory authority includes the power to define acceptable coursework prior to the 2009 legislative session, the Legislature should amend MISS. CODE ANN. Section 73-30-9 (f) (1972) to allow the board the power to define acceptable coursework that must be included in the degree program.

3. If the board receives explicit statutory authority to define licensees' coursework requirements, the board should consider conducting, or contracting with an industrial/organizational psychologist or job analyst to conduct, a content validation study to substantiate the relationship between the coursework requirements and competence as an entry-level counselor.
4. Prior to an applicant's supervision, the board should require the submission of a signed contract or agreement between supervisors and supervisees stating what is required from each party. Further, the board should develop a standard appraisal instrument by which supervisors of post-master's supervised experience (who have been specifically trained in the use of the appraisal instrument) evaluate supervisees and a standard form for periodic reporting of supervised hours and content of the clinical experience. These requirements would then create a need for the board to adopt a policy to determine how negative information from the appraisals will affect the decision of whether to issue a license.
5. The board should adopt the NCMHCE for use after an applicant's post-master's supervised experience to measure clinical expertise.
6. The Legislature should amend MISS. CODE ANN. 73-30-25 (1972) to remove the exemption for professionals registered, certified, or licensed by a recognized state or national association that has a published code of ethics.
7. The board should re-evaluate the exemptions of other groups listed in MISS. CODE ANN. 73-30-25 (1972) in view of the risk potential presented by the possible practice of unqualified persons and make recommendations to the Legislature by January 1, 2009, on whether to remove additional exemptions from this section.
8. The Legislature should amend MISS. CODE ANN. Section 73-30-9 (c) to require the following:

- that the board will conduct background checks on all applicants for licensure;
- that for purposes of these background checks, “good moral character” shall be established by an absence of felony convictions or convictions for misdemeanors involving moral turpitude; and,
- that the board may request the assistance of the Department of Public Safety, as well as consulting sex offender registries, in checking criminal histories of applicants.

Additionally, the board should also consider providing to the Legislature for its consideration a list of criminal violations that should disqualify a person from receiving a license.

9. To ensure licensees’ compliance with provisions of MISS. CODE ANN. Section 73-30-29 (1972) regarding completion of twelve hours of continuing education before license renewal, the Board of Examiners for Licensed Professional Counselors should require that licensees submit documentation of completion of these requirements annually along with their renewal application and fee. Additionally, the Legislature should amend Section 73-30-29 to give the board the expressed authority to conduct audits of licensees’ continuing education as it deems necessary.
10. The Legislature should amend MISS. CODE ANN. Section 73-30-9 (1972) to require each licensure applicant to submit a statement to the board defining his/her scope of practice. This statement should include the identification of such aspects as the nature of the counselor’s practice (e.g., private practice, academia), the types of disorders the counselor intends to treat, and the types of assessment instruments the counselor will use in his/her diagnoses.

The board should consider the licensee’s scope of practice when reviewing documentation from continuing education audits. Specifically, the board should be able determine that the continuing education course or offering is related to the licensee’s scope of practice. For example, the board could require licensees to submit a standardized form to include field of practice and a listing of related continuing education activities.

11. To improve its management of complaints against licensees, the board should implement the following:
 - maintain a log of complaints, including the case number, the complainant's name, the licensee's name, the nature of the complaint, the name of the board member assigned to the case, date assigned to the board member, the result of the complaint, disciplinary action taken, and the date case closed;
 - develop written guidelines for recordkeeping of complaint information, including the designation of a central location for complete files and defining recordkeeping responsibilities of board members;
 - adopt formal, written rules or procedures that clearly delineate the board's policies for all phases of the complaint process, including complaint receipt, investigation, adjudication, resulting sanctions, and disclosure to the public. Further, the rules should provide guidelines for maintaining thorough documentation, protecting the confidentiality of the parties involved, and general timelines for each phase of the process.
12. The board should make information on final disciplinary orders and sanctions readily available to the public through the board's website and in a periodic newsletter distributed to licensees. The board should maintain its website to reflect up-to-date information and increase its utility in public awareness.
13. The board should consider the feasibility and cost effectiveness of contracting out its financial operations to an accounting or bookkeeping firm. Should the board choose not to enter into a contract for its financial operations, the board should immediately adopt policies and procedures and oversight controls to:
 - ensure that the Executive Director records and accounts for all remittances received by the board immediately upon their receipt;
 - comply with state agency accounting policies and procedures by depositing collections into the State Treasury when

such collections reach \$1,000 or on a weekly basis; and,

- require an independent verification, possibly with the assistance of the board's officers, of the Executive Director's recording of cash receipts and the accountant's depositing of cash receipts into the State Treasury.

In addition, the board should enter into a formal contract with its part-time accountant specifying the scope of duties, compensation, term, and other relevant issues.

14. In order to monitor the agency's financial operations, the board should adopt an operating budget for each fiscal year. Once adopted, the board should require the Executive Director and accountant to prepare financial reports detailing revenues from all sources and expenditures by minor object categories, as well as a comparison of revenues and expenditures to date to the agency's operating budget. The Executive Director and accountant should present the financial reports to the board during each quarterly meeting.

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A Review of the Board of Examiners for Licensed Professional Counselors

Introduction

Authority

The PEER Committee reviewed the Mississippi Board of Examiners for Licensed Professional Counselors (hereafter referred to as “the board”). PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-57 et seq. (1972). This review is a “cycle review,” which is not driven by specific complaints or allegations of misconduct.

Scope and Purpose

In conducting this review, PEER first determined whether regulation of the counseling profession is necessary in order to reduce risks to the public.

Once PEER established the public need for regulation of the counseling profession, PEER then evaluated how well the board carries out its two primary regulatory functions: licensing counselors to protect the public and handling complaints/investigations.

PEER also reviewed the board’s monitoring of licensees’ fulfillment of continuing education requirements and the board’s financial management practices.

Method

In conducting this review, PEER:

- reviewed relevant sections of federal and state laws, board rules, regulations, policies, and procedures;
- interviewed board members, the Executive Director, and personnel from related state and national professional associations; and,
- analyzed the board's records and financial information.

Background

Statutory Authority for Licensing and Regulation of Counselors

The Legislature created the Board of Examiners for Licensed Professional Counselors during the 1985 session to protect the public by regulating the practice of counseling, as well as use of the title “Licensed Professional Counselor” for those who offer services to the public for a fee.

According to MISS. CODE ANN. Sections 73-30-1 et seq. (1972), Mississippi law prohibits individuals from practicing counseling for a fee without a license. CODE Section 73-30-9 (1972) establishes a regulatory regimen by which counselors are licensed. CODE Section 73-30-21 (1972) provides for penalties for violations of laws, rules, and regulations governing the counseling profession. This section authorizes the board to suspend or revoke a license, refuse to issue or renew a license, or reprimand the licensee. CODE Section 73-30-19 provides that persons representing themselves by the title “Licensed Professional Counselors” without having been licensed are guilty of a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 for each offense.

Currently, the Board of Examiners for Licensed Professional Counselors regulates approximately 900 counselors in the state of Mississippi.

Statutory Definitions of the Practice of Counseling and Counseling Procedures

MISS. CODE ANN. Section 73-30-3 (b) (1972) defines the “practice of counseling” as:

. . . rendering, offering to render or supervising those who render to individuals, groups, organizations, corporations, institutions, government agencies or the general public any service involving the applications of counseling procedures and other related areas of the behavioral sciences to help in learning how to solve problems or make decisions related to

personal growth, marriage, family or other interpersonal or intrapersonal concerns.

MISS. CODE ANN. Section 73-30-3 (c) (1972) defines “counseling procedures” as:

...including but not limited to (1) the use of counseling methods and techniques, both verbal and nonverbal, which require the application of principles, methods or procedures of understanding, predicting and/or influencing behavior, and motivation; (2) the use of informational and community resources for personal and social development; (3) the use of group and/or placement methods and techniques which serve to further the goals of counseling; (4) designing, conducting and interpreting research on human subjects or any consultation on any item above; and (5) appraisal techniques including but not limited to testing of achievement, abilities, interest, and aptitudes.

Scope of the Counseling Profession

In order to identify risks to the state and/or its citizens, scope of practice must be defined. The scope of practice for licensed professional counselors in Mississippi is extremely broad. Licensed professional counselors are found in a variety of work settings: mental health centers, rehabilitation centers, private practice, hospitals, elementary through senior high schools, universities, nursing homes, career centers, government, and business and industry.

When asked to define a licensed professional counselor's scope of practice, the board responded that the American Counseling Association's Code of Ethics requires that “counselors practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience.” Neither the law nor the board, however, prohibits licensed professional counselors from diagnosing and/or treating any type of mental or behavioral disorder.

Risks to the Public and Need for Regulation

Forty-eight states currently regulate the counseling profession through licensure, which further suggests that regulation of counselors is widely accepted. The regulation of counseling is based on the premise that the public should be protected from the potentially damaging effects of receiving services from incompetent or unethical professionals.

The typical regulatory functions of licensure and enforcement of applicable laws, rules, and regulations provide a safeguard against public risk. Without the safeguards of licensure and enforcement in place, the likelihood of untrained or unethical counselors placing the public at risk could occur.

The American Counseling Association believes that lack of regulation would lead to “an environment in which the buyer must beware.” The effects of a person receiving counseling from an untrained, unqualified person would offer the chance for much greater trauma and might be considerably difficult to reverse. The ACA insists that the public needs help in identifying professionals who can competently provide counseling services. Further, licensure ensures accountability for clients who believe they are victims of fraudulent, unethical, or negligent practice.

Risks to the public from the unregulated practice of counseling fall within three categories: (1) incompetent practice, (2) unethical practice, and (3) illegal practice. Incompetent and illegal practice may also fall into the category of unethical practice. Examples of incompetent practice include inaccurate diagnoses and corresponding treatment plans resulting from practicing outside of one’s scope of competence or lack of knowledge or clinical experience. Examples of unethical practice include forming inappropriate dual relationships with clients or breaching clients’ confidentiality. Illegal practice obviously includes the practice of counseling for a fee without a license.

Board Composition and Staff

The Legislature established the Board of Examiners for Licensed Professional Counselors in 1985. As presently constituted under MISS. CODE ANN. Section 73-30-5 (1972), the board is composed of five members appointed by the Governor with the advice and consent of the Senate: five licensed professional counselors, three of whom are

primarily engaged as licensed counselors in private or institutional practice, and two who are primarily engaged in teaching, training, or research in counseling at the corporate or university level.

The board has one counselor member from each of the four congressional districts as they existed on January 1, 2002, and one member from the state at large. The members serve five-year terms that begin on their dates of appointment. The board meets four times per year; MISS. CODE ANN. Section 73-30-7 (1972) requires at least two meetings per year.

The board currently contracts for a full-time Executive Director. The Executive Director is solely responsible for managing the office of the board to include such duties as receiving and reviewing applications for licensure, processing license renewals, maintaining the board's database, and conducting board communications. The board also utilizes an accountant part-time to assist in receiving and depositing fees into the State Treasury; the accountant does not have a written contract with the board. Additionally, the board retains legal assistance from a representative of the Attorney General's office, who attends board meetings and assists with administrative hearings.

Revenues and Expenditures

The Board of Examiners for Licensed Professional Counselors is a special fund agency, with revenues generated from fees charged for licensure application, examination, and annual license renewal. The board has established a fee schedule with fees of \$100, \$130, and \$95, respectively, for each of these services.

As illustrated in Exhibit 1, page 7, the board's revenues have exceeded expenditures for four of the past five fiscal years.

Exhibit 1: FY 2002-FY 2006 Revenues and Expenditures of the Board of Examiners for Licensed Professional Counselors

	Total Revenues	Total Expenditures	Difference
FY 2002	\$51,090	\$61,006	(\$9,916)*
FY 2003	\$84,749	\$70,418	\$14,331
FY 2004	\$83,305	\$75,491	\$7,814
FY 2005	\$84,270	\$76,617	\$7,653
FY 2006	\$98,695	\$80,948	\$17,747

SOURCE: The Board of Examiners for Licensed Professional Counselors' budget requests for fiscal years 2004-2008.

*The board had a carryover cash balance from FY 2001; therefore, the board had no deficit in FY 2002.

Conclusions

Potential for Compromised Independence of the Process for Nominating Board Members

Because state law requires the Mississippi Counseling Association to provide nominations to the Governor for his consideration in appointing persons to fill vacancies on the Board of Examiners for Licensed Professional Counselors, the opportunity exists for the independence of the nominating process to be compromised when the association's officers also serve as board members.

Because neither the board's enabling legislation nor its rules reduce the opportunity for such, the influence of board members on the body that makes nominations to the Governor to fill board vacancies could compromise the independence of the nominating process for filling vacancies on the Board of Examiners for Licensed Professional Counselors.

MISS. CODE ANN. Section 73-30-5 (1972) requires that the Mississippi Counseling Association (MCA) provide nominations to the Governor for his consideration in filling vacancies on the Board of Examiners for Licensed Professional Counselors. The MCA is a branch of the American Counseling Association and is governed by a board of officers chosen by the members of the association.

The nominating body (i.e., the MCA) should be at liberty to make its own choices and have the opportunity to include in its nominations individuals with a diversity of backgrounds and regulatory philosophies.

Currently, three members of the Board of Examiners for Licensed Professional Counselors are also officers of the MCA. The Executive Director of MCA (who is responsible for submitting nominations for board replacements) contacts members of the Board of Examiners for Licensed Professional Counselors, as well as other MCA officers and other interested persons, for recommendations on who should serve on the board.

State law does not prevent this relationship between the Mississippi Counseling Association and the board. No provision in the board's enabling legislation states that a board member cannot serve simultaneously as an officer of the MCA or that board members cannot make recommendations for nominations for board replacements. However, when members of the current board are allowed to participate in the process of nominating individuals to fill board vacancies, the independence of the board's nominating process could be

compromised and allow the opportunity for persons currently serving on the board to perpetuate their regulatory philosophies.

The body that makes nominations (i.e., the MCA) to the Governor for his consideration in filling board vacancies should be at liberty to make its own choices and have the opportunity to include in its nominations individuals with a diversity of backgrounds and regulatory philosophies.

Needed Improvements in the Licensure Process

Licensure Requirements

The Board of Examiners for Licensed Professional Counselors, through its regulations, is responsible for implementing the public policy set forth in state law to regulate the counseling profession and ensure the protection of the public health, safety, and welfare of those who utilize counseling services. To protect the public, the board should assure applicants' compliance with requirements for licensure and periodically validate the appropriateness of licensure requirements that it sets forth in board regulations.

In Mississippi, the Board of Examiners for Licensed Professional Counselors may grant an applicant a license to practice counseling if he or she has met certain general requirements as well as specified education, experience, and examination requirements.

MISS. CODE ANN. Section 73-30-9 (1972) states that licensure applicants shall meet the following general requirements:

- be at least twenty-one years of age;
- be a resident or pay state income tax in Mississippi; and,
- be of "good moral character."

Pages 10 through 20 of this report present the education, experience, and examination requirements required of licensed professional counselors, as well as PEER's conclusions related to these requirements.

MISS. CODE ANN. Section 73-30-25 (1972) exempts members of other "duly regulated professions" from licensure. Pages 20 through 24 of this report list these exemptions and present PEER's conclusion related to these exemptions.

As noted on page 3, according to Mississippi law, the activities of persons who render services to the public as licensed professional counselors are to be regulated to ensure the protection of the public health, safety, and welfare. State law provides a method of licensure for the regulation of those who offer these services to the public for a fee. Persons seeking licensure in Mississippi must meet requirements set forth in state law, as well as those requirements promulgated by the Board of Examiners for Licensed Professional Counselors.

Although individuals may be “certified” professional counselors in Mississippi without being licensed, a counselor must be licensed in order to receive payments by a third party (e.g., an insurance company).

Individuals may be “certified” professional counselors in Mississippi without being licensed. The National Board for Certified Counselors (NBCC), an independent credentialing body created by the American Counseling Association, provides national certification to counselors who have met predetermined standards in their training, experience, and performance on the National Counselors Examination. Individuals could practice counseling in Mississippi without a license (under one or more of the exemptions in MISS. CODE ANN. Section 73-30-25 [1972] listed on pages 20-21); however, in Mississippi, a counselor must be licensed in order to receive payments by a third party (e.g., insurance companies).

Educational Requirements for Licensure

The Board of Examiners for Licensed Professional Counselors has specified certain coursework that applicants must complete when meeting their educational requirements. Some uncertainty exists as to whether the board has legal authority to specify such education requirements, particularly for applicants with pertinent doctoral degrees. Also, because one of the board’s most recently added educational requirements is not based on the results of sound research such as a formal job analysis, the board cannot ensure that this requirement is necessary to ensure competence as an entry-level counselor.

For licensure as a professional counselor, MISS. CODE ANN. Section 73-30-9 (f) (1972) requires that an applicant possess:

- a doctoral degree primarily in counseling, guidance, or related counseling field; **or**,
- an educational specialist’s degree or a master’s degree in counselor education or related counseling program subject to board approval.

The master’s degree or education specialist’s degree must consist of a program of not less than sixty acceptable semester hours or ninety acceptable quarter hours.

Board regulation Chapter 4, Section 2, specifies that a graduate program related to counselor education contain course work in the following areas and that each applicant

for licensure must have completed course work in all of the following areas. (The content areas listed below may be covered in more than one course.)

- Human Growth and Development;
- Social and Cultural Diversity;
- Helping Relationships;
- Groups;
- Lifestyle and Career Development;
- Appraisal;
- Research and Evaluation;
- Professional Orientation;
- Marriage and/or Family Counseling/Therapy (beginning 7/1/03); and,
- Diagnosis and Treatment (beginning 7/1/03).

Further, each applicant must have completed sixty semester hours or ninety quarter hours of graduate study.

The board, through its regulations, has stipulated that applicants' educational preparation must include specific courses. The board has specified these course requirements even though an opinion by the Attorney General's Office has raised questions about the board's statutory authority to do so (see the following section). In addition, one of the most recently added educational requirements set by the board is not based on sound research, such as a job analysis of the competencies necessary for an entry-level licensed professional counselor (see section beginning on page 12).

A 1995 Attorney General's opinion has raised questions about the board's statutory authority to define related counseling fields, acceptable hours, or coursework that relate to the licensure applicant's degree program and the board's statutory authority to establish educational requirements for applicants with pertinent doctoral degrees.

MISS. CODE ANN. Section 73-30-9 (f) (1972) does not explicitly allow the Board of Examiners for Licensed Professional Counselors the authority to outline specific educational requirements for licensure; however, Section 73-30-1 (1972) states that the board is responsible for regulating the activities of those who render services to the public as licensed professional counselors to ensure the protection of the public health, safety, and welfare.

In 1995, an official opinion from the Attorney General's office (*Opinion to Reeves*, June 2, 1995) stated that the board does not have the power to define a term such as "related counseling field" as used in the statute. The determination of what is a "related counseling field" is a factual question that must be decided by the board on a case-by-case basis. Further, the opinion expressed that the board does not have the power to define "acceptable hours" or acceptable coursework that must be included in the degree program. Any such determinations must be reasonable and may not be arbitrary or capricious.

If the board does not have the power to define "related counseling field" or "acceptable coursework or hours," then the board cannot ensure protection of the public health, safety, and welfare through the requirement for attainment of specific knowledge needed to practice counseling competently.

The opinion also stated that if the licensure applicant has an earned doctoral degree primarily in counseling, guidance or related field, then that applicant is not required to have met the sixty semester/ninety quarter hour requirement. Although not directly stated in the opinion, once it is determined that the applicant has a pertinent doctoral degree, the board does not appear to have the authority to require that applicants with pertinent doctoral degrees complete specific educational coursework.

Presumably due to the lack of clarity in MISS. CODE ANN. Section 73-30-9 (f) (1972), the board has established educational requirements for applicants without statutory authority. The board's policies require that all licensure applicants, including those with pertinent doctoral degrees, complete a minimum of sixty semester hours or ninety quarter hours to include the ten specific course content areas described on page 11. If the board does not have the power to define "related counseling field" or "acceptable coursework or hours," then the board cannot ensure protection of the public health, safety, and welfare through the requirement for attainment of specific knowledge needed to practice counseling competently.

Because one of the board's most recently added educational requirements is not based on the results of sound research such as a formal job analysis, the board cannot ensure that this requirement is necessary to ensure competence as an entry-level counselor.

As described on page 10, for licensure as a professional counselor, MISS. CODE ANN. Section 73-30-9 (f) (1972) requires that an applicant possess either a doctoral degree primarily in counseling, guidance, or a related counseling field, or an educational specialist's degree or a master's degree in counselor education or related counseling program. The master's or education specialist's graduate programs must have consisted of sixty semester hours or ninety quarter hours. CODE Section 73-30-9 does not contain specific requirements regarding the coursework that must be included in the applicant's graduate program.

The board, however, has specified that the applicant's graduate program must have contained the specific coursework described on page 11. When questioned by PEER regarding the specificity of these requirements, the board's staff suggested that its requirements are aligned with those of the Council for the Accreditation of Counseling and Related Educational Programs (CACREP).

When asked for research to support a coursework requirement in Marriage and/or Family Counseling/Therapy that the board added in 2003, the board was unable to produce sufficient evidence to validate that these requirements are necessary to ensure competence as an entry-level counselor.

CACREP requires accredited counseling programs to include course content areas in eight of the board's ten course content areas. In 2003, the board added two coursework requirements (Diagnosis and Treatment and Marriage and/or Family Counseling/Therapy) for licensure. For many programs (e.g., mental health counseling programs), CACREP requires coursework in diagnosis for accreditation. Although issues concerning families and couples are identified in some of CACREP's course content areas (e.g., Social and Cultural Diversity), CACREP does not require specific coursework in marriage and/or family counseling/therapy. CACREP claims that its course content areas were formed several years ago based upon the professional judgment of members of the Association for Counselor Education and Supervision. CACREP contends that it has conducted a content validation study that was positive; however, a white paper study revealed a need to add knowledge and skills related to addictions. These studies were not available for review. In addition to its own content validation studies, CACREP maintains that the National Board for Certified Counselors (NBCC) periodically conducts task analyses to demonstrate correlations between these course content areas and actual work-related behaviors of counselors; however, results of these task analyses are only useful in the revision of the national exam, which is intended to measure knowledge in each of the CACREP areas.

When asked for research to support the addition of a coursework requirement in Marriage and/or Family Counseling/Therapy in 2003, the board was unable to produce sufficient evidence to validate that these requirements are necessary to ensure competence as an entry-level counselor. A former board chairperson suggested that, before the requirements were added, the board had consulted with other state boards. He stated that there is a national trend for member boards to adopt these preparation areas for licensure; however, no sound research evidence (e.g., job analysis, content validation study) was provided to support the necessity of this additional course requirement.

The requirements for licensure should be the minimum necessary to ensure competence of an entry-level counselor and should be based on a job analysis or other sound research. The Principles for the Validation and Use

of Selection Procedures, a resource developed by the Society for Industrial/Organizational Psychology that discusses procedures for conducting validation research and indicating principles of good practice in choosing, developing, evaluating, and using selection procedures, state that “any claim of validity made for a selection procedure should be documented with appropriate research evidence.” In addition, rulings in a number of court cases involving the validity of selection systems have addressed the need for a thorough analysis of the job (e.g., Supreme Court case of *Griggs vs. Duke Power Co.*, 1971)

Because the board cannot ensure that its educational requirements are actually necessary to ensure entry-level competence, the requirements might actually limit entry to the profession unnecessarily, thereby restricting qualified counselors from practicing.

The board’s licensure requirements should ensure that the applicant has the necessary knowledge skills, and abilities needed to practice counseling. The board’s requirement for specific coursework within the graduate program might actually be one that would help prepare applicants for examinations and improve the quality of counseling that could be provided by entry-level licensed professional counselors. However, because the board cannot ensure that its educational requirements are actually necessary to ensure entry-level competence, the requirements might actually limit entry to the profession unnecessarily, thereby restricting qualified counselors from practicing.

Experience Requirements for Licensure

The board requires supervisors of applicants’ post-master’s clinical experience to submit verification of supervision, including a recommendation to the board that the applicant be considered for licensure. However, the board’s current process for utilizing supervisors’ recommendations does not ensure that applicants possess the minimum competencies needed to practice counseling.

MISS. CODE ANN. Section 73-30-9 (h) (1972) requires the applicant for licensure to have two years of supervised experience in professional counseling, or its equivalent, acceptable to the board, one year of which may be obtained during pursuit of the master’s degree program.

A board regulation (Chapter 4, Section 3) specifies that the applicant’s experience must consist of 3,500 supervised hours of counseling in a clinical setting post-bachelor’s degree, with these stipulations:

- a maximum of forty supervised hours may be obtained per workweek;
- up to 1,750 hours may be obtained while enrolled in a graduate degree program;
- a minimum of 1,167 hours must be in direct counseling service to clients to include counseling related activities; and,

- group supervision is acceptable for not more than 50 hours of the required 100 hours of individual supervision.

Prior to granting a license to applicants, the board requires verification of an applicant's post-master's supervised clinical experience.

The board does not provide supervisors of post-master's clinical experience with objective criteria by which to make their recommendations, thus allowing for subjective judgments of applicants' competence.

The board's licensure process requires supervisors of applicants' post-master's clinical experience to submit verification of supervision. Since these supervisors are responsible for making a recommendation to the board regarding an applicant's readiness for licensure, the board should make an effort to obtain an objective recommendation based on the supervisor's assessment of the knowledge and skills obtained within the clinical experience that are needed to perform counseling in a competent manner.

When licensure applicants submit their applications to the board, they must provide verification of practicum-internship supervision and post-master's supervision. Supervisors are to use the board's prescribed forms to attest to the number of hours the applicant worked. Applicants are required to submit verification of 3,500 supervised hours, along with a brief description of the practice supervised.

The board does not require any documentation from supervisors of internships or post-master's clinical experience that the applicants they recommend without reservations have demonstrated competencies necessary to perform as a competent, entry-level counselor.

For the post-master's supervisor form, supervisors are required to certify that they actually supervised the counseling practice. The information requested on the form includes licensure information about the supervisor (e.g., years of practice after being licensed, type of license) and general information about the applicant's supervised experience (e.g., number of hours spent in direct contact with clients, in individual supervision, and in group supervision). The form also requires a brief description of the practice supervised. The supervisor must also make a recommendation as to whether the applicant should be considered for licensure. Options are to recommend without reservation, recommend with some reservations (including an explanation), or not recommend (including an explanation).

The board does not require any documentation from supervisors of internships or post-master's clinical experience that the applicants they recommend without reservations have demonstrated competencies necessary to perform as a competent, entry-level counselor. This recommendation is critical because it is currently the only

measure of an applicant's clinical skills (see conclusion on examination, page 18).

An objective method for evaluating all licensure applicants would ensure that the same type of information is obtained on all applicants and that the information is utilized in the same manner.

Human resources literature suggests that subjective judgments are inadequate in making recommendations (Gatewood and Field, 2001). An objective method for evaluating all licensure applicants would ensure that the same type of information is obtained on all applicants and that the information is utilized in the same manner. Since the American Counseling Association's Code of Ethics requires that "supervisors document and provide supervisees with ongoing performance appraisal and evaluation feedback and schedule periodic formal evaluative sessions throughout the supervisory relationship," such appraisals, as long as they are objective and are used consistently by all supervisors, could be of significant use to the board when deciding whether to license an applicant.

Concerning supervision of clinical experience, for a temporary license as an associate counselor, the state of Arkansas requires applicants to arrange supervision with a board-approved supervisor and have the plan/agreement for the supervision approved by the board prior to license issue. The supervision agreement defines what is expected from both the supervisor (a currently licensed professional counselor) and supervisee. In addition, supervisors must submit an evaluation and report every six calendar months after temporary licensure. The evaluation requires the supervisor to evaluate the supervisee's expertise in interpersonal skills, intrapersonal strengths and weaknesses, and intervention skills. The evaluation also allows the supervisor to suggest areas in which special attention is needed. Both the supervisor and supervisee sign the evaluation and submit it to the board.

The ACA Code of Ethics states that supervisors should endorse supervisees for licensure:

. . .only when they believe supervisees are qualified for the endorsement. Regardless of qualifications, supervisors do not endorse supervisees whom they believe to be impaired in any way that would interfere with the performance of the duties associated with the endorsement.

However, without requiring more specific information from supervisors, the board's current procedure allows the licensure of individuals based upon potentially subjective judgments of competence. Applicants who have not demonstrated the necessary competencies to practice counseling in their post-graduate experience could receive positive recommendations from their supervisors, become

licensed, and practice counseling in an incompetent manner due to insufficient clinical skills. In addition, the supervised experience requirement is devalued for supervisees if supervisors do not provide periodic evaluations that allow the supervisee to improve in specific areas targeted by the supervisor.

Other than a brief description of the practice supervised and self-reporting of the number of supervised hours completed, the board does not require additional documentation from supervisors to verify the content of clinical experience completed or the number of clinical hours completed.

In applying for licensure after completion of supervised experience, it is the responsibility of the supervisor and supervisee to report accurately the total number of hours, number of direct contact hours, and number of individual and group supervision hours. If no contract related to licensure exists before the supervision begins, the supervisor may not be aware of the board's requirements for the number of hours required for each specific type of supervised clinical experience (e.g., number of direct contact hours required).

Supervisors must provide a brief description of the practice supervised; however, neither the supervisors nor the supervisee is responsible for submitting documentation to reflect specific content of the experience.

Human resources literature demonstrates that self-reported application information is subject to distortion; therefore, it is necessary to verify the accuracy of the given information. For example, Gatewood and Field (2001) refer to a study in which job applicants provided information related to such areas as education and length of previous employment. Twenty percent of the applicants distorted over half of the information provided on their applications.

Since the board requires a specific number of supervised hours for licensure, the board should be responsible for ensuring that these hours are accurately reported.

Since the board requires a specific number of supervised hours for licensure—including number of hours of direct contact, individual supervision, and group supervision—the board should be responsible for ensuring that these hours are accurately reported. Further, the board should be responsible for verifying the content of the experience. The state of Arkansas requires that supervisees submit logs of clinical hours completed. The log includes such information as the date hours were accrued, therapy notes, treatment plans, and test scoring. This log provides the licensing board in that state with information regarding the content of the experience.

The Board of Examiners for Licensed Professional Counselors believes it is the responsibility of the applicant and supervisor to track the number of supervised hours; therefore, the board relies on the self-reporting of hours by the applicant and the supervisor. Also, the board relies on supervisors' brief descriptions of supervised practice without specifically requesting information related to actual content of the supervised experience.

Because the board does not know the exact content of the applicant's supervised experience, the board is not aware of applicants' scope of practice limitations.

The board has determined that a specific number of supervised hours is needed to perform competently as a licensed professional counselor. Because an applicant could easily misreport these hours, the applicant might enter into the profession without having the pre-determined number of supervised hours, which places the public at risk of receiving counseling services from an unqualified individual.

Also, because the board does not know the exact content of the applicant's supervised experience, the board is not aware of applicants' scope of practice limitations. For example, if a complaint is filed against a licensee for misinterpreting a test and ultimately misdiagnosing a client, the board could not easily determine whether the licensee's prior supervised experience provided the necessary training for that particular test or diagnosis.

Beginning July 1, 2008, the board will require that supervisors of post-master's clinical experience be board-approved before providing supervision. Approval by the board is dependent upon the supervisor's meeting a variety of requirements, such as training in supervision (either through a graduate academic course or professional training program) and five years' experience in a clinical setting. While these supervisor requirements appear to offer supervisees a higher quality of supervision, they do not address the previously mentioned issues regarding supervisor recommendations.

Examination Requirements for Licensure

Although the board requires that licensure applicants pass an examination that measures academic knowledge of counseling information and skills, it does not employ the most rigorous process available (i.e., a validated exam, published by a nationally recognized organization, that was designed to measure clinical expertise) to help ensure that an applicant is fully prepared for unsupervised practice.

MISS. CODE ANN. Section 73-30-9 (g) (1972) requires that the applicant for licensure pass an examination "approved by the board." The board requires that licensure applicants pass the National Counselor Examination for Licensure and Certification (NCE). The National Board for

Certified Counselors (NBCC) publishes this exam, as well as the National Clinical Mental Health Counseling Examination (NCMHCE).

The NCE consists of 200 multiple-choice questions that measure academic knowledge in each of the following five content domains:

- Fundamentals of Counseling;
- Assessment and Career Counseling;
- Group Counseling;
- Programmatic and Clinical Interventions; and,
- Professional Practice Issues.

The NCMHCE consists of ten clinical mental health counseling cases and assesses clinical problem solving ability, which includes identifying, analyzing, diagnosing, and treating clinical problems. This exam requires the person being tested to read a scenario, gather information to answer the question, and make a clinical decision based on that information.

Since licensure allows a qualified individual to practice independently in society, the examination(s) used by the board should provide for the closest relationship possible between the examination and actual behavior on the job.

Currently, twenty-one states (including Mississippi), the District of Columbia, and Puerto Rico use the NCE only to license counselors. Seven states use only the NCMHCE, and twenty states use a combination of both exams. Within these twenty states, some allow the applicant to choose which exam they want to take, others require applicants to pass both exams, and still others have two levels of licensure and require that the applicant take either test, depending on the licensure they are seeking.

The board uses the NCE in its licensure process. The NCE is intended to measure only academic knowledge, as opposed to clinical skills. The Principles for the Validation and Use of Personnel Selection Procedures of the Society for Industrial and Organizational Psychology, Inc., state that “the more closely a selection procedure replicates a work behavior, the more accurate the content-based inference.” Since licensure allows a qualified individual to practice independently in society, the examination(s) used by the board should provide for the closest relationship possible between the examination and actual behavior on the job.

MISS. CODE ANN. Section 73-30-7 (5) (1972) anticipates a clinical element to the board’s licensure examination process, as it states the “examination may be written, oral, situational, or any combination thereof, and shall deal with theoretical and applied fields in counseling.”

The American Association of State Counseling Boards (AASCB) conducted a presentation to the board to promote the use of both the NCE and the NCMHCE in its licensure process. The AASCB is a resource for counselor licensing boards that provides information regarding counselor licensing and test development. The AASCB contends that the NCE should be taken prior to post-graduate supervised training, as it measures the academic preparedness of the individual to practice counseling, and the NCMHCE should be taken at or near the end of the supervised training prior to licensure, as it measures the clinical practice skills needed for unsupervised practice. The AASCB further believes that the use of both tests supports public protection.

The board has considered using both exams in its licensure process, but has not made any definite decisions. The NCMCHE was designed and validated to measure clinical expertise (i.e., the actual work behaviors of counselors).

Individuals who take and pass only the NCE have demonstrated academic knowledge but have not demonstrated through taking and passing the appropriate validated examination that they have the needed clinical skills to practice in an unsupervised setting, which could ultimately place the public at increased risk.

Exemptions from Licensure

Because the board's enabling legislation exempts thirteen professional categories from licensure and several of the categories encompass multiple professions, the number of individuals practicing counseling without a license could potentially be much higher than the number of those practicing counseling who actually hold a license as a professional counselor. Due to the nature of these exemptions, the board is not able to protect large numbers of Mississippians from receiving counseling services from individuals who might not be qualified.

The board's enabling legislation allows individuals employed in any of numerous professions and occupations to engage in the practice of counseling without holding a license as a professional counselor. MISS. CODE ANN. Section 73-30-25 (1975) exempts members of other "duly regulated professions" from licensure and allows these individuals to practice counseling "in the normal course of the practice of their own profession." The exempt professions and occupations are:

- persons practicing any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which that individual is registered, certified, or licensed;

- certified school counselors;
- certified vocational counselors;
- counselors in post-secondary institutions;
- student interns or trainees in counseling;
- counselor educators in post-secondary institutions;
- **professionals registered, certified, or licensed by a recognized state or national professional association that has a published code of ethics;**
- duly ordained ministers or clergy and duly accredited Christian Science practitioners;
- employees of regional mental health centers, state mental hospitals, vocational rehabilitation institutions, youth court counselors, and employees of the Mississippi Department of Employment Security;
- professional employees of alcohol or drug abuse centers;
- private employment counselors;
- any nonresident temporarily employed in the state to render counseling for no more than thirty days in any year if that person is licensed for counseling in his home state or country; or,
- any social worker with a master's degree in social work.

(PEER emphasis added)

Because the board cannot regulate the individuals in the exempt occupations and professions, the board cannot protect the public from these individuals who practice counseling but might not have the necessary knowledge and skills.

Obviously, the number of individuals whose employment or credentials falls into one of the exempted categories in Section 73-30-25 could be quite large. (See Exhibit 2, page 22, regarding professions and occupations exempted from licensure.) For example, among the listed exemptions is one that allows a person to practice counseling without a license if he/she is registered, certified, or licensed by a recognized state or national association that has a published code of ethics (see exemption noted in bold type above). Since numerous professional associations exist, both related to and unrelated to the counseling field, just this one category represents the exemption of an unknown number of individuals from the licensure requirement. At present, MISS. CODE ANN. Section 73-30-25 (1972) allows

Exhibit 2: Counseling-Related Professions and Occupations Exempted from Licensure Requirements by MISS. CODE ANN. Section 73-30-25 (1972)

Exemption	Nature of Work
<p>Certified School Counselors Certified Vocational Counselors Counselors in Post-secondary Institutions Professionals employed by regionally or nationally accredited post-secondary institutions as counselor educators (when practicing within the scope of their employment)</p>	<ul style="list-style-type: none"> • provide individuals and groups with career and educational counseling • in school settings, they work with students, including those with academic and social development problems and those with special needs • use interviews, counseling sessions, interest and aptitude assessment tests, and other methods to evaluate and advise students • work primarily in elementary and secondary schools and colleges and universities <p>According to O*Net (On-line Occupational Information Network):</p> <ul style="list-style-type: none"> ○ In 2004, there were 2,120 people employed in Mississippi as educational, vocational, and school counselors. ○ The most closely related professions are school psychologists and child, family, and school social workers.
<p>Student Interns or Trainees in counseling</p>	<ul style="list-style-type: none"> • Nature of work varies
<p>Ministers/Clergy, while functioning in their ministerial capacity, and duly accredited Christian Science practitioners</p>	<ul style="list-style-type: none"> • Counsel individuals and groups concerning their spiritual, emotional, and personal needs. <p>According to O*Net:</p> <ul style="list-style-type: none"> ○ In 2004, there were 7,940 people employed in Mississippi as clergy. ○ There are no occupations highly similar to this occupation.
<p>Professional employees of regional mental health centers, state mental hospitals, vocational rehab institutions, youth court counselors and employees of MS Department of Employment Security or other governmental agency when practicing within the scope of their employment</p>	<ul style="list-style-type: none"> • Nature of work varies • 15 health centers operated by the Department of Mental Health • 2 mental hospitals (MS State Hospital and East MS State Hospital) – mental illness • Department of Rehabilitation Services • Youth Court system • MS Department of Employment Security - career counseling

<p>Professional employees of alcohol or drug abuse centers or treatment facilities, whether privately or publicly funded, as long as they practice within the scope of their employment</p>	<ul style="list-style-type: none"> • Substance abuse counselors counsel clients and patients, individually and in group sessions, to assist in overcoming dependencies, adjusting to life, and making changes <p>According to O*Net:</p> <ul style="list-style-type: none"> ○ In 2004, there were 1,040 people employed in Mississippi as substance abuse counselors. ○ The most closely related professions are child, family, and school social workers and mental health counselors.
<p>Private employment counselors</p>	<ul style="list-style-type: none"> • Employment agencies or career development settings
<p>Non-residents temporarily employed in the state to render counseling services for not more than 30 days in any year (if licensed in another state or qualified for licensure in MS)</p>	<ul style="list-style-type: none"> • Nature of work varies.
<p>Social workers holding master's in social work from school accredited by the Council on Social Work Education and who do counseling in the normal course of the practice of their own profession</p>	<p>Most social workers specialize in a certain area:</p> <ol style="list-style-type: none"> (1) Child, Family and School Social Worker <ul style="list-style-type: none"> ▪ Improve social and psychological functioning of children and their families and to maximize the family well-being and academic functioning of children. ▪ Typically work for individual and family services agencies, schools, or state/local governments. (2) Medical and Public Health Social Worker <ul style="list-style-type: none"> ▪ Provide persons, families, or vulnerable populations with the psychosocial support needed to cope with chronic, acute, or terminal illnesses. Also advise caregivers, counsel patients, and help plan for patients' needs after discharge. ▪ May work for hospitals, nursing and personal care facilities, individual and family services agencies, or local governments. (3) Mental Health and Substance Abuse Social Worker (also known as clinical social workers) <ul style="list-style-type: none"> ▪ Assess and treat individuals with mental illness or substance abuse problems. ▪ Likely to work in hospitals, substance abuse treatment centers, individual and family services agencies, or local governments.

	<ul style="list-style-type: none"> ▪ Some social workers go into private practice. Most private practitioners are clinical social workers who provide psychotherapy. Many of these split their time between working for an agency or hospital (to receive health and life insurance) and working in their private practice. <p>According to O*Net:</p> <ul style="list-style-type: none"> ○ In 2004, there were 2,470 people employed in Mississippi as child, family, and school social workers; 1,490 people employed as medical and public health social workers; and 950 employed as mental health and substance abuse social workers. ○ There are no occupations highly similar to this occupation.
<p>Persons practicing any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which that individual is registered, certified, or licensed</p> <p>Professionals registered, certified, or licensed by a recognized state or national professional association that has a published code of ethics</p>	<ul style="list-style-type: none"> ▪ Obviously, the number of individuals whose profession or credentials falls into one of these two categories could be quite large. ▪ For example, since numerous professional associations exist, both related to and unrelated to the counseling field, just this one category represents the exemption of an unknown number of individuals from licensure.

SOURCE: MISS. CODE ANN. Section 73-30-25 (1972); U.S. Department of Labor, Bureau of Labor Statistics Occupational Outlook Handbook; O*Net Online, Occupational Information Network

persons to practice under this exemption in the same manner as those who are licensed and offers no protection against practitioners who might have no training or experience whatsoever in the counseling profession. Because the board cannot regulate the individuals in the exempt occupations and professions, the board cannot protect the public from individuals within these occupations or professions who practice counseling but might not have the necessary knowledge and skills.

PEER acknowledges that some exemptions from licensure could be feasible. For example, an attempt to force licensure on duly ordained ministers could be seen as a violation of the doctrine of separation of church and state. But as noted by the Texas Sunset Occupational Licensing Model, exemptions from licensure must be reasonable and not impair protection of the public.

Applications for Licensure

Because state law does not specifically authorize the Board of Examiners for Licensed Professional Counselors to perform background checks on applicants for licensure, the board accepts applicants' self-reporting of criminal history rather than initially utilizing background check resources available to it. As a result, the board may not be able to protect the public from applicants who do not disclose criminal histories and subsequently obtain counseling licenses.

MISS. CODE ANN. Section 73-30-9 (1972) does not require the board to conduct background checks on licensure applicants, but it does state that applicants be "of good moral character" in order to be licensed as a counselor. The Board of Examiners for Licensed Professional Counselors utilizes self-reporting of criminal history on its licensing application as the sole determinant of whether an applicant is of "good moral character." For example, the application requires that applicants answer "yes" or "no" to twelve questions regarding personal and licensure history, such as *"Have you ever been convicted of any criminal offense?"* or *"Have you ever been arrested, charged, or sentenced for the commission of a felony, misdemeanor (other than minor traffic or parking violations) or any crime of moral turpitude, including the entry of a plea of nolo contendere?"*

Self-reporting of criminal history is not appropriate due to the seriousness of this information and a higher potential for misreporting.

Since negative information could lead to a denial of licensure, it seems apparent that those with criminal backgrounds would not voluntarily provide this information. Self-reporting of information may be appropriate in certain situations; however, self-reporting of criminal history is not appropriate due to the seriousness of this information and a higher potential for misreporting.

Due to the nature of the counseling profession, use of criminal background checks and offender registry checks would be justified. According to the Commerce Clearing House, a noted publisher of news and information for business and legal professionals, jobs that are likely to require a criminal background search are ones that have a high degree of public contact, have little supervision, involve working in private residences or other businesses, involve personal care of others, or have direct access to others' personal belongings.

The board's attorney has advised that the board lacks specific statutory authority to conduct or obtain criminal background checks on applicants. The board attorney's rationale is based on previous legal cases that indicate that administrative agencies have only those powers that are "expressly granted to them or are necessarily implied."

Mississippi has resources available for conducting background checks on applicants. The free internet-based Mississippi Sex Offender Registry, maintained by the Department of Public Safety, can be used to screen out applicants who have been convicted of certain sexual offenses. The website states “This information is made available for the purpose of protecting the public.” Further, the state’s criminal records repository, Mississippi Department of Public Safety’s Criminal Information Center (CIC), provides fingerprint background checks to such state agencies as the Department of Health and the Department of Mental Health and could possibly be used by the Board of Examiners for Licensed Professional Counselors as well.

Relying on self-reporting of criminal history potentially allows unethical applicants with serious criminal histories to be licensed. These licensees would be obvious threats to public safety, particularly to the counseling profession, as they could take advantage of a vulnerable population.

Inadequate Monitoring of Continuing Education of Licensees

The Legislature has recently amended the board’s enabling legislation to require continuing education hours for all licensed professional counselors. However, the board’s continuing education policies do not ensure that licensees remain current in professional knowledge, skills, and issues in counseling.

Continuing education protects the public by ensuring that counselors remain current in professional knowledge and skills. MISS. CODE ANN. Section 73-30-29 (2) (1972) states that as of January 1, 2004, licensed professional counselors must complete twelve hours of continuing education each year before their licenses are renewed. These hours must be in the field in which the counselor practices. A minimum of three hours must be in the field of professional ethics.

Rather than requiring annual verification of continuing education for all licensees, the board’s policy requires that only ten percent of licensees’ continuing education hours be audited each year. Also, the board conducts these audits after licenses have been renewed, rather than prior to renewal. Thus the board does not ensure that all licensees receive the necessary continuing education to remain professionally competent prior to having their licenses renewed.

The policy manual of the Board of Examiners for Licensed Professional Counselors states that the board conducts a mandatory audit of ten percent of the licensees who are randomly chosen. Only the licensees who are being audited must submit evidence of their continuing

education (e.g., attendance certificates for workshops, transcripts) within thirty days of the audit notice. The board reviews the records and responds with a statement of compliance or noncompliance. In the case of noncompliance, the audited licensees have an additional three months to comply. Failure to comply within three months results in licensure suspension, and ultimately revocation, if requirements are not met. Since there are currently over 900 licensees, the board is only responsible for ensuring compliance of approximately ninety licensees each year.

MISS. CODE ANN. Section 73-30-29 (2) (1972) states:

. . .a licensed professional counselor must complete 12 hours of continuing education before a license may be renewed.

The board's current policy for auditing only ten percent of licensees does not ensure that all counselors have completed the twelve hours required by statute prior to their license being renewed each year. In addition, the board's renewal notification states:

Please do not include continuing education hours at this time. You will be notified later if you have been chosen randomly to be audited.

Auditing only ten percent of all licensees allows some counselors theoretically to practice from two to nine years without their continuing education hours being audited to ensure accomplishment of continuing education requirements.

The board presently has one staff member, the Executive Director, who is responsible for both renewals and continuing education audits. Annual renewals account for approximately half of the Executive Director's time from mid-May to mid-August. Since renewals are such a labor-intensive process, the Executive Director waits until this process is complete before conducting continuing education audits. The board has approved hiring a temporary employee during the FY 2007 renewal period to assist with renewals. Since the board's staff renews licenses before conducting continuing education audits, the board does not ensure that continuing education hours are met before a license is issued, as required by statute.

Auditing only ten percent of all licensees allows some counselors theoretically to practice from two to nine years without their continuing education hours being audited to ensure accomplishment of continuing education requirements. Further, the board only requires documentation showing compliance for one year instead of including previous years in which they were not audited. This policy could allow a large number of counselors to renew their licenses without providing evidence that they received the necessary continuing

education to remain current in professional competencies. Also, those counselors who are audited, even if they have not met the continuing education requirements, will have already received their renewed licenses; therefore, their licenses are being renewed before they have demonstrated continued competence through receiving continuing education.

Even though state law requires that a licensee's continuing education hours be taken in the field in which the licensee practices, because the board does not require licensees to demonstrate how continuing education relates to their particular fields of practice, the board does not ensure that licensees further the knowledge and skills needed to remain current in those fields of practice.

Licensed professional counselors may work in a variety of areas, such as school counseling, drug and alcohol counseling, or marriage and family counseling. The board's continuing education requirements do not refer to specific fields of practice, but rather encourage licensees' personal and professional development. Since the board does not require licensee to define their fields or scopes of practice, the board cannot ensure that continuing education is in the field in which the counselor practices.

MISS. CODE ANN. Section 73-30-29 (2) (1972) states that continuing education courses must be in the field in which the counselor practices. Therefore, a clear link should exist between the continuing education course or offering completed and the counselor's field of practice. The most feasible method for verifying that continuing education is related to a counselor's field of practice is to obtain documentation from the counselor defining or stating the field in which he/she practices and demonstrating how participation in each continuing education course or offering relates to that field.

The board is not following the statutory requirement for continuing education because the board does not prove that licensees develop the knowledge and skills needed for the licensees' fields of practice, which could increase risk to the public.

The state of Arkansas requires that licensees document how twenty-two of the twenty-four required hours support their Statements of Intent (Scopes of Practice). This process ensures that the continuing education received actually enhances those knowledge and skills needed for the licensee's field of practice.

The board is not following the statutory requirement for continuing education because the board does not prove that licensees develop the knowledge and skills needed for the licensees' fields of practice, which could increase risk to the public.

Inadequacy of Complaints Process

The board's management of complaints against licensed professional counselors is inadequate because it does not track or maintain complete, confidential records of complaints that have been filed, investigated, or resolved. Also, the board has insufficient standards for investigating complaints.

The enforcement of licensed professional counseling law and regulations is greatly dependent on how well the regulatory body administers processes for receiving and handling complaints against counselors and the expediency and uniformity with which it takes disciplinary action against violators. PEER examined the complaint and disciplinary processes of the Board of Examiners for Licensed Professional Counselors.

The enforcement of licensed professional counseling law and regulations is greatly dependent on how well the regulatory body administers processes for receiving and handling complaints against counselors and the expediency and uniformity with which it takes disciplinary action against violators.

The board's *Rules and Regulations* manual presents basic complaint procedures for the board and licensees to follow. The manual states that after a complaint is received, an assigned board member sends the appropriate complaint forms to the complainant. This board member assigns the complaint a case number and determines whether the Board of Examiners for Licensed Professional Counselors has jurisdiction over the complaint. The accused licensee is notified of the complaint and offered a chance to respond. The board then conducts a meeting to determine whether to take no action, authorize a disciplinary hearing, or take other appropriate action. The board notifies the licensee that a complaint has been received and that a disciplinary hearing will be held. Disciplinary hearings result in final orders, in which a variety of sanctions may be imposed.

PEER determined that the board's complaint process suffers from the following deficiencies:

- The board does not maintain a master record or log of complaints.
- The board's minutes do not contain sufficient record of the disposition of complaints.
- The board does not store complaint files in a central, secure location that helps to maintain confidentiality.
- The board does not ensure that all complaint files contain certain specified types of documentation.

The following sections contain discussions of these deficiencies in the board's complaint process.

The board does not maintain a master record or log of complaints that shows important information such as to which board member the complaint was assigned or the status/disposition of the complaint.

Because the board does not maintain a master record or log of complaints received, the status/disposition of a complaint, nor the name of the board member to which it is assigned, cannot be quickly identified. Neither the Executive Director nor the board's Chair has documentation of complaints that have been received or resolved by the board within the past five years. Prior to 2006, the Executive Director did not maintain originals of complaint forms/documentation before forwarding the information to the assigned board member. The Complaints Procedures section of the board's *Rules and Regulations* manual does not address maintaining a complaints log.

Neither the Executive Director nor the board's Chair has documentation of complaints that have been received or resolved by the board within the past five years.

The National Board for Certified Counselors' procedures for handling complaints requires that all complaints be recorded in a confidential case log to include the name of the person filing the complaint, the name of the licensee, and the nature of the complaint. In addition, the Texas Sunset Occupational Licensing Model, which offers standard practices for evaluating boards' efficiency, effectiveness, fairness, and accountability, states that boards should maintain general complaint information so that they can monitor and analyze the information to ensure that they are adequately protecting the public.

From 2003 to 2006, one board member was responsible for handling all complaints to the board. This board member kept an informal list for her own benefit, but this document was not required by or submitted to the board. Currently, complaints are rotated among board members to ensure that everyone is familiar with the process; however, the name of the assigned board member is not documented in the board's office.

Because the board does not maintain a case log, it is unable to report accurately the number of complaints within any given period, effectively monitor the status of complaints to ensure timeliness of resolution, analyze trends in complaint information that might provide rationale for potential statutory or policy changes, track licensees' competence over time, or ultimately assess its own performance in protecting the public.

Neither state law nor the board's Rules and Regulations provide adequate standards for investigating complaints to determine jurisdiction or merit.

MISS. CODE ANN. Sections 73-30-9, 73-30-13, 73-30-21, and the American Counseling Association's Code of Ethics

provide some guidelines for board members to use in determining jurisdiction over a complaint and the merit of a complaint. For example, CODE Section 73-30-21 states that “the board may, after notice and opportunity for a hearing, suspend, revoke or refuse to issue or renew a license or may reprimand the license holder” if the licensee or applicant has “obtained a license by fraud, deceit or other misrepresentation,” “engaged in the conduct of professional counseling in a grossly negligent or incompetent manner,” or other infractions. Further, the Code of Ethics, which guides counselors’ standard practices and procedures, specifically identifies infractions such as “Counselors do not share confidential information without client consent or without sound legal or ethical justification” and “Sexual or romantic counselor-client interactions or relationships with current clients, their romantic partners, or their family members are prohibited.”

However, neither state law nor the board’s *Rules and Regulations* provide adequate standards for investigating complaints to determine jurisdiction or merit. The board’s attorney states that she works closely with investigating board members and offers advice related to the jurisdiction and merit of complaints. Since the same attorney screens the board members’ investigation processes, there is evidence of some uniformity in the process. However, good practice requires that more formalized standards exist for investigating complaints that are transparent to a third party.

The lack of a rigorous investigative process that fully documents the rationale taken by the board in investigating complaints could result in penalties being inconsistently imposed or the board’s decisions being overturned on appeal to court.

Licensees who have punitive actions taken against them by the board in response to a complaint investigation have the right to appeal the board’s decision to circuit court. Therefore, it is imperative that the board have a rigorous investigative process that fully documents the rationale taken by the board in investigating complaints. The lack of such could result in penalties being inconsistently imposed or board decisions being overturned on appeal to circuit court.

The American Counseling Association and the National Board for Certified Counselors (NBCC) provide clear rules and procedures for all phases of their own complaint processes. These could serve as a model for bodies such as the Board of Examiners for Licensed Professional Counselors.

The American Counseling Association’s Ethics Committee established the following guidelines for maintaining its own complaint records:

- The records of the committee regarding complaints are confidential.

- Original copies of complaint records will be maintained in secure and confidential files at ACA Headquarters or at an off-site location chosen by ACA.
- Members of the committee keep copies of complaint records confidential and destroy copies of records after a case has been closed or when they are no longer a member of the committee.

The NBCC has defined the steps it takes after receiving a complaint:

1. review the material and assign a case number;
2. review the allegations;
3. determine whether the charges are presented in sufficient detail to conduct a preliminary investigation; and, if necessary,
4. contact the complainant and request additional factual material.

For determining whether a charge is accepted for a formal complaint and investigation, the NBCC uses the following criteria:

- whether the person is a licensee;
- whether the charge, if true, would constitute a violation of the Code of Ethics;
- whether passage of time since the violation requires that the complaint be rejected;
- whether relevant, reliable information or proof concerning the charge is available;
- whether the complainant is willing to provide proof or other information; and,
- whether the charge appears to be justified or insupportable considering the proof available.

The Board of Examiners for Licensed Professional Counselors lacks this type of specificity in its complaint rules and procedures. Although the board's Chair stated that the board has had few problems with the process, some board members acknowledge that the complaints process needs improvement. The board's Chair suggested that the complaints procedures are not stated in the *Rules and Regulations* because the board follows general rules of due process (which she did not define). In the February 2006 board meeting, a motion was made and passed unanimously for the board to hire an investigator to

handle complaints as needed, but no progress has been made. The board's Chair stated that the board needs to consider when to hire an investigator and where to look for someone who is familiar with the profession and the Code of Ethics.

The board's present method of handling complaints promotes subjectivity, which indicates possible issues regarding fairness.

One board member stated that since the complaints have been rotated among members, the complaints have been pending without much progress. There are currently three outstanding complaints that were filed on the following dates: 6/5/06, 6/12/06, and 12/4/06. Because of the lack of clear procedures for handling complaints, the board is not able to ensure appropriate or consistent action, which affects both the public and the licensee. Because each board member is responsible for creating his/her own complaint handling process, each could have various methods for collecting information, documenting information, corresponding with parties, and presenting information to the board. This method promotes subjectivity, which indicates possible issues regarding fairness.

Minutes of the board do not contain a sufficient record of the disposition of complaints.

The board's *Rules and Regulations* manual specifically states that "All final orders issued by the Board shall be reflected in the Board minutes." However, in some instances, the minutes contain references to final orders of complaints for which no orders were attached. From the limited documentation on complaints located in the board's office, only one file showed documentation of the complaint being resolved (in this case, dismissed) in the form of a letter to the licensee.

The board does not store complaint files in a central, secure location that helps to maintain confidentiality.

The board's complaint files are not located in a central, secure location that is designed to maintain confidentiality of the information contained in the files. Board members keep complaint files in their homes or offices.

Because complaint files are not stored in a central location, the information is not easily accessible to other board members and staff should they need to refer to the files.

The investigating board member retains the complaint files after that board member's investigation is complete. When asked to submit complaint files from 2002 for review, a former board member stated that she would need to "dig around" in her garage to locate them.

Because complaint files are not stored in a central location, the information is not easily accessible to other board members and staff should they need to refer to the files.

Also, storing such files in homes or individuals' offices raises questions about violation of confidentiality regarding the information in the files.

The board does not ensure that all complaint files contain certain specified types of documentation.

When the board does not maintain complete documentation that is uniform for all complaints, it does not have a basis for consistently administering timely and reasonable disciplinary actions against incompetent or unscrupulous licensees.

The board's *Rules and Regulations* manual does not specify the types of documentation that should be present in all complaint files. As previously noted, the board relies on its members to select the types of documentation that they will keep in complaint files. One board member produced documentation for PEER from the files she investigated from 2003 to 2006; however, complete files were not submitted, nor did the board's office have documentation for most of these complaints.

When the board does not maintain complete documentation that is uniform for all complaints, it does not have a basis for consistently administering timely and reasonable disciplinary actions against incompetent or unscrupulous licensees.

Failure to Publicize Disciplinary Actions

The board's current practice of not publicizing information on disciplinary sanctions limits the public's and licensed counselors' awareness of rules infractions and their consequences.

MISS. CODE ANN. Section 73-30-1 et seq. (1972) does not require the board to provide information to the public regarding sanctions against licensees. The board currently reports license revocation information to a National Practitioner Database that is maintained by the U.S. Department of Health and Human Services' Practitioner Data Banks Branch; however, the public does not have access to this database. It is available only to entities such as state licensing boards, hospitals, and federal agencies. The National Practitioner Database website states that the database is a "primarily alert or flagging system intended to facilitate a comprehensive review of the professional credentials of health care practitioners, providers, and suppliers." Therefore, in order for someone to learn about a licensee's complaint history, that person would have to contact the Board of Examiners for Licensed Professional Counselors. (As noted in the previous section, PEER believes the board's complaints process to be inadequate.)

The board does not use an adequate method of disseminating information to the public regarding

sanctions. The only method currently used is responding to requests from the public. Also, as noted in the previous section, because the board does not maintain general information on complaints and/or resolutions of complaints, it cannot ensure that an accurate response is given. Other states use such methods as board websites (e.g., Florida) and periodic newsletters distributed to licensees (e.g., Arkansas) to disseminate such information. While the board's website allows the public to search for a currently licensed professional counselor, the website does not contain information regarding disciplinary sanctions against counselors.

The only method the board uses to disseminate information to the public regarding sanctions is responding to requests from the public. Because the board does not maintain general information on complaints and/or resolutions of complaints, it cannot ensure that an accurate response is given.

The board should provide information that is easily accessible to the public regarding sanctions against licensees so that the public can make informed choices when obtaining counseling services.

The American Counseling Association, when providing reasons for states to have counselor licensure laws, stated that those vulnerable populations seeking counseling services should not be unprotected and that licensure safeguards freedom of choice. However, the Board of Examiners for Licensed Professional Counselors' lack of disclosure to the public regarding sanctions defeats this purpose.

The board's Chair suggested that it has considered posting the information on the website or in a newsletter; however, the board has not decided the most appropriate way of doing so. As previously noted, at present the public could choose a counselor from the board's online directory and unknowingly obtain counseling services from licensed professional counselors who have had sanctions against them, thereby placing themselves at an increased risk of harm, depending on the reason for the sanction.

Problems with Financial Management

The Board of Examiners for Licensed Professional Counselors has not established a proper internal control environment and, as a result, does not have assurance that any of its financial information is accurate or complete.

The Internal Control Environment

The management of any organization is responsible for establishing a proper control environment. Management's attitude toward providing strong internal controls directly impacts the effectiveness of the organization's accounting system. As stated in *Auditing, A Risk Management Approach* (5th Ed.) by Larry Konrath:

*The control environment is determined by the attitudes of the persons in charge of the internal control system. Management's attitude toward control has a significant impact on control effectiveness; thus, management must be **strongly supportive** of internal control and must **communicate that support** throughout the organization. Management that does not possess a control-conscious attitude will serve to undermine the system. . . .Lack of concern for accurate accounting can negate other controls and cause the entire system to be ineffective. Internal control is only as strong as the **ethics and competence** of the persons who are responsible for it. (Author's emphasis)*

An internal control system is a system of checks and balances put into place by management of an organization to provide reasonable assurance regarding the achievement of objectives in the reliability of financial reporting, compliance with applicable laws and regulations, and the effectiveness and efficiency of operations.

For state entities such as the Board of Examiners for Licensed Professional Counselors, the Department of Finance and Administration provides guidelines for internal controls through its state agency accounting policies and procedures—i.e., the Mississippi Agency Accounting Policy and Procedure Manual.

During its review, PEER found deficiencies in four areas of the board's financial operations:

- separation of accounting duties;

- cash management;
- financial reporting; and,
- service contracts.

As is demonstrated in the following sections, the board's apparent lack of concern for a strong internal control environment contributes to deficiencies found in these areas.

Lack of Separation of Accounting Duties

The board's lack of separation of accounting duties violates state agency accounting policies and procedures set forth by the Department of Finance and Administration and compromises the accuracy and completeness of the board's accounting records. Because of this condition, the board cannot ensure the public that its operations are reasonably free from fraud.

An effective internal control environment includes, to the degree possible and practical, adequate separation of accounting duties. The purpose of separation of accounting duties is to create an environment in which a misstatement would be identified. If duties are properly separated, overriding the system of internal controls would require collusion by employees. Strong internal controls regarding separation of duties reduce the risk of the misuse of funds, misstatement of accounting records, and fraud.

In effect, the Executive Director has absolute control over the billing and collecting process and the accountant has absolute control over the depositing and accounting process, with no independent verification as to the accuracy of these actions.

Contrary to state agency accounting policies and procedures, the board's Executive Director mails renewal notices to licensees, collects fees, accounts for amounts received and forwards fee collections to the board's accountant without independent verification of the accuracy of these actions. In addition, the board's accountant deposits fee collections into the State Treasury without independent verification of the accuracy of the deposits.

The board's Executive Director, who is located in Yazoo City, is responsible for preparing and mailing renewal notices to licensees. As licensees remit fees for renewals and other services provided by the board, such as testing, the Executive Director enters amounts received into a cash log and forwards the checks or money orders to the board's accountant (who is located in Jackson). No third party reconciles the Executive Director's cash log to renewal notices mailed to licensees or checks and money orders forwarded to the board's accountant. Therefore, no independent party ensures that all amounts that should have been collected and forwarded were in fact received and forwarded. In addition, no third party reconciles the

accountant's deposit of fee collections into the State Treasury with billing or accounting records to ensure that checks and money orders that should have been deposited were, in fact, deposited. In effect, the Executive Director has absolute control over the billing and collecting process and the accountant has absolute control over the depositing and accounting process, with no independent verification as to the accuracy of these actions.

Subsection 30.30.20 (A) of the Department of Finance and Administration's state agency accounting policies and procedures states:

Division of duties in the handling of cash is one of the most effective ways to ensure control of cash. No one individual is to have complete control in the handling of cash. Specifically, there is to be a separation of duties in the actual handling of money, recording the transactions, and reconciling bank accounts. Employees handling cash are to be assigned duties that are complementary to or checked by another employee.

In addition, Subsection 30.40.30 (A), states:

. . .there is to be a separation of duties with regard to billing, collection, cash receiving, receivables accounting, and the maintenance of general ledger accounts.

Thus, the board's procedures for receiving and accounting for and depositing cash received from licensees violate state agency accounting policies and procedures.

In 2004, the Department of Audit found that the board's internal control procedures were deficient.

In its 2004 Limited Internal Control and Compliance Review of the Board of Examiners for Licensed Professional Counselors, the Department of Audit found that the board's internal control procedures were deficient and recommended that "reconciliations should be performed by an individual who is independent of the deposit process to ensure the agreement of the amounts deposited to the amounts recorded in the check log and the licensing system." The board responded to the Department of Audit that the accountant would e-mail the company that functioned as the board's administrator in 2004 to confirm the amount of the deposits. In addition, the accountant would prepare and utilize a worksheet to reconcile amounts remitted to the State Treasurer. While these proposed actions might have resulted in more documentation of the receipting and depositing process, they would not address the basic segregation of duties and reconciliation problems observed by PEER.

While PEER recognizes that it is difficult for an entity such as the Board of Examiners for Licensed Professional Counselors to achieve segregation of duties with a limited number of employees and PEER did not audit for or observe any fraudulent activities, it is incumbent upon the board to ensure that its financial management processes are above reproach.

Lack of Proper Cash Management Procedures

Principles of internal control require that organizations take particular care in the handling of cash to avoid loss, misappropriation, or theft of funds. As discussed below, the Board of Examiners for Licensed Professional Counselors has not consistently taken steps to safeguard cash receipts and make timely deposits of cash.

Contrary to MISS. CODE ANN. Section 7-9-21 and state agency accounting policies and procedures, the board does not immediately account for collections received or deposit such collections in the State Treasury in a timely manner.

MISS. CODE ANN. Section 7-9-21 (1972) states the following regarding the collection of public funds.

. . . All state officials shall make a detailed report to the State Fiscal Officer and pay into the State Treasury all public funds...which are required to be paid into the Treasury. Such funds shall be deposited in the State Treasury by the end of the next business day following the day that such funds are collected. . . .

For the period March 15, 2006, to March 21, 2007, as many as forty-nine days passed before the Executive Director made an entry in the cash log, even though applicants for licensing were remitting payments to the board during the period.

The section also allows the Department of Finance and Administration (DFA), with the advice and consent of the State Treasurer, to promulgate regulations to provide for other than daily deposits of accounts by a state agency. In 1998, DFA promulgated a policy whereby state agencies must deposit funds into the State Treasury when such funds accumulate to \$1,000 or on a weekly basis, whichever occurs first. Subsection 30.40.20 (B) of the state agency accounting policies and procedures states that "cash is to be documented immediately upon receipt" in order to safeguard the cash until its deposit.

As stated on page 37, the board's Executive Director initially receives checks and money orders from licensees. The Executive Director is responsible for entering amounts received into a cash log and forwarding the collections to the board's accountant for deposit in the State Treasury.

Of ninety-two checks received and deposited into the State Treasury from November 11, 2006, through March 26, 2007, the average time that lapsed between the date licensees wrote the checks and the date that the checks were deposited in the State Treasury was thirty-five days.

PEER determined that the Executive Director does not immediately record all collections upon receipt. Rather, the Executive Director collects checks before recording them in the cash log and forwarding them to the accountant, thereby increasing the risk of misplacement of money received by the board. For the period March 15, 2006, to March 21, 2007, as many as forty-nine days passed before the Executive Director made an entry in the cash log, even though applicants for licensing were remitting payments to the board during the period.

The Executive Director and accountant also do not comply with state agency accounting policies and procedures by depositing collections in the State Treasury when they reach \$1,000 or within a week. PEER reviewed records of ninety-two checks received and deposited into the State Treasury from November 11, 2006, through March 26, 2007. The average time that lapsed between the date licensees wrote the checks and the date that the checks were deposited in the State Treasury was thirty-five days. Additionally, twenty-three, or 25%, of the ninety-two checks had been outstanding more than fifty days before being deposited.

In 2004, the Department of Audit noted that the board did not deposit cash receipts into the State Treasury in a timely manner in some instances. The board did not dispute the audit finding.

In its 2004 Limited Internal Control and Compliance Review of the Board of Examiners for Licensed Professional Counselors, the Department of Audit noted that the board did not deposit cash receipts into the State Treasury in a timely manner in some instances. The board did not dispute the audit finding and stated that it would seek to implement procedures to deposit funds in a timely manner as required by law given its limited staff. To date, such procedures have not been implemented and the board continues to be in out of compliance with state law regarding timely deposits.

Insufficient Financial Reporting

Rather than requiring its staff to submit reports regarding the agency's financial condition for each of its quarterly meetings, the board requires only an annual financial report that is limited because of its method of presenting expenditures.

The board's quarterly meeting agenda does not include an item designated for the review of financial information regarding the agency's operations. According to its accountant, the board receives an annual financial report that categorizes the agency's revenues by renewals/licenses, exams, and other collections and major objects of expenditures, such as travel, contractual services, and commodities. Although the report includes some detailed information on expenditures (e.g., amounts spent for telephone, training, postage, and cell phone), the

report does not present the information by minor object expenditure codes used in the state's accounting system. Therefore, the expenditure information presented cannot be reconciled with annual expenditures reported in the agency's budget request.

The board does not adopt an operating budget at the minor object level for each fiscal year and thus has no benchmark from which to monitor expenditure trends.

Also, the board does not adopt an operating budget at the minor object level for each fiscal year; therefore, the board has no benchmark from which to monitor expenditure trends.

Because the board has a fiduciary responsibility regarding the receipt and disbursement of public funds, prudent financial management principles require that the board stay abreast of the agency's financial condition. Because board members are part-time and not involved in the day-to-day management of the agency, they are dependent on financial information prepared by the staff to use in exercising their fiduciary responsibilities.

Lack of Service Contracts

The board has not formalized its relationship with its part-time accountant through a written contract.

As stated on page 6, the board's accountant is not a full-time employee of the board but works for the board on a part-time basis. PEER determined that the board has not entered into a contract with this individual that describes the accountant's scope of duties, compensation, and term of service. The accountant is an employee who works full-time for a state agency other than the Board of Examiners for Licensed Professional Counselors and receives \$200 per month for services rendered to this board. Reportedly, the board has never entered into a contract with the accountant, although the agency's relationship with the individual spans more than twenty years.

Without a written contract with its part-time accountant, the board could be exposed to a future liability without documentation of that liability.

Prudent management principles dictate that an entity such as the board ensure that it receives the amount and quality of services for which it is paying. A written contract would provide a way to clearly define and document duties, responsibilities, and payment due from both parties. Without a written contract, the board could be exposed to a future liability without documentation of that liability. A written contract would also serve to guide future board members in the expectations for service providers.

In its 2004 Limited Internal Control and Compliance Review of the Board of Examiners for Licensed Professional Counselors, the Department of Audit noted that the board had not obtained written agreements for contractual services performed for the agency. In its

response to the Department of Audit report, the board stated that written agreements would be obtained. To date, the board has not entered into a formal contractual arrangement with its accountant.

Recommendations

Potential for Compromised Independence of the Process for Nominating Board Members

1. The Legislature should amend MISS. CODE ANN. Section 73-30-5 (1972) to include a provision that no sitting member of the Board of Examiners for Licensed Professional Counselors may advise the Mississippi Counseling Association regarding board replacements. The board should also implement a rule mandating that if an individual is an officer of the Mississippi Counseling Association as well as a sitting member of the Board of Examiners for Licensed Professional Counselors, he or she should recuse himself/herself from the nominating process.

Needed Improvements in the Licensure Process

2. Prior to the 2009 legislative session, the board should request an official opinion from the Attorney General's office to review the 1995 *Opinion to Reeves* regarding the board's power to define acceptable coursework that relates to the licensure applicant's degree program.

If the opinion is not changed to state that the board's regulatory authority includes the power to define acceptable coursework prior to the 2009 legislative session, the Legislature should amend MISS. CODE ANN. Section 73-30-9 (f) (1972) to allow the board the power to define acceptable coursework that must be included in the degree program.
3. If the board receives explicit statutory authority to define licensees' coursework requirements, the board should consider conducting, or contracting with an industrial/organizational psychologist or job analyst to conduct, a content validation study to substantiate the relationship between the coursework requirements and competence as an entry-level counselor.

4. Prior to an applicant's supervision, the board should require the submission of a signed contract or agreement between supervisors and supervisees stating what is required from each party. Further, the board should develop a standard appraisal instrument by which supervisors of post-master's supervised experience (who have been specifically trained in the use of the appraisal instrument) evaluate supervisees and a standard form for periodic reporting of supervised hours and content of the clinical experience. These requirements would then create a need for the board to adopt a policy to determine how negative information from the appraisals will affect the decision of whether to issue a license.
5. The board should adopt the NCMHCE for use after an applicant's post-master's supervised experience to measure clinical expertise.
6. The Legislature should amend MISS. CODE ANN. 73-30-25 (1972) to remove the exemption for professionals registered, certified, or licensed by a recognized state or national association that has a published code of ethics.
7. The board should re-evaluate the exemptions of other groups listed in MISS. CODE ANN. 73-30-25 (1972) in view of the risk potential presented by the possible practice of unqualified persons and make recommendations to the Legislature by January 1, 2009, on whether to remove additional exemptions from this section.
8. The Legislature should amend MISS. CODE ANN. Section 73-30-9 (c) to require the following:
 - that the board will conduct background checks on all applicants for licensure;
 - that for purposes of these background checks, "good moral character" shall be established by an absence of felony convictions or convictions for misdemeanors involving moral turpitude; and,
 - that the board may request the assistance of the Department of Public Safety, as well as consulting sex offender registries, in checking criminal histories of applicants.

Additionally, the board should also consider providing to the Legislature for its consideration a list of criminal violations that should disqualify a person from receiving a license.

Inadequate Monitoring of Continuing Education of Licensees

9. To ensure licensees' compliance with provisions of MISS. CODE ANN. Section 73-30-29 (1972) regarding completion of twelve hours of continuing education before license renewal, the Board of Examiners for Licensed Professional Counselors should require that licensees submit documentation of completion of these requirements annually along with their renewal application and fee. Additionally, the Legislature should amend Section 73-30-29 to give the board the expressed authority to conduct audits of licensees' continuing education as it deems necessary.
10. The Legislature should amend MISS. CODE ANN. Section 73-30-9 (1972) to require each licensure applicant to submit a statement to the board defining his/her scope of practice. This statement should include the identification of such aspects as the nature of the counselor's practice (e.g., private practice, academia), the types of disorders the counselor intends to treat, and the types of assessment instruments the counselor will use in his/her diagnoses.

The board should consider the licensee's scope of practice when reviewing documentation from continuing education audits. Specifically, the board should be able determine that the continuing education course or offering is related to the licensee's scope of practice. For example, the board could require licensees to submit a standardized form to include field of practice and a listing of related continuing education activities.

Inadequacy of Complaints Process

11. To improve its management of complaints against licensees, the board should implement the following:
 - maintain a log of complaints, including the case number, the complainant's name, the licensee's name, the nature of the complaint, the name of the board member assigned to the case, date assigned to the board member, the

result of the complaint, disciplinary action taken, and the date case closed;

- develop written guidelines for recordkeeping of complaint information, including the designation of a central location for complete files and defining recordkeeping responsibilities of board members;
- adopt formal, written rules or procedures that clearly delineate the board's policies for all phases of the complaint process, including complaint receipt, investigation, adjudication, resulting sanctions, and disclosure to the public. Further, the rules should provide guidelines for maintaining thorough documentation, protecting the confidentiality of the parties involved, and general timelines for each phase of the process.

Failure to Publicize Disciplinary Actions

12. The board should make information on final disciplinary orders and sanctions readily available to the public through the board's website and in a periodic newsletter distributed to licensees. The board should maintain its website to reflect up-to-date information and increase its utility in public awareness.

Problems with Financial Management

13. The board should consider the feasibility and cost effectiveness of contracting out its financial operations to an accounting or bookkeeping firm. Should the board choose not to enter into a contract for its financial operations, the board should immediately adopt policies and procedures and oversight controls to:
 - ensure that the Executive Director records and accounts for all remittances received by the board immediately upon their receipt;
 - comply with state agency accounting policies and procedures by depositing collections into the State Treasury when

such collections reach \$1,000 or on a weekly basis; and,

- require an independent verification, possibly with the assistance of the board's officers, of the Executive Director's recording of cash receipts and the accountant's depositing of cash receipts into the State Treasury.

In addition, the board should enter into a formal contract with its part-time accountant specifying the scope of duties, compensation, term, and other relevant issues.

14. In order to monitor the agency's financial operations, the board should adopt an operating budget for each fiscal year. Once adopted, the board should require the Executive Director and accountant to prepare financial reports detailing revenues from all sources and expenditures by minor object categories, as well as a comparison of revenues and expenditures to date to the agency's operating budget. The Executive Director and accountant should present the financial reports to the board during each quarterly meeting.

Agency Response

The Mississippi State Board of Examiners For Licensed Professional Counselors

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LPC Board Response to the PEER Review Report

Recommendation 1: regarding the process for nominations to the LPC Board.

- The LPC Board members are not part of the nomination process, although on occasion individual members may be asked for information regarding persons qualified and interested in serving on the Board.
- The protocol for nomination and appointment to the LPC Board involves numerous checks and balances. By statute, the Executive Director of the Mississippi Counseling Association (MCA) submits the nominations to the Secretary of State's Office. Each applicant is investigated by that office before a nomination is submitted to the governor. All nominees are not necessarily submitted to the governor by the Secretary of State's Office. By statute, the governor has sole discretion to approve the nominee or whoever he/she so chooses.
- Mississippi Code Section 73-30-5, 1. provides the process for Board nominations.
- There is no prohibition by statute or otherwise to Board members offering information regarding qualified persons who are interested in serving on the LPC Board. Potential members must meet statutory requirements before they can be considered. Because of very specific requirements for membership on the Board as provided by statute, the pool of potential nominees is often very narrow.
- The LPC Board has reminded the MCA Executive Director of approaching Board tenure deadlines in order to assure that nominations are made in a timely manner so as to not interfere with the operation of the Board.
- The LPC Board has no control over the Mississippi Counseling Association nominating process, the Secretary of State investigation or the Governor's choice. After the nominations are made, the MCA Executive Director does copy the Board on the letter of nomination submitted to the Secretary of State's Office.

Recommendation 2: regarding legislation allowing the Board to define acceptable coursework.

- The LPC Board agrees in principle with the usefulness of having legislation which specifically empowers the Board to define acceptable coursework required for licensure. However, based on the empowering legislation for the LPC Board and on General Administrative Law, the LPC Board believes it has the power and the duty to interpret the LPC Law and promulgate rules and regulations to carry out the intent thereof.
- An administrative agency has only those powers which are expressly provided by statute, or necessarily implied, within the four corners of the statutes under which the agency operates. Bay St. Louis Community Association v. Commission on Marine Resources, 808 So.2d 885, 889 (Miss. 2002); Strong v. Bostick, 420 So.2d 1356, 1361 (Miss. 1982).

The following case indicates that the courts in MS strictly interpret the phrase "necessarily implied" as referring to a logical necessity and means that no other interpretation is permitted by the words of the instrument construed, and it has been defined as an implication which yields so strong a probability of intent that any intention

to the contrary cannot be supposed leaving no room for doubt. *Clancy's Lawn Care & Landscaping, Inc. v. Mississippi State Board of Contractors*, 707 So.2d 1080, 1083 (Miss. 1998).

- The LPC Board education requirements are based on the standards of the Council for Accreditation of Counseling and Related Educational Programs. CACREP is an independent agency recognized by the Council for Higher Education Accreditation to accredit master's degree programs.
- The LPC Board is charged with protecting the public. The focus of our standards is to provide the most qualified counselors possible in order to assure that the public is not subjected to individuals who are unqualified and therefore a potential danger. The concern that an individual might be excluded from licensure is secondary to assuring the licensure of the most qualified counselors possible. Strict education requirements are part of the process of assuring qualification for licensure.
- The LPC Board does continuously seek to meet the highest standards possible for counselor licensure and will consult CACREP, the National Board for Certified Counselors (NBCC), and the American Association of State Counseling Boards (AASCB), as well as, other state licensure boards regarding core requirements for educational standards.

Recommendation 3: regarding job analysis and content validation of core educational requirements.

- This would not be feasible or appropriate on a state level.
- Mississippi LPC Board requirements are based on established national standards.
- The LPC Board does continuously seek to meet the highest standards possible for counselor licensure and will consult CACREP, NBCC, and AASCB, as well as, other state licensure boards for job analysis and content validation of core requirements.

Recommendation 4: regarding the supervision of applicants for licensure.

- The LPC Board agrees in principle with reinforcing the supervision process.
- The LPC Board has been in the process of reviewing and writing requirements for the supervision procedure.
- New supervision requirements which become effective July 1, 2008 address this area.
- The Board will review the process and consider the inclusion of objective evaluation standards in the supervisor application form.
- The Board will review the suggestion of requiring licensure applicants to provide a log of clinical hours completed.
- Supervisor's who are LPCs have an ethical obligation to provide professional and ethical supervision. The LPC Board is not in a position to micromanage the supervision process.
- The Board will review other state licensure requirements for best practices in this area.

Recommendation 5: regarding adoption of the National Clinical Mental Health Counselors Examination (NCMHCE).

- The Board has been reviewing this topic for 4-5 years and has been participating in national efforts to standardize testing for the counseling profession. It is the Board's intention to keep Mississippi LPCs on the cutting edge of the profession of counseling.

Recommendation 6: regarding legislation to remove exemption g. from MS. Code Section 73-30-25,

- The Board agrees with the need for this legislation because it stands in the way of the Board being able to adequately protect the public by allowing persons who are only "registered, certified, or licensed" by an association to practice counseling.
- An example of the problem associated with this exemption is an LPC whose license was revoked by the Board following a complaint who attempted to use this exemption to continue to practice.

- In fact, this legislation was submitted to the 2007 legislative session and it was allowed to die in committee.

Recommendation 7: regarding re-evaluating other exemptions allowed in MS.

Code Section 75-30-25.

- The Board has been reviewing these exemptions and agrees with the need to reevaluate and address due to the risk potential involved.
- As stated above, legislation on exemption g. was submitted to the 2007 legislative session, but it died in committee.

Recommendation 8: regarding legislation to allow the LPC Board to require background checks.

- The Board agrees with the need for this legislation. It would further ensure the Board's ability to protect the public.
- In fact, this legislation was submitted to the 2007 legislative session and it was allowed to die in committee.
- The Mississippi LPC Board conducted research on the use of background checks. Our Board members served as panelists for AASCB to report on the use of background checks by state counseling boards.

Recommendation 9: regarding the process of evaluating continuing education.

- The Board agrees to review the continuing education process and consider adding the requirement that all LPCs submit their continuing education at renewal.
- It is implicit, since we have the authority to require continuing education (MS. Code Section 73-30-7, Section 2; and MS. Code Section 73-30-29) that we have authority to audit continuing education. Our Rules and Regulations provide the process for audit (Chpt 6, Section 2, A.).
- We will take this recommendation under advisement and seek an attorney general's opinion.

Recommendation 10: regarding legislation to require licensees to submit a statement of their scope of practice.

- It is not consistent with the practice of counseling to designate specialty areas, similar to the practice of law.
- Counselors develop expertise in certain areas as they develop their practice, but they do not designate themselves as specialists.
- It would be limiting and restrictive to require counselors to submit a statement of scope of practice. Each year the Board does compile a list styled "Current Licensees by Employment Type".
- The Board recognizes that some states do provide for specialization and will review this area for best practices.

Recommendation 11: regarding improving management of complaints.

- The Board agrees to implement an effective Case Log System.
- The Board will update and/or revise the complaint record keeping methods.
- The Board does provide orientation for Board members on Board operating procedures, including the complaints process.
- The Board strongly disagrees with the assertion that the Board has no written guidelines regarding the complaints process for determining the jurisdiction, merit of a complaint, or investigative procedures. The statutes and rules and regulations specifically direct the Board in determining jurisdiction. They provide parameters or the framework to determine whether or not the Board has merit over a particular set of allegations.
- Mississippi Code Sections regarding complaints:
 - 73-30-21 defines infractions
 - 73-30-9 specifies requirements for licensure
 - 73-30-10 and 11 address entitlement to a hearing

73-30-7, Section 2 requires compliance with American Counseling Association (ACA) standards

73-30-13 adopted ACA Code of Ethics

- LPC Rules and Regulations further determine the complaints process based on the above provisions. (Rules and Regulations Chpt. 8)
- Generally, the LPC Board is not aware of any licensure board that "standardizes the investigative process". There is an orientation session provided for new Board members which includes the investigation of complaints. We are expected to question witnesses and review information within the framework of our statute, rules and regulations, and Code of Ethics.
- The Board will review other state licensure Board Rules and Regulations for best practices regarding more formalized standards for investigating complaints that are transparent to a third party.

Recommendation 12: regarding making information about disciplinary orders and sanctions available to the public.

- There is no statutory authority or mandate to publicize disciplinary actions. We are considering revising this process according to what we have authority to do.
- The Board does follow the Open Records Act. (Chpt. 8, Section 3, F. and H.) Anything that is not exempt from public access is made available under the appropriate guidelines.
- Information about disciplinary sanctions and orders is published in the LPC Directory. (Rules and Regulations Chpt. 6, Section 3, F.). Beginning Fall 2007, the LPC Directory will also be available on the Board website.

Recommendation 13: regarding contracting out financial operations.

- Based on current budget allocations, the LPC Board budget would not provide for such accounting operations.
- The Board will develop an effective contract delineating the scope of duties, compensation, term, and other relevant issues for our part-time accountant.
- The Board will investigate other avenues for providing appropriate checks and balances for the Board budget.

Recommendation 14: regarding adoption of an operating budget each fiscal year.

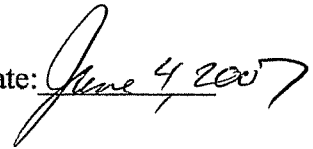
- The LPC Board has an operating budget every year based on the appropriation bill approved by the state legislature and prepared by the legislative budget office.
- The state's accounting system generates monthly expenditure and income reports which are available for review.
- The Board agrees to have quarterly reports prepared and submitted to the Board at its regularly scheduled quarterly meetings.

Respectfully Submitted:



Debra Lee Carr, MA, JD, LPC
Chair, LPC Board

Date:



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