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Department of Child & Family Services

Draft

of

Professional Counsellor's Act

&

Social Worker's Act

2005

PROFESSIONAL COUNSELLORS' AND SOCIAL WORKERS' ACT 2005

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name from Register

**PROFESSIONAL COUNSELLORS'
AND SOCIAL WORKERS' ACT 2005**

Whereas it is expedient to establish a scheme of registration for Professional Counsellors and Social Workers and to provide for connected matters

+1 CITATION

This Act may be cited as the Professional Counsellors' and Social Workers' Act 2003.

2 INTERPRETATION

In this Act:

It is declared to be the policy of Bermuda that the activities of those persons who render services to the public in the counselling and social work areas and use any of the following titles – Registered Counsellor, Licensed Professional Counsellor, Addictions Counsellor, Registered Social Worker and Licensed Social Worker – be regulated to protect the public from unprofessional, improper, unauthorized, unqualified and unethical practice of counselling and social work.

“Counselling”. The practice of professional counselling shall mean the application of relatively short-term, interpersonal, theory-based, professional principles guided by ethical and legal standards that focus on helping persons who have a variety of human concerns:

- Providing professional services involving social, emotional, educational and career-testing and evaluation assistance to individuals, couples, groups, families, and organizations.
- Have various sub-specialties (see first schedule) which have specific educational, experiential and supervision requirements for practitioners.

“Social work practice”. This consists of professionally responsible interventions to individuals, families, small groups, organizations, neighbourhoods and communities. They involve the following:

The disciplined application of knowledge and skill to a broad range of problems which affect the well-being of people both directly and indirectly.

They are carried out at differentiated levels of knowledge and skill through an organized network of professional social workers within the boundaries of ethical norms established by the profession and the sanction of society. Within these norms, the interventions may be carried out in co-operation with other helping disciplines and organizations as part of any human service enterprise.

These interventions serve to:

- Enhance the developmental, problem-solving and coping capacities of people.
- Promote the effective and humane operation of systems that provide resources and services to people.

The provision of assessment, diagnostic, treatment and evaluation services within a relationship between a social worker and client.

- The development, promotion, management, administration, delivery and evaluation of human service programs, including that done in collaboration with other professionals.
- The provision of professional supervision to a social worker, social work student or other supervisee.
- The provision of consultation services to other social workers or professionals in relation to the activities described above.
- Link people with systems that provide them with resources, services and opportunities.
- Contribute to the development and improvement of social policies aimed at improving social conditions.
- The conduct of research or provision of education regarding the practice of social Social work.

“Professional social worker”. An individual who has attained recognized professional preparation in postgraduate qualifications, which include a Master’s or Doctoral degree from an accredited programme of study encompassing the requisite knowledge, ethics and competency related to social work practice. This individual:

- Is sanctioned by society to provide specific services targeted primarily at helping vulnerable populations and engages in efforts to effect change in the people around them and social institutions.
- Has the purpose of helping people to meet social needs or eliminate difficulty so that they might make maximum use of their ability to lead full and satisfying lives and contribute to society.

“Registered/licensed professional social worker”. An individual authorized under this Act to practise professional social work as defined above.

“Professional counsellor”. A person who has completed a required course of study at a Master’s or Doctoral degree level from a program concentrating in the theory and practice of counselling.

- Works only in areas he is competent to handle and administers assessments/uses tools he has been trained to use according to standardized practices.
- Facilitates human development throughout the lifespan.
- Plans, implements and evaluates treatment plans using counselling treatment interventions.
- Work settings include, but are not limited to, schools, mental health centres, hospitals, group homes, private practice, correctional institutions and rehabilitation centres.
- It shall be deemed practising outside the boundaries of professional competency for a registered and/or licensed counsellor to treat any serious mental illness and/or administer drugs if he has not received training and licensing as a mental health counsellor.

“Marriage and family therapist”. A person licensed to practise marriage and family therapy.

- Has a minimum of a Master’s degree with major emphasis in marriage and family therapy.
- Utilizes family systems’ theories and intervention techniques with the belief that individuals and their problems must be seen in context and that the most important context is the family.
- Uses methods of a psychological nature to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions, whether cognitive, affective or behavioural: sexual dysfunction; behavioural disorders; alcoholism; and substance abuse.
- Works with individuals, including individuals affected by the termination of marriage, couples (whether married or unmarried), families and groups.
- Use only methods, techniques and modalities in their practice in which they are appropriately trained.

“Resident of Bermuda”. A Bermudian means a person possessing Bermudian status under the Bermuda Immigration and Protection Act 56.

“Certificate” means a certificate of registration issued under section 8(4)(b).

“The Council” means the Bermuda Professional Counsellors’ and Social Workers’ Registration/Regulatory Council as appointed by the Minister of Health and Family Services.

“The Minister” means the Minister responsible for Health and Family Services.

“Prescribed” means prescribed by regulations.

“Professional misconduct” has the meaning assigned to it in section [?].

“The Register” means the register provided for in section [?].

“Registered professional counsellors” means a person registered under section [?].

“Competency area”. The area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

“Regulations” means regulations made under section 22.

3 TITLE PROTECTION AND SCOPE OF PRACTICE

Use of the title Counsellor or Social Worker is limited to those who are registered and/or licensed under this Act. It shall be unlawful for any person who is not registered/licensed under this Act to engage in the practice of counselling or social work or to use the title licensed professional counsellor or social worker. This Act will define what counsellors and social workers are allowed to do under the law.

Restriction on Use of Professional Names, Etc

- A Subject to this Act, a person shall not in Bermuda
- a take or use or practise or carry on business under any name, style, title or description which includes the words professional counsellor, or
 - b take or use any name, style, title or description (including one consisting of initials) which states or implies that he is a registered professional counsellor
- if he is not a registered counsellor or if he does not hold a valid certificate of registration.
- B A person shall not in Bermuda take or use or affix to any premises used by him any name, style, title or description (including one consisting of initials) which states or implies that he possesses qualifications in the discipline of counselling which he does not, in fact, possess.
- C Subsection A does not prevent a person who is registered as a professional counsellor by a professional body outside Bermuda and is engaged in Bermuda as a lecturer or researcher in counselling from using the title of professional counsellor.

4 ESTABLISHMENT OF LICENSURE COUNCIL – BERMUDA PROFESSIONAL COUNSELLORS REGISTRATION COUNCIL

There shall be a corporate body called the Bermuda Professional Counsellors’/Social Workers’ Registration Council.

- A The functions of the council are to:
- a safeguard the welfare of the public in relation to the services of counselling
 - b assess applications and decide if applicants qualify for registration

- c promote and maintain high standards of practice and monitor adherence to ethical guidelines, and
 - d exercise disciplinary control over registered professional counsellors.
- B The Council shall consist of a chairman and such other members (at least eight members and no fewer than four) as the Minister may determine..
- C Members must have been residents of Bermuda for a period of one year.
- D The Minister of Health and Family Services appoints members of the Council in consultation with the Bermuda Counsellors Association (BCA) and the Bermuda Addictions Certification Board (BACB).
- E All members of the Council must be licensed under this Act for their respective professions.
- F Members of the Council:
 - a must be accessible to inquires, comments and suggestions from the general public
 - b may not have a household member or immediate family member who is a Counsellor or Social Worker or in training to become one
 - c may not have a household member or immediate family member who is employed or has been employed in a commercial or professional field related to counselling or social work; and
 - d may not have had within two years before appointment a substantial financial interest in a person regulated by the Council.
- G The term of a Council member is two years. At the end of a term, a member continues to serve until a successor is appointed and qualifies. The members of the Council may not serve more than two full terms.
- H The Minister may remove a member for incompetence, misconduct or neglect of duty provided the adopted hearing procedures for such actions have been fully executed.
- I Board members shall be compensated in accordance with the relevant law when engaged in authorized Council activities.
- J The Ministry may employ the necessary personnel for the performance of the Council's functions and fix their compensation within the limits of funds available to the Council.

- K The provisions of the Schedule have effect in relation to the constitution of and other matters concerning the Council.

Powers and Duties of the Licensure Council

- A The Council shall administer and enforce the provisions of this Act.
- B The Council shall elect from its membership a chairperson, a vice chairperson and a secretary/treasurer and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Council meetings.
- C The Council shall examine and pass on the qualifications of all applicants for licences under this Act and shall issue a licence or renewal to each successful applicant.
- D The Council may adopt a seal, which may be affixed to all licences issued by the Council.

5 QUALIFICATIONS FOR REGISTRATION

- A Subject to this Act, an applicant is entitled to be registered as a professional counsellor under this Act if he is a Bermudian or is ordinarily resident in Bermuda and satisfies the Council that he meets the relevant criteria.

The Council shall issue a certificate as Registered to an applicant who meets all of the following criteria:

- a Master's degree or higher accredited higher education institution which includes a minimum of forty-eight (48) semester hours¹.
- b Acceptance of the American Counselling Association's (ACA's) or National Association of Social Worker's (NASW's) or a relevant accrediting organization's Code of Ethics and Standards of Practice².
- c Three thousand (3,000) postgraduate hours of activities directly related to counselling/social work.
- d Evidence of good character.

¹ At least twenty-four (24) semester hours need to be in counselling/social work courses. The transcript will verify this.

² The Council may waive the requirement under subsection A.b for post-qualification, supervised experience if satisfied that the applicant has sufficient practical experience.

- e Has passed the National Counsellor (NCE) or other jurisdictional licensure exam.
- f Has successfully completed the application process.

B Application Process

Unless otherwise indicated, an applicant must submit all required information and documentation of credentials to the Council.

Upon examination of applicants' credentials, the Council may, by a majority of the Council members present and voting, consider such credentials adequate evidence of professional competence and recommend to the chairperson of the Council that a licence be approved.

The Council shall issue a licence as a licensed Professional Counsellor/Social Worker to each applicant who files an application in such a manner as the Council prescribes, accompanied by such fee as the Council shall require, who meets the requirements in Section 8, and who furnishes satisfactory evidence of the following to the Council. That the applicant:

- a has reached the age of majority as defined by the laws of Bermuda
- b is a citizen of the Isles of Bermuda or has the appropriate documentation to reside in Bermuda
- c has no record of moral turpitude as indicated by the following evidence:
 - i the applicant who has never been convicted of a felony or crime involving turpitude must submit a sworn statement stating that he/she has never been convicted of a felony or crime involving moral turpitude; or
 - ii if the applicant has been convicted of a felony or a crime involving moral turpitude, it is a rebuttable presumption that the applicant is unfit for licensure unless he/she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensed Professional Counsellor/Social Worker. This may be established by the production of (a) documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least three years has elapsed since release or discharge without subsequent conviction and letters of reference from three persons who have been in contact with the applicant since his/her release or discharge, and (b) any collateral evidence and testimony as may be requested by the Council that

shows the nature and seriousness of the crime, the circumstances related to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes, and any other evidence necessary for the Board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offences.

- iii the applicant has declared to the Council and agrees to continue to declare areas of professional competence through a Statement of Professional Intent, describing the intended use of the licence, the client populations with whom the applicant will work, any areas of counselling specialization, and the counselling procedures the applicant plans to utilize, including the applicant's theoretical orientation and preferred intervention strategies.

6 THE REGISTER OF PROFESSIONAL COUNSELLORS/ SOCIAL WORKER PRACTITIONERS

- A There shall be a register called the Register of Professional Counsellors and Social Workers, which the Registrar General shall maintain at his office.
- B The Register is an official record and shall set forth:
 - a The names, addresses, status and qualifications of registered Counsellors and Social Workers; and
 - b Such other particulars as the Registrar-General considers to be necessary or expedient for identifying registered Professional Counsellors and Social Workers.
 - c It is the Registrar General's duty to keep the Register correct in accordance with the provisions of this Act and the regulations; to erase the names of persons who have died; and to make necessary alterations in the registered particulars of registered counsellors and social workers

7 ANNUAL GAZETTING OF PARTICULARS

- A As soon as may be after 1st January in every year the Registrar General shall publish in the official gazette a notice, in such form as he sees fit, setting forth the names and other particulars entered in the Register on that date.
- B A copy of the latest gazetted such notice is prima facie evidence in all courts that the persons whose names are included in the notice are registered counsellors; and the absence of a person's name from such a notice is prima facie evidence in all courts that he is not a registered counsellor.

8 REGISTRATION

- A A person who desires to be registered as a registered counsellor shall make application to the Council through the Registrar General.
- B The application shall be in the prescribed form and be accompanied by the prescribed fee.
- C The Council shall consider the application and may either approve or reject it.
- D Where the Council approves the application, it shall direct the Registrar General to register the applicant, that is to say, to:
 - a enter the required particulars relating to him in the register
 - b issue to him a certificate of registration in the prescribed form.
- E Where the Council rejects the application, it shall record its decision, and the reasons for it, in writing and direct the Registrar General to inform the applicant.
- F An applicant who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 19.

9 INACTIVE AND PROVISIONAL STATUS

- A Where a registered counsellor/Social Worker intends
 - (a) to be absent from Bermuda or
 - (b) to practise outside of Bermuda for a period of more than twelve (12) months, he may apply to the Council to have his registration designated as inactive and return his certificate to the Registrar General and the Council shall direct the Registrar General to enter a notation on the Register indicating inactive status.
- B When such registered counsellor/Social Worker seeks to return to practise in Bermuda, he may apply to the Council for reissue of a certificate and the Council shall:
 - (a) if satisfied that he continues to meet the qualifications for registration set out in section 5.B, direct the Registrar General to reissue his certificate and remove the notation of inactive status; or
 - (b) if not so satisfied, direct the Registrar General to enter a notation on the Register indicating provisional status for such period as the Council may direct and to require him to undergo a programme of continuing education, supervision or monitoring specified in writing by the Council; and

(c) on completion of the programme referred to in subparagraph b to reissue his certificate and remove the notation of provisional status.

- A Applies to the council for the renewal of his certificate:
- B Pays the prescribed renewal fee by the date on which his certificate expires; and
- C Provides evidence of:
 - a having provided at least 1,000 hours of counselling services per year in two of the preceding three years; or
 - b having met such requirements relating to continuing education as may be prescribed.

10 PRIVATE PRACTICE

Is the independent practice in which an individual who wholly or in part, practices counselling/ social work autonomously, with responsibility for their practice. No counsellor/ social worker regardless of the level of licensure, shall engage in independent practice until such time as the counsellor/social worker shall have worked in a supervised setting and received a minimum of three thousand (3000) hours in a supervised setting in no less than two (2) years

11 RENEWAL OF REGISTRATION AND LICENSURE/CONTINUING EDUCATION

- A Counsellors licensed under this Act shall, every two years, be required to submit a license renewal fee, as established by the Council. No license shall be renewed unless the renewal request is accompanied by evidence satisfactory to the Council of the completion during the previous twenty-four (24) months of relevant professional continuing education experiences and an updated Statement of Professional Intent.

All licences shall be effective upon the date of issuance by the Council and shall expire on the 31st December during the second year of licence.

At least ten (10) days before the current licence expires, the applicant must return the notice properly completed, together with the established renewal fee and evidence of continuing education as approved by the Council. Upon receipt of such evidence, the Council shall issue a renewed license.

Category I - Individual Professional Activities. A maximum of ten (10) of the required thirty-two (32) hours may be earned in this category, which shall include one or more of the following:

- a Participation in an Association of Social Work Board's item-writing workshop (activity will count for a maximum of two hours).
- b Publication of a professional counselling or social work related article or book or initial preparation/presentation of a counselling or social work related course (activity will count for a maximum of ten hours).
- c Presentation of a counselling or social work related in-service training seminar or workshop (activity will count for a maximum of five hours).
- d Provision of a continuing education programme sponsored or approved by an organization listed under Category I (activity will count for a maximum of two hours and will only be accepted one time for any specific programme).
- e Field instruction of counselling or social work graduate students in an accredited graduate school (activity will count for a maximum of two hours).
- f Serving as an executive officer on one of the national professional counselling or social worker associations (activity will count for a maximum of ten hours).
- g Independent or group study including listening to audiotapes, viewing videotapes, reading professional books or articles (activity will count for a maximum of five hours).

Licensed individuals shall notify the Council of any change of address within sixty days. Failure to receive a renewal notice and application forms shall not relieve the licensee from the renewal requirement.

B Continuing education requirements for renewal of an active license:

- a Registered and licensed counsellors and social workers shall be required to have completed a minimum of forty (40) contact hours/continuing education units in the two-year period. A minimum of two of those hours must pertain to the standards of practice and laws governing the profession of counselling and social work in Bermuda or the Code of Ethics of one of the counselling or social work professional associations sanctioned by the Council. Continuing education requirements of the Council should be mailed to all licensed counsellors six months prior to the renewal date.
- b The Council may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not

relieve the licensee of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability/illness, mandatory military service or officially declared disasters.

- c Continuing education hours may be obtained from a combination of Council approved activities in the following categories:

Category I – Formally Organized Learning Activities. A minimum of twenty hours shall be documented in this category, which shall include one or more of the following:

- Accredited university or college academic courses in the relevant disciplines.
- Continuing education programmes offered by universities or colleges accredited by the National Board of Certified Counsellors, Council on Social Work Education or other recognized accrediting body.
- Workshops, seminars, conferences, or courses in the relevant disciplines offered by local social service agencies, public school systems, licensed health facilities, hospitals or health and social service organizations.
- Workshops, seminars conferences or courses in the relevant disciplines offered by an individual or organization that has been certified or approved by one of the following:

The American Counselling Association;
The American School Counsellor Association;
The Bermuda Counsellors Association;
The Bermuda Addictions Certification Board;
The Child Welfare League of America and its affiliates;
The National Association of Social Workers and its affiliates;
Individuals or organizations that have been approved as continuing education providers by the association of Social Work Boards.

Category II – Individual Professional Activities. A maximum of ten of the required thirty-two hours may be earned in this category, which shall include one or more of the following:

- Participation in an Association of Social Work Board’s item-writing workshop (activity will count for a maximum of two hours).

- Publication of a professional counselling or social work related article or book or initial preparation/presentation of a counselling or social work related course (activity will count for a maximum of ten hours).
- Presentation of a counselling or social work related in-service training seminar or workshop (activity will count for a maximum of five hours).
- Provision of a continuing education programme sponsored or approved by an organization listed under Category I (activity will count for a maximum of two hours and will only be accepted one time for any specific program).
- Field instruction of counselling or social work graduate students in an accredited graduate school (activity will count for a maximum of two hours).
- Serving as an executive officer on one of the national professional counselling or social worker associations (activity will count for a maximum of ten hours).
- Independent or group study including listening to audiotapes, viewing videotapes, reading professional books or articles (activity will count for a maximum of five hours).

12 LAPSE OF CERTIFICATE

A registered counsellor/ Social Worker who fails to apply for renewal for his certificate before the expiry date ceases to be a registered counsellor and the Council shall direct the Registrar General to delete his name from the Register.

When such licensee seeks to return to practise in Bermuda, he may apply to the Council for reissue and the Council shall, if satisfied that he continues to meet the qualifications for registration and licensure set out in sections 6 and 8, direct the Registrar General to reissue his certificate and remove the notation of inactive status, or, if not satisfied, direct the Registrar General to enter a notation on the Register indicating provisional status for such a period as the Council may direct.

13 VOLUNTARY REMOVAL OF NAME FROM REGISTER

A registered counsellor/ Social Worker who desires to have his name removed from the Register shall make application for the purpose to the Registrar General, surrendering his certificate and the Registrar shall thereupon make necessary alterations to the Register.

14 STRIKING-OFF NAME FROM REGISTER

- A If the Council is satisfied that:
- a a registered counsellor/ Social Worker has been convicted, whether in Bermuda or elsewhere, of an offence for which he has been sentenced to imprisonment without the option of a fine
 - b the name of a registered counsellor/ Social worker has been struck off a register kept outside Bermuda by a recognized professional body, or
 - c A registered counsellor/ Social Worker is guilty of professional misconduct

the Council shall, subject to this Act, decide whether the registered counsellor's/social worker's name should be struck off the register.

- B The expression "a recognized professional body" in subsection A.b means a body of professional counsellors established in a country outside Bermuda, being a body which:
- a has disciplinary powers over counsellors in that country, and
 - b is recognized by the Council for the purposes of this section.

In relation to any particular registered counsellor/ Social Worker, a body may be recognized by the Council under subsection B.b for the purposes of this section after he has been struck off by that body.

- C It is the duty of every registered counsellor/ Social Worker who is convicted as mentioned in subsection A.a to inform the Council forthwith of that fact and the attendant circumstances.
- D Before the Council decides to strike a registered counsellor's/ Social Worker's name off the Register, it shall enquire into the matter and in respect of any such enquiry the Council:
- a may take evidence on oath, and for that purpose, the chairman of the Council may administer an oath
 - b shall allow the registered counsellor/ Social Worker to:
 - appear before the Council
 - be represented by counsel
 - produce and cross-examine witnesses
 - generally make a full defence or explanation in the matter.

- E Where the Council decides to strike a registered counsellor's/ Social Worker's name off the Register, it shall direct the Registrar General but before such a decision or direction can take effect the Council must inform the registered counsellor in writing of what the Council intends so that he may exercise his rights under subsection F if he wishes.
- F A registered counsellor/ Social Worker who receives a notice in writing as mentioned in subsection E may appeal to the Cabinet against the decision in question under section 18.
- G Where a decision to strike a registered counsellor's name off the Register has taken effect, the Registrar General shall:
 - a inform him by notice in writing that his name has been so struck off
 - b by the same or another notice require him to return to the Registrar General his certificate or registration within fourteen (14) days of his receipt of the notice; and
 - c publish in the official gazette notice of the striking-off.

15 CONDUCT OF REGISTERED COUNSELLORS/ SOCIALWORKERS

- A The Council shall establish a Code of Conduct for registered counsellors/ Social Workers ("the Code").
- B The Council shall publish in the official gazette:
 - a the Code as first established, and
 - b every amendment of the Code.
- C The Code shall prescribe the meaning of the expression "professional misconduct".
- D The general standard of professional conduct required of counsellors/Social Workers is that they practise only within the boundaries of their competence based on their education, training, supervised experience and professional experience.
- E If an allegation of professional misconduct by a registered counsellor/ Social Worker is brought to the notice of the Council, the Council shall enquire into the allegation and the following provisions of this subsection have effect in relation to any such enquiry:
 - a The Council shall allow him:

- i To appear before the Council
 - ii To be represented by counsel
 - iii To produce and cross-examine witnesses;
 - iv Generally to make a full defence or explanation in the matter.
 - b The proceedings are deemed to be judicial proceedings for the purposes of the provisions of the Criminal Code relating to perjury.
 - c The Council shall exercise its powers under the Code and inform the registered counsellor of its decision by notice in writing.
 - d The registered counsellor may appeal to the Cabinet under section 19.
- F Without prejudice to subsection E, the Council may on its own motion investigate any allegation or evidence that appears to show that a registered counsellor/ Social Worker has failed to comply with any provision of this Act, the regulations, the Code or any other professional or ethical standards adopted by the Council.
- G Where the Council is satisfied of such failure, after due enquiry under subsection E, the Council may exercise any powers conferred by this Act to suspend or restrict a certificate or to require the registered counsellor/ Social Worker to undergo a programme of continuing education, supervision or remediation.

16 SUSPENSION OR RESTRICTION OF CERTIFICATE

- A Where it appears to the Council that a registered counsellor/ social worker:
- a is inefficient or negligent in carrying out his professional functions
 - b has become incapable of properly carrying out his professional functions by reason of age; or
 - c is addicted to alcohol or drugs to an extent which makes him unfit to carry out his professional functions
- the Council, after holding an enquiry into the matter, may, if it finds the matter proved, decide:
- d to suspend his certificate for such period as the Council may direct; or
 - e restrict his certificate to practise under the supervision of another registered counsellor until that other registered counsellor/ social worker certifies to the Council that the supervised counsellor is mentally and physically fit to continue to be registered.

- B Where the certificate of a registered counsellor/social worker is suspended or restricted under subsection A, the Council shall direct the Registrar General to enter the notation “Suspended” or “Restricted”, as the case may be, in the registered particulars relating to that counsellor.
- C The provisions of section 14 relating to enquires, notices, appeals, return of certificates and actions by the Registrar General apply, with the necessary changes, to a decision to suspend or restrict a certificate as they apply to a decision to strike a registered counsellor’s name off the register.

17 RESTORATION OF NAME AND TERMINATION OF SUSPENSION, ETC

- A A registered counsellor:
 - a whose name has been removed from the Register under section 13
 - b whose name has been struck off the Register under section 14, or
 - c whose certificate has been suspended or restricted under section 16

may, after the expiration of three months after the date of the removal, striking-off, suspension or restriction, as the case may be, apply to the Council for his name to be restored to the Register or, as the case may be, for the suspension or restriction on his certificate to be terminated.
- B The application shall be on the prescribed form and be accompanied by the prescribed fee.
- C Upon receipt of the application, the Council shall consider:
 - a the character and professional ability of the applicant
 - b where his name was struck off the Register, the offence for which his name was so struck off
 - c his conduct after his name was removed from or struck off the Register or the suspension or restriction of his certificate was imposed and any action taken for remediation or rehabilitation
 - d any relevant provision of the Code, and
 - e any other circumstance appearing to the Council to be relevant

and shall then in light of those considerations decide to restore the applicant’s name to the Register or not so to restore it, or to terminate it, as the case may require.

- D Where the Council has made a decision under subsection C, it shall give the Registrar General the requisite directions for implementing the decision, including in the case where the applicant's name is to be restored to the Register a direction to issue to him a fresh certificate of registration, but before such a decision or direction can take effect the Council must inform the applicant in writing of what the Council intends so that he may exercise his rights under subsection E if he so wishes.
- E A person who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 19.

18 RECIPROCITY/ENDORSEMENT

- A The Council may enter into a reciprocal agreement with any jurisdiction that credentials professional counsellors/social workers if the Council finds that the jurisdiction has substantially the same or higher licensure requirements.
- B The Council may license any person who is currently licensed, certified or registered by another jurisdiction if the applicant has met the requirements determined by the Council to be substantially similar to or exceeding those established under this article.
- C The Council shall delineate in rules and regulations procedures regarding the verification of an applicant's credential(s) from another jurisdiction
- D The Council will not license by reciprocity or endorsement any applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this law until such a time as the investigation is complete. When deciding such a case, the Council will determine what, if any, rules of discipline cited in this law apply.

19 APPEALS TO THE CABINET

- A A person who is aggrieved by a decision to which this section applies may within fourteen days after the relevant date ("the appeal period") appeal to the Cabinet against the decision by notice in writing to the Secretary to the Cabinet setting out the grounds of his appeal; and the Cabinet shall decide the appeal and make such order in the appeal as seems just.
- B Once the Cabinet has decided an appeal under subsection A, the Council and the Registrar General shall implement the Cabinet's decision and guide themselves accordingly.
- C The decisions to which this section applies, and the relevant date in relation to each such decision, are as set forth in the following table:

<u>Decision</u>	<u>Relevant Date</u>
Decision referred to in section 8.A	Date on which the aggrieved person received notice of the decision
Decision referred to in section 14.F	Date on which the aggrieved person received notice under section 14.F
Decision under section 15.C	Date on which the aggrieved person received notice under section 15.E.c
Decision under section 16.A	Date on which the aggrieved person received notice of the decision
Decision under section 17.C	Date on which the aggrieved person Received notice under section 17.D.

D A decision to which this section applies affecting a person does not take effect in relation to him [*sense?*] until the expiry of the appeal period or, where he brings an appeal, until the appeal is decided or abandoned.

20 FALSE STATEMENTS

Any person who in connection with any application or other matter failing to be performed under this Act:

- A makes any statement knowing or having a reason to believe it to be false in a material particular, or
- B produces any certificate, diploma or other document knowing or having reason to believe the same to be false

without prejudice to anything in the Criminal Code commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months or to both, and on conviction or indictment to a fine not exceeding \$10,000 or imprisonment for a term not exceeding twelve months or to both.

21 STRIKING-OFF ON CONVICTION UNDER SECTION 20

Where any person is convicted of an offence under section 20, if his name has already been entered in the Register, it may, at the discretion of the Minister, be summarily struck off the Register.

22 AUTHORIZED VISITING PRACTITIONER

- A The Council may, for special reasons, authorize a person who is registered as a counsellor/ social worker by a professional body outside Bermuda to practise in Bermuda for a limited period and subject to such conditions as the Council may impose.
- B A person authorized under subsection A need not be registered as a counsellor under this Act but shall, for the period specified in the authorization, have the powers and privileges of a registered counsellor/ social worker.
- C The following provisions have effect with respect to an authorization under subsection A:
 - a The Council shall be satisfied that there is need for the authorization and that, by virtue of his professional qualifications and suitability, the visiting practitioner would meet that need.
 - b The authorization shall have effect for a period not exceeding three months, subject to a further extension of six weeks.
 - c The authorization shall specify the nature of the practice authorized.
 - d The Council shall specify in the authorization such conditions or restrictions relating to the practice of counselling as the Council may determine.
 - e Notwithstanding paragraph b, the Council may at any time revoke an authorization or alter its period of validity.
- D Any person aggrieved by the refusal or revocation of an authorization or by any condition imposed thereby may appeal against that decision to the Cabinet and section 19 shall apply with the necessary changes.
- E A person authorized under subsection A shall not practise counselling/social work in Bermuda otherwise than in accordance with such authorization.

23 REGULATIONS

- A The Minister may make regulations:
 - a prescribing forms, notices or other documents to be used for the purposes of this Act
 - b specifying the manner in which notices shall or may be served
 - c prescribing documents required to be forwarded with applications under this Act

- d prescribing continuing education and other requirements for the renewal of certification
- e prescribing any other matter or thing which by or under this Act may be or is to be prescribed.

B The Minister shall consult the Council before he makes any regulations.

C Regulations are subject to the negative resolution procedure.

24 OFFENCES

A person who contravenes:

- section 3.A or 3.B
- section 14.D
- a requirement lawfully made of him under section 14.H.b, or
- section 22.E

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding twelve months or both.

25 TRANSITIONAL

Where a person-

- (a) does not meet the qualifications for registration under section 5

the Council may, on payment of the prescribed fee, confer on him /her provisional registration status, issue a provisional certificate for a period not exceeding 24 months, and require him/her within that period undergo a programme of study or continuing education in order to meet those qualifications.

26 COMMENCEMENT

This Act comes into operation on such day as the Minister may appoint for the purpose by notice published in the official gazette.

SCHEDULE

THE BERMUDA PROFESSIONAL COUNSELLORS/ SOCIAL WORKERS REGISTRATION COUNCIL

- 1 The members of the Council shall be appointed by the Minister for a term not exceeding six years.
- 2 A In appointing members to the Council, the Minister shall ensure:
 - a That at any time not fewer than four registered counsellors/ social workers and that, on the initial formation of the Council, the appointments are staggered to establish a rotation.
 - b For the purposes of the first constitution of the Council , paragraph 1 has effect as if for the words “registered counsellors” the words “persons who in the Minister’s opinion are eligible for registration under section 5” were substituted.
- 3 The chairman shall be appointed annually by the Minister from among the members of the Council but so that, if at any time a person holding office as chairman ceases to hold office as such or ceases to be a member of the Council, the Minister shall appoint another member to be chairman in his stead.
- 4 A member whose term has expired may be reappointed.
- 5 If the Minister is satisfied that a member is by reason of ill-health or absence from Bermuda or other sufficient cause unable to perform his duties as a member, the Minister may appoint a registered counsellor/ social worker to act for that member during the period of his incapacity.
- 6 A member may at any time resign his office by giving the Minister a signed notice in writing of his resignation.
- 7 The Minister may at any time declare the office of a member vacant if he is satisfied that the member:
 - A has failed without sufficient cause to attend three consecutive meetings of the Council; or
 - B is incapacitated by physical or mental illness; or
 - C has otherwise become unable or unfit to perform his duties as a member.

- 8 A person appointed to fill a vacancy left by a member who did not complete his term of office may be appointed for the portion not expired of that member's term and no longer, but an appointment to such a vacancy need not be made where the portion not expired of the term is less than three months.
- 9 Three members constitute a quorum at any meeting of the Council.
- 10 If the chairman is absent from a meeting of the Council, the members present shall elect one of their number to act as chairman at that meeting.
- 11 Any question for decision by the Council shall be decided by a majority of the members present and voting. Each member has one vote except that the person presiding has a second vote if there is a tie.
- 12 An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.
- 13 Subject to the above provisions, the Council may regulate its proceedings as it seems fit.

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This report was prepared in consultation with:

Licensed professional Counsellors Peggy Jackson and LeeAnn Simmons who are employed with the Department of Education