An Act amending title 27 of the Virgin Islands Code adding chapter 4A establishing the Board of Licensed Counselors and Examiners, providing for the licensure of persons to practice counseling, and for other related purposes

WHEREAS, the Legislature declares that it is the intent of this Act to ensure that the practice of professional counseling in the Virgin Islands is in the public interest; and

WHEREAS, Virgin Islands residents must be assured that professional counseling services will be provided by qualified professionals, and must be protected from the consequences of unprofessional conduct by persons licensed to practice various disciplines; and

WHEREAS, the practice of professional counseling services is declared to affect the public health, safety and welfare and must be subject to regulation to protect the public from practice by unqualified persons and from unprofessional conduct by persons licensed to practice professional counseling services; and

WHEREAS, the Legislature finds that stress and other professional counseling concerns can severely impair an individual’s physical and emotional well-being; and

WHEREAS, persons in need of professional counseling services must be treated by professionals who are competent and well trained, with a solid academic background; and

WHEREAS, residents of the Virgin Islands in need of professional counseling services who are not treated by competent, trained professionals may suffer severe emotional harm, which may in turn affect their security and well-being; and
WHEREAS, in order to protect the health, safety and welfare of the public, the Legislature finds it necessary to establish minimum standards for persons providing professional counseling services to the public; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 1 Virgin Islands Code chapter 15, section 253, subsection (b) is amended at the end of paragraph (2) by adding “the Board of Licensed Counselors and Examiners”.

SECTION 2. Title 27 of the Virgin Islands Code is amended by adding chapter 4A to read as follows:

“CHAPTER 4A. The Practice of Professional Counseling Services.

§ 201. Definitions. As used in this chapter:
(a) “Appraisal activities” means the selection, administration, scoring, and interpretation of objective assessment instruments which the professional counselor is qualified to employ by virtue of education, training and experience, and the exercise of professional judgment based on the objective assessment and observation of a client’s behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remedy identified problems or to make appropriate referrals.

(b) “Approved continuing education” includes research and training programs, college and university courses, in-service training programs, and seminars and conferences that are approved by the Board of Licensed Counselors and Examiners, as provided in this chapter.

(c) “Approved Supervisor” means an individual who:

(1) is a fully, active, licensed counselor in one of the categories set forth in this chapter;

(2) has two years of supervisory experience approved by the Board of Licensed Counselors, including graduate-level supervision;

(3) has two years of supervised experience;

(4) has documented to the Board of Licensed Counselor and Examiners the completion of the graduate-level supervision course or the equivalent that included two years of supervised experience; and

(5) has documented to the Board the completion of a graduate-level supervision course or the equivalent that included content and experience relevant to the supervision of professional counselors.
(d) "Board" means the Virgin Islands Board of Licensed Counselors and Examiners.

(e) (1) "Counseling" means offering to assist or assisting, for a fee or other compensation, an individual or group through a counseling relationship to develop an understanding of interpersonal and intrapersonal problems and to plan and act on a course of action to restore optimal functioning to that individual or group, the goals of which are to:

(A) Facilitate human development and adjustment throughout the lifespan;

(B) Prevent, assess, and treat emotional, mental, or behavioral disorder and distress which interferes with mental health;

(C) Conduct assessments for the purpose of establishing treatment goals and objectives; and

(D) Plan, implement, and evaluate treatment plans using professional counseling strategies and interventions.

(2) The term does not include the treatment of any mental, emotional or adjustment disorder other than marital problems, parent-child problems, child and adolescent antisocial behavior, adult antisocial behavior, other specified family circumstances, other interpersonal problems, phase of life problems, other life circumstance problems, occupational problems and uncomplicated bereavement.

(f) "Counseling treatment intervention" means the application of cognitive, affective, and behavioral counseling strategies which integrate wellness, pathology and multi-cultural model of human behavior, which applies a combination of mental health and human development principles and procedures to help clients achieve effective mental, emotional, physical, social, moral, educational, spiritual and career development and adjustment throughout their lifespan, and are specifically implemented in the context of a therapeutic relationship.

(g) "Licensee" means a person licensed under this chapter as a licensed substance abuse counselor, a licensed marriage and family therapist, or a licensed professional counselor.

(h) "Licensed counselor" means an individual who renders for compensation counseling services and is licensed under this chapter as a:

(1) Licensed Substance Abuse Counselor (LSAC); and

(2) Licensed Marriage and Family Therapist (LMFT); and
(3) Licensed Professional Counselor (LPC).

(i) "Licensed substance abuse counselor" means an individual who renders, for compensation, chemical dependency or addictions counseling or chemical dependency counseling or addictions counseling related services to an individual, group, organization, corporation, institution, or to the general public, who is trained and experience in chemical dependency counseling and addictions counseling, and who is licensed under this chapter to engage in the practice of chemical dependency and addictions counseling.

(j) "Licensed marriage and family therapist" means an individual who renders for compensation professional marriage and family therapy services to individuals, couples, and families, singularly or in groups, whether such services are offered directly to the general public or through organizations, either public or private.

(k) “Licensed professional counselor” means an individual rendering, for compensation, of professional mental health therapy by means of observation, description, evaluation, interpretation counseling treatment and interventions, including psychotherapy, to effect modification of human behavior by the application of generally recognized professional counseling principles, methods and procedures for the purpose of preventing, diagnosing, treating, or eliminating mental, emotional or behavioral disorder or their symptoms, and the enhancing of interpersonal relationships, work and life adjustment, personal effectiveness, behavior and mental health. The practice of counseling includes conducting assessments for the purpose of establishing treatment goals, objective planning, implementing and evaluating treatment plans using counseling treatment interventions as defined in this section.

(l) “Marriage and family therapy” means the services performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. The practice includes relationship and premarital counseling.

“Counseling” means those techniques used to help persons learn how to solve problems and make decisions related to personal growth, vocation, family, social, and other interpersonal concerns.

(m) “Person” means an individual, firm, corporation, limited liability company, partnership or other organization or legal entity.

(n) “Professional counseling” means the providing of services to individuals, couples, groups, families, and organizations in any one or more of the fields of professional counseling. “Professional counseling” includes the therapeutic process of: (i) conducting assessments and diagnosing for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and
evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

(o) "Recognized educational institution" means any educational institution that grants a Bachelors, Masters or Doctoral degree, and which is recognized by a nationally and regionally recognized education or professional accrediting body approved by the United States Department of Education.

(p) "Referral to" means evaluating and identifying the need of a client to determine the advisability of referral to other specialists, informing the client of such decision and communicating as requested or deemed appropriate, with such referral sources.

(q) "Research" means a systematic effort to collect, analyze and interpret quantitative or qualitative data that describe how social characteristics and behavior, emotion, cognition and interpersonal transactions among individuals and organizations interact.

(r) "Substance abuse counseling" means the services performed to help people who have problems related to alcohol and other drug use that causes social, physical, legal, vocational, or educational distress or impairment.

(s) "Use of a title or description" means to hold oneself out to the public as having a particular professional status, using signs, mailboxes, address plates, stationery, announcements, calling cards, electronic media, or other instruments of identification.

§202. Establishment of the Board.

(a) There is established the Virgin Islands Board of Licensed Counselors and Examiners composed of seven members appointed by the Governor with the advice and consent of the Legislature, but one such member must be a resident of St. John.

(b) Not later than two years after enactment of this chapter, five of the seven Board members must be appointed to the Board and must be individuals who are eligible for licensure under this chapter as follows:

(1) One licensed substance abuse counselor;

(2) One licensed marriage and family therapist;

(3) Three licensed professional counselors; and

(4) Two individuals from the public who meet the requirements established in subsection (e) of this section.
(c) Of the first Board members appointed, three shall continue in office for two years, three for three years, and one for four years. Their successors must be appointed for terms of four years each; except that any person chosen to fill a vacancy shall serve only for the unexpired term of the Board member succeeded. Upon the expiration of a Board member’s term of office, the Board member shall continue to serve until a successor is appointed and qualified.

(d) The Governor shall designate one Board member to serve as the first chairperson. The Board by majority vote of the members present, a quorum being present, shall elect from among its members the second and successive chairpersons, along with the vice-chairperson and the secretary/treasurer. The Board shall determine the manner of election of officers, their duties and their terms of office.

(e) Two years after enactment of this chapter, all members of the Board, with the exception of the two members selected from the general public, must be licensed under this chapter. The two members of the Board appointed by the Governor from the general public, must be individuals who:

1. are accessible to inquiries, comments, and suggestions from the general public;
2. are familiar with mental health issues and applicable federal and local law;
3. may not be or ever have been licensed professional counselors or in training to be licensed professional counselors;
4. may not be or ever have had a household member or of members of their immediate family who are or were a substance abuse counselor, marriage and family therapist, or licensed professional counselor;
5. may not participate or ever have participated in a commercial or professional field related to mental health or human services;
6. may not have a household member or immediate family member who participated in a commercial or professional field related to mental health; and
7. may not have had within two years before appointment a substantial financial interest in a person regulated by the Board.

(f) Four members constitute a quorum for the transaction of all business of the Board.

(g) The Governor may remove a member of the Board for neglect of duty, malfeasance, incompetence, misconduct, or conviction of a felony, if the procedures for such actions have been fully executed.
(h) Board members shall serve without compensation but must be reimbursed for the inter-island expenses incurred in the performance of official Board business.

§ 203. Powers and duties of the Board.
(a) In addition to all powers specifically assigned by this chapter or by other law, the Board has the primary responsibility for the implementation and enforcement of the provisions of this chapter, and without limiting on the generality of the foregoing shall:

(1) examine, license and regulate the following professions:
   (A) Licensed Substance Abuse Counselors;
   (B) Licensed Marriage and Family Therapists; and
   (C) Licensed Professional Counselors.

(2) provide for by regulations procedures for the revocation or suspension of licenses and provide enforcement against any professional outlined in the chapter acting without a license;

(3) examine and pass on the qualification of all applicants for licenses under this chapter, and issue a license to each successful applicant, attesting to applicant’s professional qualifications to be a licensed professional counselor;

(4) adopt a seal to be affixed to all licenses;

(5) schedule and conduct examinations not less than once per year to determine qualifications of applicants after their completion of appropriate educational requirements;

(6) annually publish a registry of names and business addresses of persons who are licensed under this chapter;

(7) maintain a registry of approved supervisors as defined by the Board;

(8) adopt the American Counselors Association Code of Ethics applicable to the practice of professional counseling;

(9) set reasonable fees for applications, examinations, issuance, and renewal of licenses and other services provided by the Board at the rates sufficient to cover operating expenses incurred by the Board in carrying out examination functions;

(10) establish rules for continuing education requirements for licenses;
(11) establish a disciplinary committee to conduct hearings on complaints seeking discipline of a licensee or revocation of a license, and investigations related to the compliance of this chapter;

(12) administer oaths, hear testimony and receive evidence with regard to matters within its jurisdiction and to issue subpoenas, compelling the appearance of witnesses and production of evidence;

(13) issue, modify and revoke orders restraining the violation of this chapter; and

(14) after public hearings, adopt pursuant to 3 V.I.C, ch. 35, such regulations, not inconsistent with this chapter, as considered necessary to carry out the purposes of this chapter.

(b) The disciplinary committee mandated in paragraph (11) of subsection (a) must be composed of fully, active, licensed counselors in the territory.

§204 Operation of Board.
(a) The Board may appoint a committee of three Board members to hear any disputed matter that requires a hearing and make recommendations to the Board for its disposition. At least one member of the committee must be licensed in the area of professional counseling which is involved in the dispute.

(b) The Board may adopt the committee’s decision after reviewing it.

§205. Assistance to the Board from the Department of Licensing and Consumer Affairs.
(a)(1) The director of the Division of Boards and Commissions of the Department of Licensing and Consumer Affairs shall serve as the executive director for the Board, the custodian of records, and exercise responsibility for assembling and reviewing all materials submitted by applicants for licensure applications for completeness, handling the Board’s correspondence, intake of complaints and their presentation to the Board and provide such other assistance as requested by the Board

(2) The Commissioner of Licensing and Consumer Affairs shall provide the Board with professional, secretarial and clerical services, supplies and equipment as necessary to carry out the duties of the Board.

§206. Application for license; qualifications.
(a) An applicant for licensure under this chapter shall:

(1) submit all information and documentation of credentials requested by the Board on the appropriate form as prescribed by the Board;
(2) pay a non-refundable fee, as provided in section 211 not later than 90 days before the date the applicant desires to take the examination;

(3) be at least 21 years of age, of good moral character, and not have been convicted of a felony or a crime of moral turpitude and must not be addicted to alcohol or drugs;

(4) produce certified transcripts verifying satisfactory completion of educational course work or academic degrees as required;

(5) have declared to the Board and agreed to continue the area of professional competence through a statement of profession intent, describing the intended use of the license, the client population with whom the applicant will work, the professional procedures the applicant plans to utilize, including the applicant's theoretical orientation and preferred intervention strategies; and

(6) have validated the competences declared in the Statement of Professional Intent as well as demonstrated knowledge of the appropriate professional counseling field by passing a written examination given by the Board twice a year in the Virgin Islands at times to coincide with the exam date given by the National Certifying Boards of the respective disciplines in the United States whose exams are employed by the Board.

(b) The Board shall perform background screening of each applicant which includes drug screening and criminal record checks for conviction of sexual offences.

(c) The Board shall send an annual notice determined by the anniversary date of the filing of an application to an applicant who does not complete an application in a timely manner. An application not completed within 30 days after the date of the Board's annual notice may be voided; however, by written request to the Board, an applicant may request that the application be kept active for an additional year. Incomplete applications must be retained for one year; however, after that year an applicant must submit a new application and all the required materials, in addition to paying a new application fee.

(d) The general application form must contain:

(1) Specific inquiries regarding the application's personal data, employment and type of practice, other licenses and certifications held, felony or misdemeanor convictions, educational background, including direct clinical experience, supervised experience and references;

(2) The applicant's authorization of the Board to seek any information or references the Board considers necessary and proper to determine the applicant's qualifications;

(3) A statement that the applicant understands that the application fees are non-refundable;
A statement that the applicant, if issued a license, shall return the license to the Board upon the revocation or the suspension of the license;

The applicant’s dated and notarized signature;

The signature of the school official or official university transcript that can formally attest to the completion of an applicant’s clinical practicum; and

The applicant’s authorization for the Board to seek any information the Board considers necessary and proper to determine the applicant’s qualifications, including a background check by the National Crime Investigation Center.

The supervised experience form must contain:

The name of the applicant;

The name, address, degree, licensure status, and credentials of the applicant’s supervisor;

The name, address of the agency or organization where the experience was gained;

The inclusive dates of direct, on-site, weekly supervision provided to the applicant, including individual and group supervised experiences and the types of supervision used;

The applicant’s employment status during the supervised experience;

The types and total hours of direct, face-to-face clinical services provided to individuals, families or couples;

The supervisor’s evaluation of the applicant’s therapeutic skills and competence for independent or private practice; and

The supervisor’s notarized signature.

An applicant shall have the official transcripts showing all relevant graduate or doctoral work sent directly to the Board.

An applicant shall have references submitted by three persons who can attest to the applicant’s therapy skills and professional standards of practice, and shall include:
(1) One reference from a graduate instructor in a university, college or post degree training setting; and

(2) One reference from a licensed or certified professional in the applicant’s field or any other related mental health field.

(f) The Board may require the applicant to submit a vita, resume, or other relevant documentation of the applicant’s credentials.

§207. Application for licensed Substance Abuse Counselor.

(a) The Board shall issue a license as a licensed substance abuse counselor if the applicant:

(1) has met the requirements set forth in section 206;

(2) has demonstrated to the Board the successful completion of a master's or doctorate degree in addictions counseling, professional counseling, counselor education, counseling psychology, community mental health or in a comparable field with a concentration in mental health and substance abuse;

(3) has demonstrated the completion of course work in the core areas, relating to the treatment of clients for alcohol and/or drugs abuse; and

(4) proves that the education received by the applicant was received from an institution of higher education which at the time the applicant graduated, was accredited by the United States Department of Education and by an accrediting body recognized by the Council on Post-Secondary Accreditation the Association of Specialized and Professional Accreditors, or can demonstrate equivalent course work at an institution of higher education located outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Council on Post-Secondary Accreditation or the Association of Specialized and Professional Accreditors.

(A) The applicant shall have received education and training from an institution or higher education program officially recognized by the government of the country in which it is located as an institution or program to train students to practice as addictions counselors or psychotherapist.

(B) The applicant shall have the burden of establishing that the requirements of this paragraph have been met.

(b) The Board may require documentation, such as, an evaluation by a foreign equivalency determination service as evidence that the applicant's graduate degree program and education are equivalent to an accredited program in the United States.
Nothing in this chapter may be construed to authorize a substance abuse counselor to practice medicine, social work, or psychology, to provide counseling for disorders other than substance abuse, or to order, administer, or interpret psychological tests or utilize psychometric procedures.

§208. Application for marriage and family therapists.

(a) The Board shall issue a license as a licensed marriage and family therapist if the applicant:

(1) has met the requirements set forth in section 206;

(2) has demonstrated to the Board the successful completion of a minimum of 60 graduate semester hours, including a master’s or doctoral degree, with emphasis in marriage and family therapy, or a closely related field, and has completed a year of supervised practicum or internship and graduate-level coursework, as prescribed by the Board’s regulations, in each of the following areas:

(A) Dynamics of marriage and the family systems;

(B) General counseling theory and techniques;

(C) Marriage therapy and counseling theory and techniques;

(D) Family growth and development;

(E) Social and cultural foundations of counseling;

(F) Contextual dimension of marriage and family therapy, including studies in areas, such as social trends, family life cycle development stages, human sexuality, ethnic diversity, psychosocial theory; family origin and blended family;

(H) Psychopathology;

(I) Appraisal/assessment and testing of individuals;

(J) Professional orientation and ethics; and

(K) Research and program evaluation.

(3) has demonstrated to the satisfaction of the Board the successful completion of no fewer than three years of post-academic degree experience in a professional setting, including a minimum of 2,500 hours of professional counseling, as defined in section 201, of which 1,000 hours involve direct client contact marriage and family therapy, and a minimum of 300 hours of supervised experience under an approved supervisor;
contact marriage and family therapy, and a minimum of 300 hours of supervised experience under an approved supervisor;

(4) passes the examination requirement established by the Board;

(5) proves that education received by the applicant was received from an institution of higher education which at the time the applicant graduated, was accredited by the United States Department of Education and by an accrediting body recognized by the Council on Post-Secondary Accreditation, the Association of Specialized and Professional Accreditors, or can demonstrate equivalent course work at an institution of higher education located outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by a regional accrediting body recognized by the Council on Post-Secondary Accreditation or the Association of Specialized and Professional Accreditors.

(A) The applicant shall have received his education and training from an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapist.

(B) The applicant shall have the burden of establishing that the requirements of this paragraph have been met.

(b) The Board may require documentation, such as an evaluation by a foreign equivalency determination service as evidence that the applicant’s graduate degree program and education are equivalent to an accredited program in the United States.

(c) Nothing in this chapter may be construed to authorize a marriage and family therapist to practice medicine, social work, or psychology, to provide counseling for disorders other than substance abuse, or to order, administer, or interpret psychological tests or utilize psychometric procedures.

§209. Application for Licensed Professional Counselor.

(a) The Board shall issue a license as a licensed professional counselor if the applicant:

(1) has met the requirements set forth in section 206 of this chapter;

(2) has demonstrated to the Board the successful completion of a minimum of 60 graduate semester hours in counseling, including a master’s or doctoral degree in counseling that includes a practicum or internship in a counseling setting and course work in each of the following areas:

(A) Counseling theory and practice;
(C) Human growth and development, including abnormal development/psychopathology;

(D) Lifestyle and career development;

(E) Group dynamics, processes, counseling, and consulting;

(F) Appraisal/assessment and testing of individuals;

(G) Principles of diagnosis, treatment, planning and prevention of mental and emotional disorders and dysfunctional behavior;

(H) Social and cultural foundation/multi-cultural counseling;

(I) Marriage and family counseling/therapy;

(J) Research and program evaluation; and

(K) Professional orientation and ethics.

(3) has demonstrated to the satisfaction of the Board the successful completion of no fewer than three years of post-academic degree experience in a counseling setting, including a minimum of 2,500 hours of professional counseling as defined in section 201, of which 300 hours involve direct counseling, and a minimum of 300 hours of supervised experience under an approved supervisor;

(4) passes the examination requirement established by the Board; and

(5) proves that the education received by the applicant was received from an institution of higher education, which at the time the applicant graduated was accredited by the United States Department of Education and by an accrediting body recognized by the Council on Post-Secondary Accreditation, the Association of Specialized and Professional Accreditors, or can demonstrate equivalent course work at an institution of higher education located outside the United States, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training substantially equivalent to the standards of training of those institution in the United States which are accredited by a regional accrediting body recognized by the Council on Post-Secondary Accreditation of the Association of Specialized and professional Accreditors.

(A) The applicant shall have received education and training from an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional counselors or psychotherapists.
(B) The applicant shall have the burden of establishing that the requirements of this paragraph have been met.

(b) The Board may require documentation, such as an evaluation by a foreign equivalency determination service as evidence that the applicant's graduate degree program and education are equivalent to an accredited program in the United States.

§210. Exams, issuance of licenses without exams.

(a) The Board shall use the examinations by the national regulatory board of the respective discipline for each of the mental health professionals which the Board considers appropriate when testing applicants to determine their eligibility to become licensed professional counselors.

(b) The Board shall conduct exams at least twice a year, in the fall and in the spring.

(c) In any written examination, each applicant must be identified in such a manner as to maintain the confidentiality of the applicant's examination.

(d) Examinations must include questions in such theoretical and applied fields as the Board considers most suitable to test an applicant's knowledge and competence to practice in the area for which the applicant seeks a license.

(e) The Board may issue a license, without examination, for the practice of substance abuse counseling, marriage and family therapy or the professional counseling to persons who hold a valid and unrestricted license in the Virgin Islands on the effective date of this section and who meet the clinical and academic requirements for licensure as a marriage and family therapist or licensed substance abuse treatment practitioner, respectively. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists or licensed substance abuse treatment practitioners, respectively, by examination in the Territory.

§211. Fees; renewal of license.

(a) An individual licensed under this chapter shall pay a fee of $200 to the Board for the original license. This fee is in addition to an examination fee set by the Board. A license is valid for two years and must be renewed biennially. The fee for a renewal license is $200. Any application for renewal of a license after it has expired requires payment of an additional fee of $50.

(b) An individual licensed under this chapter shall submit at the time of renewal, the license renewal fee, evidence satisfactory to the Board of the completion during the previous 24 months of 40 hours of relevant professional continuing education experiences, and an updated Statement of Professional Intent.

(c) The Board shall mail its continuing education requirements to all persons at least one year to the renewal date.
(d) All fees paid pursuant to this section must be used exclusively to meet the expenses incurred in the administration, regulation and enforcement of this chapter.

§212. Continuing education requirements.
(a) Every licensee under this chapter shall complete continuing education courses as provided in this section.

(b) A licensee shall fulfill continuing education requirements during one-year periods beginning on the first day of a license renewal year and ending on the last day of the renewal year.

(c) A licensee shall complete a minimum of 5 and a maximum of 20 clock hours of continuing education, acceptable to the Board, each year. For purposes of this section, a clock-hour means 60 minutes in an acceptable continuing education course.

(d) A licensee shall successfully complete a three-clock hour course in ethics during every license period, regulated under this chapter every third year.

(e) The licensee shall submit proof of continuing education credits as prescribed by the Board.

(f) Continuing education undertaken by a licensee under this chapter is acceptable if the course is given by an approved provider and falls into one of the following categories:

(1) participation in national conferences, such as the American Association of Marriage and Family Therapy Academy, the American Counseling Association, the American Orthopsychiatry Association, the American Pastoral Association, and the National Association of Social Workers;

(2) participation in conferences in counseling, pastoral work, and psychology or social work which offer training in mental health;

(3) participation in local seminars presented by mental health groups, local hospitals, universities and local agencies;

(4) completing a graduate or institute course in the licensee’s respective mental health discipline; and

(5) by teaching a graduate or undergraduate course in the licensee’s respective discipline at a college or university; except that, graduate work instruction may count for no more than 50 percent of annual continuing education.

(g) The Board is not responsible for approving individual continuing education programs.
(g) The Board is not responsible for approving individual continuing education programs.

(h) Any university, professional organization, or sole provider who meets the criteria established in this section may advertise continuing education in the mental health disciplines governed by this chapter.

(i) The Board shall evaluate each continuing education experience submitted by a licensee on the basis of the following criteria:

1. Relevance of the subject matter to increase or support the development of skill and competence in the mental health disciplines under this chapter;

2. Objectives of specific information and skill to be learned;

3. Subject matter, educational methods, materials, and facilities utilized, including the frequency and duration of the sessions and the adequacy to implement learner objectives; and

4. Sponsorship and leadership of programs including the name of the sponsoring individual’s organization; program leaders, if different from sponsor.

(j) Teaching in approved programs must be in accordance with subsection (f) of this section. Documentation from a sponsor including an evaluative statement is required.

(k) Completion of academic work must be in accordance with subsection (f) of this section. Official graduate transcripts from an accredited school showing completion of graduate hours in appropriate areas for which the license received a grade of at least ‘B’ or ‘pass’ is required.

(l) The Board shall calculate continuing education credits as follows:

1. Parts of the program that meet the criteria in subsection (f) are credited on a one-for-one basis with one clock-hour credit for each clock hour spent in continuing education activity.

2. A graduate course with a total of 45 clock hours or 3 credit hours, or an institute’s post-graduate course with a total of 45 clock hours is accepted as two years or 40 clock hours of continuing education.

(m) Licensees shall submit other types of continuing education annually.

(n) A licensee shall report education units of no fewer than 20 hours annually at the time of license renewal.
§213. Inactive status; fees; reactivation.
(a) Voluntary inactive status results when a licensee has applied to be placed on inactive status and has paid a $50 fee to the Board.

(b) A licensee whose license is in voluntary inactive status may reactivate the license by submitting an application to the Board, filing proof of completion of continuing education requirements, complying with any background investigation required, complying with other requirements prescribed by the Board, and paying a $50 reactivation fee plus any biannual renewal fee due at the time of reactivation.

§214. Suspension; revocation; denial of licenses.
(a) The Board, after notice and an opportunity for hearing, may suspend or revoke the license of any licensee if the licensee has engaged in the following behaviors:

1. Violation of ethical standards of such a nature as to render the individual unfit to provide professional counseling services;

2. Use drugs or alcohol or both to an extent that impairs the licensee’s ability to engage in the practice of professional counseling;

3. Committing any act upon a client which would constitute sexual battery or which would constitute sexual misconduct as defined by the Board;

4. Use of fraud, deception, misrepresentation or bribes in securing any license issued under this chapter or in obtaining permission to take an examination given or required pursuant to the provisions of this chapter;

5. Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception or misrepresentation;

6. Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter;

7. Violation of, assisting or enabling any individual to violate any provision of this chapter or any regulation adopted under this chapter;

8. Impersonation of any person holding a license under this chapter;

9. Revocation or suspension of a license or other authorization to practice counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized by this chapter;

10. Mental impairment or physical disability that impairs the licensee’s ability to engage in the practice of professional counseling services;
(11) Assisting or enabling any person to hold himself out to the public as a licensed substance abuse counselor, licensed marriage and family therapist, or licensed professional counselor when that person is not licensed under this chapter;

(12) The issuance of the license is based upon a material mistake of fact;

(13) Use of any advertisement or solicitation that is false, misleading, or deceptive to the general public or person to whom the advertisement is primarily directed;

(14) Paying a kickback, rebate, bonus or remuneration for receiving a client, or receiving a kickback, rebate, bonus, or other remuneration for referring a client to another professional counselor;

(15) Referring clients to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement;

(16) Failing to make available to a client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the client;

(17) Failing to respond within 30 days to a written communication from the Board concerning any investigation by the Board, or failing to make available any relevant records with respect to any investigation about the licensee’s conduct or background;

(18) Performing any treatment or prescribing any therapy that, by the prevailing standards of the counseling professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(19) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience; or

(20) Conviction of a felony or a misdemeanor involving moral turpitude.

(b) The issuance of a license in the first instance may be denied if the circumstances in subsection (a), paragraphs (2), (4), (8) or (20) of this section are shown to exist.

(c) No license may be denied, suspended, or revoked under subsection (b) without prior reasonable notice and opportunity for hearing, and without a majority vote, of the Board, but the Board, may without prior notice or hearing, temporarily suspend for
up to one year the license of any person convicted of a crime as set forth in subsection (a) (20). The burden of proof is on the Board in any proceeding to suspend or revoke a license.

(d) Any individual may file a complaint with the Board seeking denial, suspension or revocation of a license issued or to be issued by the Board. The complaint must be in a form prescribed by the Board and must be verified under oath.

(e) If the Board determines that a complaint alleges facts, which, if true, would require denial, revocation, or suspension of a license, the Board shall promptly institute a hearing.

(f) Whenever the Board is of the opinion that a complaint does not allege facts that warrant a hearing, the complaint must be dismissed.

(g) A license may expire as a result of failure to comply with section 213 (a).

(h) The Board shall publish, and maintain ethical standards for the professional conduct of its licensees and make the ethical standards available to the public on the Board’s website.

The Board shall promulgate regulations establishing ethical standards for the conduct of persons licensed under this chapter and regulations pertaining to treatment for impaired practitioners.

(a) The Board shall conduct its proceedings in accordance with the requirements of this chapter and regulations promulgated under this chapter.

(b) Any person may represent himself before the Board or be represented by an attorney. Every vote and official act of the Board must be entered into the record. All hearings are subject to the provisions of 1 V.I.C. § 254 (b) and rule-making proceedings are open to the public.

(c) The Board may require by subpoena the attendance and testimony of witnesses and the production of all pertinent books, papers and documents relating to any matter under investigation. The Board shall issue subpoenas upon application of any party to its proceeding.

(d) Witnesses summoned to appear before the Board must be paid the same fees and mileage as witnesses in the Superior Court of the Virgin Islands. When a subpoenaed witness fails to appear, the Board may apply to the Superior Court for an order requiring the person subpoenaed to appear before the Board to testify and produce books, papers or documents.

(e) One or more Board members or a hearing examiner appointed by the Board shall preside at the hearing.
§216. Privileged communication.

(a) In judicial proceedings, whether civil, criminal or juvenile, in legislative and administrative proceedings, and in proceedings preliminary and ancillary thereto, a patient or client, or the patient's or client's guardian or personal representative may refuse to disclose or prevent the disclosure of confidential information, including information containing administrative records, communicated to any person licensed under this Act as a substance abuse counselor, marriage and family therapist, licensed professional counselor, licensed career counselor, or otherwise authorized to practice within the professional counseling field under the laws of this jurisdiction, or to persons reasonably believed to be the patient or client to be so licensed, and their agents, for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder. In the absence of evidence to the contrary, the professional counselor is presumed authorized to claim the privilege on the patient's or client's behalf.

(b) This privilege may not be claimed by the patient or client, or on the behalf of the patient or client by any authorized person, in the following circumstances:

(1) where abuse or harmful neglect of children, the elderly or disabled or incompetent individuals is known or reasonably suspected;

(2) where the validity of a will of a former patient or client is contested;

(3) where such information is necessary for the professional counsel or licensee under this statute to defend himself against a malpractice action brought by the patient or client;

(4) where an immediate threat of physical violence against a readily identifiable victim is disclosed to the professional counselor;

(5) in civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the professional counselor;

(6) where the patient or client, by alleging mental or emotional damages in litigation, puts his mental state at issue;

(7) where patient or client is examined pursuant to court order; or,

(8) in the context of an investigation or hearing brought by the patient or client and conducted by the Board, where violations of this chapter are at issue.

§217. Endorsement.

(a) The Board shall issue a license to an applicant licensed as a similar professional in another jurisdiction where the requirements for licensure are equivalent to or exceed the requirements of this Territory.

(b) The Board shall review the applications for licensure under this chapter from individuals who earned a post-secondary degree from an educational institution
outside the United States. The Board shall determine whether the applicant’s experience and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States and territories. If the applicant’s experience and completed academic program meet such standards, the applicant must be considered to have received the education from an accredited educational institution as required by this chapter.

§218. Board liability.
Members of the Board and any employee or agent of the Board are not subject to civil liability for any act performed in good faith and within the scope of the duties of the Board.

§219. Exemptions.
(a) Nothing in this chapter may be construed to apply to the activities and services of qualified members of other professions licensed under chapters of this title, including such as physicians, psychiatrists, licensed registered nurses, psychologists, or social workers, or to attorneys at law performing counseling in a manner consistent with the scope of practice in their field, their training, and any code of ethics of their professions. However, members of professions licensed under other chapters of this title may not present themselves by use of any title stating or implying that they are licensed counselors under this chapter.

(b) Nothing in this chapter may be construed to apply to the activities and services of a person employed as a counselor by an academic institution, or a federal or territorial agency, or public or private educational institution, when such persons are performing counseling or counseling-related activities within the scope of their employment.

(c) Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee pursuing a course of study in mental health and human services in a regionally accredited institution, if these activities are performed under supervision and constitute a part of the supervised course of study when such a person is designated, for example, an “intern,” or “student”.

(d) Nothing in this chapter may be construed to apply to the activities and services of a non-resident rendered not more than 30 days during any calendar year, if the person is authorized to perform such activities and services under the laws of the state of that person’s residence.

(e) Nothing in this chapter may be construed to apply to the activities and services of a rabbi, priest, minister, or clergy-person of any religious denomination or sect, if such activities and services are within the scope of the performance of regular or specialized ministerial duties.

§220. Unlawful practice; penalties.
(a) It is unlawful for any person to:
(1) Represent himself as a counselor without being licensed under this chapter.

(2) Without being licensed under this chapter, use the title of:

   (A) Licensed Substance Abuse Counselor;
   
   (B) Licensed Marriage and Family Therapist; or
   
   (C) Licensed Professional Counselor.

(3) Advertise the performance of or make use of any title, word, letter or abbreviation that may reasonably be confused with a designation of occupational competence without being duly licensed; or

(4) Refuse to furnish the Board with information or records required or requested pursuant to this chapter.

(b) Any person who willfully engages in any unlawful act specified in this section is guilty of a misdemeanor and subject to punishment upon conviction by a fine of not less than $500 nor more than $1,000 for each offense, and imprisonment for a term not to exceed one year. Upon conviction a person shall refund to the client all fees received for professional services rendered under any unlawful condition.

(c) Any licensee under this chapter who commits sexual misconduct with a client during the professional relationship commits a felony. The giving of consent by the client for any such conduct is not a defense to the offenses.

(d) For purposes of subsection (c):

   (1) “Sexual misconduct” means any sexual activity as defined in paragraph (2) between a licensee and a patient or client, regardless of the consent of the patient. The term does not include an act done for a bona fide medical purpose.

   (2) “Sexual activity” means:

      (A) Fondling the genital area, groin, inner thighs, buttocks, or breasts of a person.

      (B) The oral, anal, or vaginal penetration by or union with the sexual organ of another or the anal or vaginal penetration of another by any other object.

      (C) Intentionally touching in a lewd or lascivious manner the breasts, genitals, the genital area, or buttocks, or the clothing covering them, of a person, or forcing or enticing a person to touch the perpetrator.
(D) Intentionally masturbating in the presence of another person.

(E) Intentionally exposing the genitals in a lewd or lascivious manner in the presence of another person.

(F) Intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim.

(e) The Board may through the Attorney General proceed in the Superior Court to enjoin any unlicensed persons from violating the provisions of this chapter. The Board is not required to post bond at such proceeding.

§221. Professional disclosure.
(a) Any individual, or employer of the individual, who is licensed under this chapter may not charge a client or receive remuneration for professional services unless before the performance of those services, the client is furnished a copy of a Professional Disclosure Statement. The Professional Disclosure Statement must be displayed in an open location at the place where the services are performed, and a copy of the statement must be provided to the client upon request.

(b) The Professional Disclosure Statement must contain:

(1) The name, title, business address, and business telephone number of the professional counselor performing the services;

(2) The formal professional education of the professional counselor, including the institutions attended and the degrees received from them;

(3) The professional counselor’s philosophy of counseling, areas of specialization, and the services provided;

(4) in the case of a person licensed under this chapter who is engaged in a private individual practice, partnership, or group practice, the person’s schedule listed by type of service or hourly rate; and

(5) at the bottom of the first page of the disclosure a statement stating:

"This information is required by the Board of Licensed Counselors and Examiners, which regulates all licensed counselors"; and

(6) The address and telephone number of Board.
§222. Severability.
If any provision of this chapter, or application of any provision of this chapter to any person, thing or circumstance, is determined by any court of competent jurisdiction to be invalid, the determination of invalidity does not affect, impair, or invalidate the other provisions, or the application of the other provisions of this chapter which can be given effect without the invalid provision or application, and to effect this purpose the provisions of this chapter are severable.

SECTION 3. Title 27 Virgin Islands Code, chapter 4A, section 201, subsection (c), as added by section 1 of this Act, takes effect four years after the effective date of this Act and applies to the qualifications of Approved Supervisors on and after that date. All other provisions take effect as prescribed in title 1 Virgin Islands Code, chapter 3, section 52.

Thus passed by the Legislature of the Virgin Islands on December 17, 2015.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 12th Day of January, AD, 2016.

Neville James
President

Myron D. Jackson
Legislative Secretary

Bill No. 31-0134 is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 26th day of January, 2016 A.D.

Kenneth E. Mapp
Governor