

SENATE No. 1382

The Commonwealth of Massachusetts

PRESENTED BY:

Michael D. Brady

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a board of registration of licensed mental health counselors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	
<i>Kenneth P. Swezey</i>	<i>6th Plymouth</i>	<i>2/26/2025</i>

SENATE No. 1382

By Mr. Brady, a petition (accompanied by bill, Senate, No. 1382) of Michael D. Brady and Kenneth P. Swezey for legislation to establish a board of registration of licensed mental health counselors. Mental Health, Substance Use and Recovery.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2076 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act establishing a board of registration of licensed mental health counselors.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 163 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by striking, in lines 7 through 8, the words “licensed mental health
3 counselor”.

4 SECTION 2. Section 163 of the General Laws, as appearing in the 2022 Official Edition,
5 is further amended by striking lines 40 through 64 in their entirety.

6 SECTION 3. Section 164 of the General Laws, as appearing in the 2022 Official Edition,
7 is hereby amended by striking line 7 in its entirety.

8 SECTION 4. Section 165 of the General Laws, as appearing in the 2022 Official Edition,
9 is hereby amended by striking, in line 2 through 3, the words “mental health counselor”.

10 SECTION 5. Section 171 of the General Laws, as appearing in the 2022 Official Edition,
11 is hereby amended by striking, in line 6 through 7, the words “mental health counselor”.

12 SECTION 6. Section 172A of the General Laws, as appearing in the 2022 Official
13 Edition, is hereby repealed.

14 SECTION 7. Chapter 13 of the General Laws, as appearing in the 2022 Official Edition
15 is hereby amended by adding the following new sections:

16 Section 110. Board of registration of licensed mental health counselors; membership;
17 appointment; removal

18 There shall be within the Bureau of Health Care in the department of Public Health, a
19 board of registration of mental health counselors, in this section and sections eighty-nine and
20 ninety, which shall consist of 9 members, one of whom shall be designated as chairperson, to be
21 appointed in the manner provided by section eighty-nine. Of the first board members appointed
22 four shall continue in office for one year, three for two years and two, including the chairperson,
23 shall continue in office for three years. Their successors shall be appointed for terms of three
24 years each except that any person chosen to fill a vacancy shall be appointed only for the
25 unexpired term of the board member to be succeeded. Upon the expiration of the term of office,
26 a board member shall continue to serve until a successor shall have been appointed and shall
27 have qualified. No person shall be appointed more than once to fill an unexpired term for more
28 than two consecutive terms. One board member shall be elected by the board of registration of
29 mental health counselors to serve as chairperson during the term of such person's appointment to
30 the board; provided, however, that no person shall serve as chairperson for more than three years.

31 The governor may remove any member of the board or the chairperson from such
32 position as chairperson after a recommendation of the majority of the board, and only for neglect
33 of duty or malfeasance or conviction of a felony or crime of moral turpitude while in office. No
34 member may be removed without a public hearing with at least thirty days prior written notice of
35 the charges and the date fixed for such hearing. No board member shall participate in any matter
36 before the board in which a pecuniary interest, personal bias or other similar conflict of interest
37 is established.

38 Board members shall serve without compensation but shall be reimbursed for their actual
39 and necessary expenses incurred in the performance of official board business.

40 Section 111. Board of registration of licensed mental health counselors; qualifications of
41 members

42 The governor shall appoint members of the board only from among the candidates who
43 meet the following qualifications:

44 (A) 7 members shall be licensed, practicing mental health counselors and each shall have
45 been, for at least five years immediately preceding appointment, actively engaged as a mental
46 health counselor rendering professional services in that field, or in the education and training of
47 graduate students or interns in the field, or in appropriate mental health counseling research, or in
48 other areas substantially equivalent thereto, and shall have spent the majority of the professional
49 time in such activity during the two years preceding the appointment in the commonwealth.

50 (B) Two members shall be representatives of the general public who have no direct
51 affiliation with the practice of any mental health or human services profession.

52 Immediately upon enactment, the current sitting LMHC members of the Board of Allied
53 Mental and Human Services Professions, shall immediately become appointed members of the
54 Board of Registration of mental health counselors and seek nominees for the remaining 5 LMHC
55 seats. The governor shall nominate a new member to fill a vacancy on the board within thirty
56 days of the occurrence of any vacancy. The Bureau of Professional Licensure ad LMHC Board
57 will present nominees to the Governor within 15 days of announcing openings.

58 The appointment of any member of the board shall automatically terminate within thirty
59 days after the date such member is no longer a resident of the commonwealth.

60 Each appointee shall, upon accepting appointment to the board, take and subscribe to the
61 oath or affirmation prescribed by law and file the same in the office of secretary of state.

62 Section 112. Board of registration of licensed mental health counselors; meetings; duties

63 The board shall hold at least two regular meetings each year, but additional meetings may
64 be held upon the call of the chairperson, or the secretary, or upon the written request of any two
65 board members. A majority of the appointed members of the board shall constitute a quorum;
66 provided, however, that at least one of those members shall be a member who was selected from
67 and who represents the general public. The principal office of the board shall be in the city of
68 Boston but the board may act and exercise all of its powers in such other jurisdictions as it deems
69 necessary.

70 The board shall administer and enforce the provisions of section one hundred and sixty-
71 three to one hundred and seventy-two, inclusive, of chapter one hundred and twelve. Said board
72 shall promulgate regulations which set forth education and training requirements necessary for a
73 person to be licensed under the provisions of section one hundred and sixty-five of said chapter

74 one hundred and twelve; and the board may, from time to time, adopt such rules and regulations
75 as it deems necessary to carry out the performance of its duties.

76 The director of the Bureau of health Care licensing and the Commissioner of public
77 health shall have authority to review and approve rules and regulations proposed by the board.
78 Such regulations will be deemed approved unless disapproved within fifteen days of submission
79 to said director and commissioner; provided, however that any such disapproval shall be in
80 writing setting forth the reasons for such disapproval.

81 Said board shall examine and pass on the qualifications of all applicants for licenses
82 under sections one hundred and sixty-three to one hundred and seventy-two, inclusive, of chapter
83 one hundred and twelve, and shall issue a license to each successful applicant therefor, attesting
84 to their professional qualifications to be a licensed mental health counselor. After a person has
85 applied for licensure, no member of the board may supervise such applicant for a fee nor shall
86 any member vote on any applicant previously supervised by such member.

87 The board shall act as the standards committees for the licensed mental health
88 counselor's profession. The Board, by a majority vote, shall recommend approval or disapproval
89 of the granting of all licenses for that profession, approve the examination required of applicants
90 for licensure in that profession, provide for the grading of that examination and provide for other
91 matters relating to the standards for licensure in the mental health counseling profession.

92 Said board may recommend to the governor and the general court, after a public hearing
93 which shall be advertised by publication of notices to the appropriate mental health and human
94 service professional organizations and in major media outlets throughout the commonwealth,
95 modifications and amendments to sections eighty-eight, eighty-nine and this section and sections

96 one hundred and sixty-three to one hundred and seventy-two, inclusive, of chapter one hundred
97 and twelve.

98 Said board shall explore necessity for a license application procedure to reflect potential
99 special needs of foreign-trained applicants to support a culturally diverse, well trained LMHC
100 workforce.

101 Said board shall annually publish a list of names and addresses of persons who are
102 licensed under sections one hundred and sixty-three to one hundred and seventy-two inclusive, of
103 chapter one hundred and twelve.

104 Fees for examinations and for initial and renewal applications shall be determined
105 annually by the commissioner of administration under the provisions of section three B of
106 chapter seven.

107 Said board shall establish regulations for continuing educational requirements for
108 licensees. Said regulations shall not require more than thirty contact hours per year, on average
109 through the term of the license, of approved continuing education programs as a condition for
110 continuing registration, nor more than fifteen contact hours per year on average for any licensed
111 individual during the term of their employment by the commonwealth or any political
112 subdivisions thereof.

113 The Board shall designate an entity (Massachusetts Mental Health Counselors
114 Association) to set specifications for Continuing Education.

115 The board shall follow DPH established procedures to permit consumers to file written
116 complaints against licensed individuals and investigate and take appropriate action on such
117 complaints.

118 SECTION 8. Chapter 112 of the General Laws, as appearing in the 2016 Official Edition
119 is hereby amended by adding the following new sections:

120 Section 275. Definitions applicable to Secs. 275 to 284

121 As used in sections one hundred and sixty-three to one hundred and seventy-two,
122 inclusive, the following words shall, unless the context clearly requires otherwise, have the
123 following meanings:

124 "Licensed mental health counselor", a person licensed or eligible for licensure under
125 section one hundred and sixty-five.

126 "Practice of mental health counseling", the rendering of professional services to
127 individuals, families or groups for compensation, monetary or otherwise. These professional
128 services include: applying the principles, methods and theories of counseling, human
129 development, learning theory, group and family dynamics, the etiology of mental illness and
130 dysfunctional behavior and psychotherapeutic techniques to define goals and develop treatment
131 plans aimed toward the prevention, treatment and resolution of mental and emotional
132 dysfunction and intra or interpersonal disorders in all persons irrespective of diagnosis. The
133 practice of mental health counseling shall include, but not be limited to, diagnosis and treatment,
134 counseling and psychotherapy, of a nonmedical nature of mental and emotional disorders and the
135 psychoeducational techniques aimed at prevention of such disorders and consultations to
136 individuals, couples, families, groups, organizations and communities.

137 Practice of mental health counseling in independent practice with individuals diagnosed
138 with psychosis may be undertaken by a licensed mental health counselor: (a) who is licensed
139 under section 165 on or after March 1, 1992; or (b) who was licensed prior to March 1, 1992 and
140 who meets the certification criteria for independent practice with individuals diagnosed with
141 psychosis as established by the board of registration of allied mental health and human services
142 professions.

143 "Advertise", includes, but is not limited to, distributing or causing to be distributed any
144 card, sign or device to any person; or the causing, permitting or allowing of any sign or marking
145 on or in any building or structure, or in any newspaper or magazine or in any directory, or on
146 radio or television, or by the use of any other means designed to secure public attention.

147 "Use a title or description of", means to hold oneself out to the public as having a
148 particular status by means of statements on signs, mailboxes, address plates, stationery,
149 announcement, calling cards or other instruments of professional identification.

150 "Board", the Massachusetts board of registration of Mental Health Counselors.

151 Section 276. Advertisement or engagement in practice of licensed profession; license
152 requirement; exemptions

153 No individual who is not licensed or exempted from licensure shall advertise the
154 performance of or use a title or description of:

155 licensed mental health counselor, advisor or consultant; or licensed supervised mental
156 health counselor

157 No individual who is not licensed or exempted from licensure shall engage in the practice
158 as a licensed mental health counselor.

159 The following individuals shall be exempt from the requirements of this section:

160 (1) a licensed psychologist, a licensed social worker, a licensed occupational therapist, or
161 a licensed Physician or Advanced Practice Registered Nurse.

162 (2) an employee or other agent of a recognized academic institution or alcohol or drug
163 education or awareness program, employee assistance program, or of a federal, state, county or
164 local government institution, program agency, or facility, or a school committee, school district,
165 school board or board of regents while performing those duties constituting employment by such
166 an institution, program, agency or facility; provided, however, that such individuals are
167 performing those activities solely within the agency or under the jurisdiction of such agency;
168 and, provided further, that a license granted under section one hundred and sixty-five need not be
169 a requirement for qualification for civil service examinations nor shall it be a requirement for
170 employment in any state, county or municipal agency.

171 (3) a student in the discipline of mental health counseling or an intern or trainee in
172 mental health counseling receiving qualified supervision approved by the board, and whose
173 training status is designated by such titles as "mental counseling health intern", or a person who
174 is issued a temporary permit by the board to engage in the activities for which licensure is
175 required.

176 Section 277. Mental health counselors; licenses; qualifications

177 The board may issue a license to an applicant as a mental health counselor; provided,
178 however, that each such applicant shall provide satisfactory evidence to the board that such
179 applicant:

180 (1) is of good moral character;

181 (2) has not engaged or is not engaging in any practice or conduct which would be
182 grounds for refusing to issue a license under section one hundred and sixty-nine;

183 (3) Educational Requirements - demonstrates to the board, the successful completion of a
184 masters degree in a relevant field from an educational institution licensed by the state in which it
185 is located and meets national standards for granting of a 60 credit masters degree with a sub
186 specialization in mental health counseling, or a relevant sub specialization approved by the
187 board, according to the educational requirements set forth in CMR 262 Section 2 – Requirements
188 for Licensed Mental Health Counselor.

189 (4) Licensed Supervised Mental Health Counselor - The board may issue a license to an
190 applicant as a licensed supervised mental health counselor (LSMHC); provided, however, that
191 each such applicant shall meet all the Educational and Degree Requirements above in paragraph
192 (3).

193 (5) LSMHCs will show a passing grade on an examination of the Board's choosing (see
194 section g below)

195 (6) Field Training Requirements -To be eligible for licensure, an applicant must have two
196 additional years, Post Master's Degree and the receipt of the LSMHC license paragraph (4)

197 above, of supervised clinical experience in mental health counseling under the direction of an
198 approved supervisor defined in CMR-262 2.02 Definitions

199 Licensed Supervised Mental Health Counselors (LSMHC) can only practice mental
200 health counseling under an appointed supervisor in private practice or mental health clinic,
201 agency or hospital .

202 (7) Supervision - For purposes of paragraphs (3) and (4) above, "Supervision" shall be
203 defined as no less than two hundred hours of supervised clinical experience, at least one hundred
204 hours of which shall consist of individual supervision with an Approved Supervisor as defined in
205 CMR-262. Section 2.02 Definitions a-g.

206 Section 278. Examinations; issuance of licenses without examinations

207 The board shall conduct examinations at least twice a year for licensure as an LSMHC
208 and LMHC, at a time and place designated by the board, in order to determine any applicant's
209 qualifications for the practice of mental health counseling.

210 Examinations may be written or oral as determined by the board. In any written
211 examination each applicant shall be designated so that the name shall not be disclosed to the
212 board until examinations have been graded.

213 Examinations shall include questions in such theoretical and applied fields as the board
214 deems most suitable to test an applicant's knowledge and competence to engage in the practice of
215 mental health counseling.

216 An applicant shall be held to have passed an examination upon affirmative vote of at least
217 five members of the board.

218 Any individual who fails an examination conducted by the board shall not be admitted to
219 a subsequent examination for a period of at least three months.

220 Section 280. License fees; renewals

221 A fee, as determined by the commissioner of administration pursuant to section three B
222 of chapter seven shall be paid to the board for the original license. Licenses shall be valid for two
223 years and must be renewed biennially. Any application for renewal of a license which has
224 expired shall require the payment of a re-registration fee.

225 On or before September thirtieth of the year preceding the expiration of a license, the
226 secretary of the board shall forward to the holder of the license a form of application for renewal
227 thereof. Upon the receipt of the completed form and the renewal fee on or before November
228 thirtieth, the secretary shall issue a new license for the year commencing January first.

229 Section 281. Denial, revocation or suspension of licenses

230 The board, subject to a majority vote of its members, is authorized to deny, revoke or
231 suspend a license granted pursuant to this chapter on the following grounds:

232 (1) conviction by a court of competent jurisdiction of a crime which the board determines
233 to be of such a nature as to render such person unfit to practice as a mental health professional.

234 Said board shall maintain and publish a list of such crimes;

235 (2) violation of ethical standards of the American Mental Health Counselors Association
236 and American Counseling Association of such a nature as to render such individual unfit to
237 practice as a mental health professional. Said board shall publish and maintain such ethical
238 standards;

239 (3) fraud or misrepresentation in obtaining a license; or

240 (4) other just and sufficient cause which renders a person unfit to practice as a mental
241 health professional.

242 No license may be suspended or revoked for the reasons set forth in the preceding
243 paragraph without prior notice and opportunity for hearing on such suspension or revocation,
244 except that the board may, in its discretion, without prior notice or hearing, suspend for up to one
245 year the license of any individual convicted of a crime as set forth therein. The burden of proof
246 shall be on the board in any proceeding to suspend or revoke a license. No license may be
247 suspended or revoked under this section except by majority vote of the full board,
248 notwithstanding any other provisions.

249 Any individual may file a complaint with the board seeking denial, suspension or
250 revocation of a license issued or to be issued by the board. Such complaints shall be in a form
251 prescribed by the board and shall be verified under oath by the complainant or his duly
252 authorized agent. If the board determines that a complaint alleges facts which, if true, would
253 require denial, revocation or suspension of a license, it shall promptly conduct a hearing.

254 Whenever said board establishes that a complaint does not state facts which warrant a hearing,
255 such complaint may be dismissed.

256 Said board shall not hear complaints against any licensed individuals for actions which
257 have occurred in the course of employment by any agency of the commonwealth or its political
258 subdivisions unless such complaint is received by the board subsequent to the dismissal of a
259 licensee by such agency for reasons of moral turpitude or gross negligence; provided, however,
260 that said licensee shall have exhausted all administrative appeals of such dismissal.

261 Any individual whose license has been suspended or revoked may apply to the board for
262 vacation of the suspension or reinstatement of the license.

263 Section 282. Board hearings; subpoena powers

264 The board shall conduct its proceedings in accordance with the provisions of this chapter
265 and chapter thirty A. Any individual may be heard by the board in person or by an attorney.
266 Every vote and official act of the board shall be entered on the record. All hearings and rule
267 making proceedings shall be open to the public. A stenographic record shall be made of every
268 hearing before the board.

269 The board shall have subpoena power to require the attendance and testimony of
270 witnesses and the production of all books, papers and documents relating to any matter under
271 investigation. Subpoenas shall be issued by the board upon application by any party to a
272 proceeding before the board and a showing of general relevance and reasonable scope. Witnesses
273 summoned before the board shall be paid the same fees and mileage paid witnesses in courts of
274 the commonwealth. In case of disobedience of a subpoena, the board may apply to the superior
275 court for an order requiring the person subpoenaed to appear before the board and testify and
276 produce books, papers, or documents called for by such subpoena.

277 One or more board members or a hearing examiner or other officer appointed by the
278 board shall preside at hearings.

279 Section 283. Penalties

280 Any individual not licensed under sections one hundred and sixty-three to one hundred
281 and seventy-two who on March first, nineteen hundred and eighty-nine holds himself out to be or

282 advertises himself as a mental health counselor in violation of this chapter shall be punished by a
283 fine not exceeding five hundred dollars for the first offense and five hundred dollars for each
284 subsequent offense; provided, however, that the board may also proceed in the superior court to
285 enjoin and restrain any unlicensed individual violating any section of this chapter. The board
286 shall not be required to post bond at any such proceeding.

287 Section 284. Privilege against disclosures in court, legislative or administrative
288 proceedings; exercise or waiver of privilege by guardian; scope of privilege

289 (a) Except as hereinafter provided, in a court proceeding, in a proceeding preliminary
290 thereto or in a legislative or administrative proceeding, a client of a mental health counselor who
291 is licensed pursuant to the provisions of section 165 or employed in a state, county or municipal
292 government agency shall have the privilege of refusing to disclose and of preventing a witness
293 from disclosing any communication relative to the diagnosis or treatment of the client's mental or
294 emotional condition, wherever made, between the client and the mental health counselor.

295 (b) If a client is incompetent to exercise or waive the privilege, a guardian shall be
296 appointed to act on the client's behalf under this section. A previously appointed guardian shall
297 be authorized to so act. Upon the exercise of the privilege granted by this section, the judge or
298 presiding officer shall instruct the jury that no adverse inference may be drawn therefrom.

299 (c) The privilege granted by this section shall not apply to the following communications:

300 (1) if a mental health counselor, in the course of his diagnosis or treatment of the client,
301 determines that the client is in need of treatment in a hospital for mental or emotional illness or
302 that there is a threat of imminently dangerous activity by the patient against himself or another
303 person and, on the basis of that determination, discloses the communication either for the

304 purpose of placing or retaining the client in the hospital; but, this section shall continue in effect
305 after the patient is in the hospital or placed under arrest or under the supervision of law
306 enforcement authorities;

307 (2) if a judge finds that the client, after having been informed that a communication
308 would not be privileged, has made a communication to a mental health counselor in the course of
309 a psychiatric examination ordered by the court; but, the communication shall be admissible only
310 on issues involving the patient's mental or emotional condition but not as a confession or
311 admission of guilt;

312 (3) in a proceeding, except one involving child custody, in which the client introduces his
313 mental or emotional condition as an element of his claim or defense and the judge or presiding
314 officer finds that it is more important to the interests of justice that the communication be
315 disclosed than that the relationship between client and mental health counselor be protected;

316 (4) in a proceeding after the death of a client in which his mental or emotional condition
317 is introduced by any party claiming or defending through or as beneficiary of the patient as an
318 element of the claim or the defense and the judge or presiding officer finds that it is more
319 important to the interests of justice that the communication be disclosed than that the relationship
320 between client and mental health counselor be protected;

321 (5) in the initiation of proceedings under paragraph C of section 23 of chapter 119 or
322 under section 24 of said chapter 119 or section 3 of chapter 210 or to give testimony in
323 connection therewith;

324 (6) in a proceeding whereby the mental health counselor has acquired the information
325 while conducting an investigation pursuant to section 51B of chapter 119;

326 (7) in a case involving child custody, adoption or the dispensing with the need for consent
327 to adoption where, upon hearing in chambers, the judge exercises his discretion to determine that
328 the mental health counselor has evidence bearing significantly on the client's ability to provide
329 suitable care or custody and it is more important to the welfare of the child that the
330 communication be disclosed than that the relationship between the client and the mental health
331 counselor be protected; but, in the case of adoption or the dispensing with the need for consent to
332 adoption, a judge shall determine that the client has been informed that the communication
333 should not be privileged; or

334 (8) if in a proceeding brought by the client against the mental health counselor, and in
335 any malpractice, criminal or license revocation proceeding, in which disclosure is necessary or
336 relevant to the claim or defense of the mental health counselor.

337 The provisions of this section shall not be construed to prevent third party payer from
338 inspecting and copying, in the ordinary course of determining eligibility for or entitlement to
339 benefits, any and all records relating to diagnosis, treatment or other services provided to any
340 person, including a minor or incompetent, for which coverage, benefit or reimbursement is
341 claimed, so long as the policy or certificate under which the claim is made provides that such
342 access to such records is permitted. The provisions of this section shall not be construed to
343 prevent access to any such records pursuant to any peer review or utilization review procedures
344 applied and implemented in good faith.