

A Proven Approach to Licensure

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This article is about how counselor licensure is moving ahead slowly, and those who wish to promote licensure bills in the states need specific and workable "guidelines" for successful efforts.

This article is filled with *shoulds* and *musts*. The reader, though, *should* keep in mind that he or she *must* be tolerant of the authors and their conviction that they are experts in the field of licensure. After 4 years of dismal failure, depleted budgets, faltering optimism, and creeping cynicism, the authors have seen a licensure bill passed and signed into law in their home state of Idaho. The writers are still a little giddy from that victory and perhaps a little overly impressed with themselves.

Throughout this long and often frustrating campaign, important ideas have been acquired, mostly through failing abjectly, assessing the causes and underpinnings of those failures, then making adjustments and changes. The article that follows is a compendium of important gleanings from many years of hard work on the part of many people.

The authors feel that what they have to say is important to those who feel that the passage of licensure is a vital task of the profession. Recent surveys in the west indicate that the proportion of persons among counselors who feel this way is considerable (Swanson, 1981; Snow, 1981). This approach to licensure is, after all, *proven* to be usable, workable, possible, and, finally, successful. The ideas that have proved to be most important are discussed below under the headings of Professional Responsibility, Realities of Political Life, Outreach, Veracity, Endurance, and Need for the Law.

PROFESSIONAL RESPONSIBILITY

Many professional-political people have learned that the legislative system functions through a clash of personal and private interests. The legislative process operates through compromises and trade-offs. Representative A has a deep interest in some piece of legislation that will benefit his district and ultimately him as a political person. But to get *part* of what he wants he might be willing to support another piece of legislation sponsored by Representative B, even though he is not wholly committed to the value of the bill.

Many political figures will begin with the assumption that any bill is quite probably self-serving and for the primary benefit of the individuals who support it. In the case of licensure, many of those who will consider the bill and finally vote on it will be, from the beginning, convinced that all talk of consumer protection and public good is merely a smoke screen. Licensure will be seen by many legislators as an effort to exclude some from practice and to protect the turf of those who qualify under the terms of the legislation.

It is important in the judgment of the writers to know and to accept the fact that the burden rests with the sponsors to demonstrate that the licensure bill is a serious effort to behave in a professionally responsible way, not to exclude worthy people or to establish an in-group of self-serving persons. Probably the clearest way to demonstrate professional respon-

sibility is to connect the licensure bill in any given state to the national drive being mounted by AACD in the related fields of registry, licensure, and accreditation.

Remember, most lawmakers have never heard of AACD. They need to be shown that it is the largest single professional association for counselors of various kinds. One may not safely assume that AACD will be accepted automatically as credible or that its structure and purposes will be understood by legislators. They will need concise information about AACD and the three main efforts it is sponsoring to bring credibility, order, and quality control to the broad field of counseling.

Do not assume that registry and accreditation will be understood either. Keep always in mind that persons outside the field of counseling have little, if any, knowledge of those issues we counselors take so very seriously. Prepare yourself with information and get it to the legislators. Keep it short, readable, and accurate.

Be prepared also with information about licensure efforts in other states being encouraged and supported by AACD. Let the legislators know that there is a reasonable amount of consistency in the licensure bills being introduced in the various state legislatures and that *this* particular bill in *this* particular state is part of a larger effort to protect the interests of the public that is being pursued on the national level.

Connect your bill always with a long-term, nationwide effort on the part of AACD, the major professional association for counselors. In this way, sponsors in a particular state may be able to combat the assumption in the minds of many legislators that licensure is a self-serving bill designed to benefit a small group of selfish persons in that state. Davis (1981) cautioned the counseling professionals to avoid the self-serving tendencies of professional licensure. It is important to avoid even the appearance of such tendencies. *Remember, the burden of proof of professional responsibility rests with you, the sponsors.* The authors have found it vital that you offer such proof often, clearly, and convincingly.

REALITIES OF POLITICAL LIFE

Certainly, proponents of state licensure bills must have an in-depth knowledge and understanding of the political and legislative process in their individual states.

But along with that understanding, it is essential to know the political leanings and philosophies of those legislators who will be a part of that process. Since views on licensure may

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vary from one legislator to another and may cross party lines, it is vital to know the opinion of each representative and senator regarding the issue.

The political process to be followed in the handling of the proposed counseling licensure bill will be directly influenced by those opinions. There are clear rules that must be followed by the legislators at each juncture along the legislative process. Understand them, and know ahead what course you'll take at each unique turn of events. Once there is knowledge of how a bill goes through the legislature to passage, as well as where each legislator stands on the question, work can begin. The bill is then guided to positions of strength in sponsorship, committees, and hearings. Always keep in mind that the political process is essentially a *human* process. Not all would-be sponsors in the legislature will be equally respected by their colleagues. Not all legislators are equally responsible or organized. Selecting good sponsors requires a sound, in-depth knowledge of the persons being considered for the task.

On the other hand, considerable, careful, appropriate influence needs to be brought to encourage legislators to support this particular licensure bill. Remember, no amount of debate, counter pressure, or paperwork will be as valuable as *personal* discussion and persuasion. A dogmatic, unyielding approach will often bring an unyielding counterreaction. Be flexible and be willing to listen.

Follow the counsel of legislators who are interested in the bill's passage. Their insight into the behavior of their colleagues is valuable. One of your most important assets is that those legislators who have been sold on the need for the bill will help sell others. Enthusiastic legislators can also help sell the bill when it passes from one branch to the other. Besides being active in persuading their counterparts, they may be willing to give testimony at various committee hearings. Legislators support and influence each other and are the vital force in the outcome of the bill. One must not lose sight of the fact that human beings make every decision along the way.

In selecting a licensure chairperson, take into account the political connections and the political savvy of the candidates. A licensure chairperson who has personal acquaintance with many legislators in the majority party will be a valuable asset when the action begins. The legislatures of the states are, after all, very exclusive societies. Licensure legislation will simply get a more serious and positive examination if presented by a person who is close to or who is a part of that club and who has been active in it. Just because a professional member of the local Personnel and Guidance Association has a solid reputation in the profession does not mean that the person will be a political asset. As a reminder of the importance of political connections, note how many defeated political professionals become professional lobbyists.

OUTREACH

Any licensure bill will find easier passage against the backdrop of positive education about the need for and the value of the counseling profession. That effort should be carefully guided and orchestrated. A careful, steady, low key program will be more credible and effective than a grandiose but disjointed one.

At the point of introducing a bill into the legislature, it is well to note that fundamental to its passage is the selling of each person who will vote and finally decide the ultimate fate of the bill. The importance of education should not be underestimated. Basic and simple fact sheets can be useful in the education of each legislator. Complicated handouts and overly involved brochures will only find their way to the dusty stacks of discarded and ignored printed material that cannot be read because of limited time.

Every year before the bill's passage, every legislator should be contacted personally by a member of the Personnel and

Guidance Association of the state. During that contact, the legislator should be given printed material briefly describing the bill, presenting arguments for its passage, and giving evidence of abuses that have recently been identified. The printing of these materials is costly, of course, but the expense is an example of the need for committed funds for a long-term campaign. *It is also important* that the designated contact person immediately make a second appointment to discuss the bill, answer questions, and demonstrate the importance of the legislation. The authors have found that legislators are very busy people, usually combining a career with the duties of being an elected official. A second appointment made when the material is given to the legislator will make it much more likely that the material will be read carefully. A private and personal discussion is the most powerful method of influencing the legislator's position.

VERACITY

Legislators will always be suspicious that the counseling-licensure bill is restrictive, closed-shop legislation. The mood of most legislatures today is toward protecting people through as little regulation as possible. Some helping services licensure bills that are now on the state books are suspect, and there have been successful movements to sunset them or at least to review any self-serving restrictions in them. Hale (1981), for example, reported that a large number of key legislators in Florida believed that licensure for psychologists provided only minimal protection for citizens and was designed to restrict entry into the profession.

Licensure workers need to be careful to propose responsible legislation for their state without limiting the practice of counseling to such an extent that there is no reasonable hope for the bill's passage. Counseling is an old and widely followed practice. A licensure bill should merely limit the use of a certain title, rather than attempt to limit practice of counseling to a specific group.

The legislators depend on lobbyists for much of the information upon which they will base their decisions. Be vigilant always against providing inaccurate or misleading information in an effort to gain the vote of legislators. To mislead or misinform a legislator is to lose a potential vote now and very probably in the future.

ENDURANCE

Remember that the licensure effort of AACD is of fairly recent origin. Although the battles for licensure may seem very long in individual states, it may be reassuring to know that the licensure effort was formally endorsed by AACD only in 1975 (Swanson, 1981). Much of this activity seems to stem from the efforts of psychologists in the mid-1970s to become more restrictive in their definition of the term, *psychologist* (Cottingham & Swanson, 1976; Kendrick, 1976; Morgan, 1976; Sweeney & Sturdevant, 1974).

The Idaho Personnel and Guidance Association (ICPGA) has pursued licensure for 5 years, 4 of them with little or no visible effect. But the efforts over the years perhaps had an accumulative effect on the lawmakers. In the fifth year the licensure bill was passed, signed, and made into law.

The lesson to be learned from the saga above is that an association should view licensure activities as a long-term educational process. The licensure committee should be staffed in such a way that there will be continuity of direction and persons over time. Of course, money is an important ingredient of successful legislative efforts. The association that sponsors licensure must be willing to establish long-term financial support for the licensure effort at whatever level is possible. But money is not the only ingredient. The entire licensure budget of IPGA was \$475 in the year that the bill was finally passed and signed into law.

Licensure committee persons should be creative, enthusiastic, flexible, and, at the same time, stubborn and tenacious. There may be no more than three such people even in the most populous of states, but seek them out. The combination of creativity and stubbornness may seem to be a contradiction when found in the same person. Flexibility and bullheadedness are even more unusual, but the legislative process is one of compromise, of give and take. To function successfully in the political system, one must maintain a steadfast, long-range purpose but be willing to negotiate on the smaller issues.

Plan for a 4-year campaign. Choose people who can maintain a long-term commitment to a worthy purpose, who are enthusiastic and highly motivated, but above all, people who are just plain hard-headed and steadfast. Under whatever financial constraints that exist, plan for a long-range commitment of funds to the licensure effort.

In Idaho, the licensure committee was deeply discouraged. At at least three different points they debated giving up and abandoning the fight. Stubbornness and tenacity prevailed over reason and reality. Persistence finally produced the pay-off. The issue was touch-and-go to the very end, however.

The final vote was due Friday on the Senate floor. By the count of the licensure committee, there were sufficient votes. So much effort and energy had been expended; now, for the final outcome. Three of the sure "yes" votes were absent from the floor. There was firm, last-minute debate by those against the counseling bill. The vote was taken and the bill had failed. There was no time for despair, only to ask, "Now what do we do?" The sponsor on the Senate floor was asked to arrange immediately for a Senate vote for reconsideration. The reconsideration vote passed and was set to take place the following Monday morning at 9:00 a.m. The licensure committee had from that moment late Friday afternoon until Monday to *work hard*. Work hard they did! Not only did they need to ensure the presence of the three absentees, but the committee also needed to be sure of additional support. Monday morning the final Senate vote was taken, and the Idaho Counselor Licensure bill passed by seven votes.

Idaho's Counseling Licensure Act was introduced the first day of the 1982 Idaho Legislature and was finally passed on the last day of that legislature session. *Each day* of that interim, proponents of the bill must know *where the bill is* in the legislative process. More than that, every effort must be expended to *move it along*. That effort needs to be careful and continuous. There is no luxury of let-up until the bill has made full passage through the legislative machinery. Had the bill in Idaho been delayed along the way to 2 days, it would have failed. It was a race against time all through the session.

NEED FOR LEGISLATION

A question that was always asked in every committee hearing was, "Is there a need for this legislation?" or "Can you show us evidence of persons who have been abused in the absence of this law?"

Many legislators in our experience are disinclined to regulate just for the sake of regulation. They feel that perhaps there is already too much "interference" by government in the lives of people. At least this proved to be true in Idaho over the past 4 years of experience with licensure.

In the past, when the question was asked, as it always was in one form or another, the person giving the testimony would shift uncomfortably and kick imaginary stones. The room was usually filled with deafening silence. Consistently this scene

was repeated. Repeatedly it left the committee members with the feeling that there was not good evidence for a need to regulate the practice of counseling. In the judgment of the authors, this one consistent problem did more to sidetrack our licensure bill than any other issue through all the years of failure.

Oh, advocates tried to show how "massage parlor" attendants were called sex counselors and how used-car salesmen were titled "previously owned automobile counselors." There are plenty of such examples around in every state. The licensure committee compiled a list and presented the information, but it had practically no impact on the outcome. The bills never got out of the legislative committee. Suddenly, this year, someone on the licensure committee asked, "Why isn't there hard evidence of abuses and of unethical practice?" This led the authors to question seriously their own belief that a licensure bill was even needed! But the answer to the question eventually became a selling point in *favor* of licensure. There is little or no evidence because (1) there is in Idaho no bill that holds forth a code of ethics and (2) no bill that provides a means by which abuses can be investigated and information compiled. In short, both answers became the *very* reasons that a licensure bill was needed badly.

Consumers in the absence of a clear statement about conduct by the profession are not even able to ascertain if they have been badly treated. How is the consumer to know, for instance, under what conditions a counselor is obligated to breach confidentiality? For instance, even if the client feels badly used, to whom would this person bring such a charge? Who could prevent the counselor from continuing such behavior in the future?

What had been a serious flaw in the argument for licensure in the past became a compelling reason *for* such a bill. The authors feel that this change in point of view about the *same* issue was central to success this year in Idaho.

The general points that have been made above have immediate applicability to the licensure efforts in all states. Although the past battles have been long and frustrating in Idaho, the victory that finally came made them in perspective seem like minor annoyances. Counselors in Idaho have a renewed pride in their association and in their profession. That is worth a considerable amount.

REFERENCES

- Cottingham, H. F., & Swanson, C. D. Recent Licensure developments: Implications for counselor education. *Counselor Education and Supervision*, 1976, 16, 84-97.
- Davis, J. W. Counselor licensure: Overkill? *Personnel and Guidance Journal*, October 1981, 60 (2), 83-85.
- Hale, W. D. The illusion of effective regulation: A victim of sunset review. *Professional Psychology*, Fall 1981, 35 (1), 10-11.
- Kendrick, B. L. Counselor licensure: An emerging issue. *Idaho Guidance News and Views*, 1976, 17 (3), 3-7.
- Morgan, J. I. *Licensure: The challenge to counseling practitioners*. Gainesville, University of Florida Counseling Center, 1976, (ERIC Document Reproduction Service No. ED 127 496).
- Snow, B. M. Counselor licensure as perceived by counselors and psychologists. *Personnel and Guidance Journal*, October 1981, 60 (2), 80-83.
- Swanson, J. Moving toward counselor licensure: A statewide survey. *Personnel and Guidance Journal*, October 1981, 60 (2), 78-79.
- Sweeney, T., Sturdevant, A. D. Licensure in the helping professions: Anatomy of an issue. *Personnel and Guidance Journal*, 1974, 52, 575-580.