

SENATE BILL NO. 10

INTRODUCED BY M. CAFERRO

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REGULATION AND LICENSURE OF MENTAL HEALTH PEER SUPPORT SPECIALISTS; ESTABLISHING LICENSING REQUIREMENTS; ADDING A MENTAL HEALTH PEER SUPPORT SPECIALIST TO THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-23-102, AND 37-37-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. (1) The legislature finds and declares that because the profession of mental health peer support specialist profoundly affects the lives of people of this state, it is the purpose of [sections 1 through 7] to provide for the common good by:

- (a) ensuring the ethical, qualified, and professional practice of mental health peer support; and
- (b) instituting an effective mechanism for obtaining accurate public information regarding an applicant's criminal background in order to:

(i) prevent convicted criminal offenders who committed crimes relevant to working with children, the elderly, the mentally ill, or other vulnerable persons from obtaining a Montana mental health peer support specialist license as an attempt to gain access to and perpetrate crimes against new victims; and

(ii) protect the state from claims of negligence.

(2) [Sections 1 through 7] and the rules promulgated by the board under 37-22-201 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of mental health peer support as licensed mental health peer support specialists.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 7], the following definitions apply:

(1) "Board" means the board of social work examiners, professional counselors, and mental health peer support specialists established under 2-15-1744.

(2) "Licensee" means a person licensed under [sections 1 through 7] to provide mental health peer



1 support.

2 (3) "Mental disorder" has the meaning provided in 53-21-102.

3 (4) "Mental health peer support" means the use of a licensee's personal experience with a mental
4 disorder to provide support and offer hope to individuals with mental disorders.

5 (5) "Mental health peer support specialist" means a person who has:

6 (a) experienced and is in recovery from a mental disorder; and

7 (b) obtained the education and skills needed to provide therapeutic support to individuals with mental
8 disorders.

9 (6) "Mental health professional" means:

10 (a) a physician licensed under Title 37, chapter 3;

11 (b) a psychologist licensed under Title 37, chapter 17;

12 (c) a social worker licensed under Title 37, chapter 22;

13 (d) a professional counselor licensed under Title 37, chapter 23; or

14 (e) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
15 psychiatric mental health nursing.

16

17 **NEW SECTION. Section 3. License required -- exceptions.** (1) Upon issuance of a license in
18 accordance with this chapter, a licensee may use the title "licensed mental health peer support specialist" or
19 "mental health peer support specialist".

20 (2) Except as provided in subsection (3), a person may not represent that the person is a licensed mental
21 health peer support specialist by adding the letters "LMHPSS" after the person's name or by any other means
22 unless the person is licensed under [sections 1 through 7].

23 (3) Subsection (2) does not prohibit:

24 (a) a qualified member of another profession, such as a physician, lawyer, psychologist, pastoral
25 counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor
26 accredited by a federal agency, clinical social worker licensed pursuant to Title 37, chapter 22, clinical
27 professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor licensed pursuant to Title
28 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter 37, from performing duties
29 and services consistent with the person's licensure or certification and the code of ethics of the person's
30 profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom

1 there is no applicable code of ethics, from performing duties and services consistent with the person's training,
2 as long as the person does not represent by title that the person is engaging in the practice of mental health peer
3 support;

4 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer for
5 a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part
6 of the duties of the office or position;

7 (c) an activity or service of an employee of a business establishment performed solely for the benefit of
8 the establishment's employees;

9 (d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course
10 of study at an accredited university or college or working in a generally recognized training center if the activity
11 or service constitutes a part of the supervised course of study;

12 (e) an activity or service of a person who is not a resident of this state if the activity or service is rendered
13 for a period that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized
14 under the law of the state or country of residence to perform the activity or service. However, the person shall
15 report to the department of labor and industry the nature and extent of the activity or service if it exceeds 10 days
16 in a calendar year.

17 (f) pending disposition of the application for a license, the activity or service by a person who has recently
18 become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and
19 is licensed to perform the activity or service in the state of the person's former residence; or

20 (g) an activity or service of a person who is working to satisfactorily complete the supervised work
21 experience required by [section 4] if the person has already completed the training course required by [section
22 4].

23
24 **NEW SECTION. Section 4. License requirements -- fees.** (1) A person may apply for licensure as
25 a mental health peer support specialist if the person has:

26 (a) received a high school diploma or the equivalent of a high school diploma; and

27 (b) attested to the fact that the person:

28 (i) has been diagnosed by a mental health professional as having a mental disorder;

29 (ii) has received treatment; and

30 (iii) is in recovery as defined by rule from a mental disorder.

1 (2) An applicant shall submit a written application on a form provided by the department and an
2 application fee in an amount established by the board by rule.

3 (3) An applicant must have successfully completed:

- 4 (a) a training course in mental health peer support as defined by the board by rule;
5 (b) supervised work experience in mental health peer support as provided for by the board by rule; and
6 (c) a competency examination determined by the board to adequately assess a person's ability to provide
7 mental health peer support.

8 (4) An applicant who fails the examination may reapply to take the examination.

9 (5) The supervised work experience required under this section may be gained through a program:

- 10 (a) defined by the board by rule;
11 (b) approved by the board; or
12 (c) determined by the board to be recognized under the laws of another state.

13 (6) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
14 fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal
15 bureau of investigation as provided in 37-1-307.

16 (7) Pursuant to 37-1-203, an applicant who has a history of criminal convictions has the opportunity to
17 demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may
18 deny the license if it determines that the applicant is not sufficiently rehabilitated.

19
20 **NEW SECTION. Section 5. Temporary practice permits.** (1) Except as provided in subsection (4),
21 an applicant who has completed all licensure requirements except the supervised work experience may apply
22 for a temporary practice permit that authorizes the applicant to complete the supervised work experience.

23 (2) The board shall issue a temporary practice permit if it determines that:

- 24 (a) the applicant has completed an application as required by [section 4];
25 (b) an initial screening shows no current disciplinary action against the applicant in Montana or another
26 state; and
27 (c) the applicant has completed all educational requirements of [sections 1 through 7].

28 (3) A person providing mental health peer support under a temporary practice permit may practice only:

- 29 (a) under the supervision of a person who is trained in mental health peer support or a related field as
30 defined by the board by rule and who has an active license in good standing in Montana or another state; and

1 (b) for an amount of time as established by the board by rule.

2 (4) The provisions of this section do not apply until the board has adopted rules implementing this
3 section. The rules must provide for a waiver of the provisions of this section for a person who is engaged in a
4 supervised work experience prior to the adoption of the rules.

5
6 **NEW SECTION. Section 6. Privileged communications -- exceptions.** A licensee may not disclose
7 any information the licensee acquires from an individual to whom the licensee provides mental health peer
8 support except:

9 (1) with the written consent of the individual or, in the case of the individual's death or mental incapacity,
10 with the written consent of the individual's personal representative or guardian;

11 (2) when a communication that otherwise would be confidential reveals that the individual or another
12 person is contemplating commission of a crime or in the licensee's professional opinion reveals a threat of
13 imminent harm to the individual or others;

14 (3) that if the individual is a minor and information acquired by the licensee indicates that the minor was
15 the victim of a crime, the licensee may be required to testify fully in relation to the information in any investigation,
16 trial, or other legal proceeding in which the commission of that crime is the subject of inquiry;

17 (4) that if the individual or the individual's personal representative or guardian brings an action against
18 a licensee for a claim arising out of the licensee's professional relationship with the individual, the individual is
19 considered to have waived any privilege;

20 (5) to the extent that the privilege is otherwise waived by the individual; and

21 (6) as may otherwise be required by law.

22
23 **NEW SECTION. Section 7. Misdemeanor violations -- penalties.** (1) It is a misdemeanor for a person
24 to knowingly:

25 (a) engage in the practice of mental health peer support without a license except as allowed under a
26 temporary practice permit;

27 (b) represent that the person is a licensed mental health peer support specialist without being licensed
28 under [sections 1 through 7];

29 (c) obtain or attempt to obtain a license or license renewal by bribery or fraudulent representation;

30 (d) make a false statement on any form used by the board to implement [sections 1 through 7] or the

1 rules adopted under [sections 1 through 7]; or

2 (e) violate the provisions of [section 6].

3 (2) A person convicted under this section shall be fined not more than \$500 or imprisoned in the county
4 jail for a period not to exceed 6 months, or both. A person convicted of any subsequent offense under this section
5 shall be punished by both a fine and imprisonment.

6

7 **Section 8.** Section 2-15-1744, MCA, is amended to read:

8 **"2-15-1744. Board of social work examiners and, professional counselors, and mental health peer**

9 **support specialists.** (1) (a) The governor shall appoint, with the consent of the senate, a board of social work
10 examiners ~~and, professional counselors, and mental health peer support specialists~~ consisting of ~~seven~~ eight
11 members.

12 (b) Three members must be licensed social workers, ~~and three must be licensed professional~~
13 ~~counselors, and one must be a licensed mental health peer support specialist.~~

14 (c) One member must be appointed from and represent the general public and may not be engaged in
15 social work, professional counseling, or mental health peer support.

16 (2) The board is allocated to the department for administrative purposes only as provided in 2-15-121.

17 (3) Members shall serve staggered 4-year terms."
18

18

19 **Section 9.** Section 37-17-104, MCA, is amended to read:

20 **"37-17-104. Exemptions.** (1) Except as provided in subsection (2), this chapter does not prevent:

21 (a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral
22 counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a
23 psychological nature consistent with their training if they do not hold themselves out to the public by a title or
24 description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

25 (b) the activities, services, and use of an official title clearly delineating the nature and level of training
26 on the part of a person in the employ of a federal, state, county, or municipal agency or of other political
27 subdivisions or an educational institution, business corporation, or research laboratory insofar as these activities
28 and services are a part of the duties of the office or position within the confines of the agency or institution;

29 (c) the activities and services of a student, intern, or resident in psychology pursuing a course of study
30 at an accredited university or college or working in a generally recognized training center if these activities and

1 services constitute a part of the supervised course of study of the student, intern, or resident in psychology;
 2 (d) the activities and services of a person who is not a resident of this state in rendering consulting
 3 psychological services in this state when these services are rendered for a period which does not exceed, in the
 4 aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of
 5 that person's residence to perform these activities and services. However, these persons shall report to the
 6 department the nature and extent of the services in this state prior to providing those services if the services are
 7 to exceed 10 days in a calendar year.

8 (e) a person authorized by the laws of the state or country of the person's former residence to perform
 9 activities and services, who has recently become a resident of this state and who has submitted a completed
 10 application for a license in this state, from performing the activities and services pending disposition of the
 11 person's application; ~~and~~

12 (f) the offering of lecture services; and

13 (g) the offering of mental health peer support as defined in [section 2].

14 (2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold
 15 themselves out as performing psychological testing, evaluation, and assessment, as described in
 16 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

17 (3) The board of social work examiners ~~and~~, professional counselors, and mental health peer support
 18 specialists shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological
 19 testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors
 20 must be consistent with the guidelines of their respective national associations. Final rules must be adopted by
 21 October 1, 2010. A qualified licensee providing services under this exemption shall comply with the rules no later
 22 than 1 year from the date of adoption of the rules."

23

24 **Section 10.** Section 37-22-102, MCA, is amended to read:

25 **"37-22-102. Definitions.** As used in this chapter:

26 (1) "Board" means the board of social work examiners ~~and~~, professional counselors, and mental health
 27 peer support specialists established under 2-15-1744.

28 (2) "Department" means the department of labor and industry.

29 (3) "Licensee" means a person licensed under this chapter.

30 (4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist

1 a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect
2 individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal
3 processes.

4 (5) "Social work" means the professional practice directed toward helping people achieve more
5 adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge
6 of social resources, human capabilities, and the roles that individual motivation and social influences play in
7 determining behavior and involves diagnoses and the application of social work techniques, including:

8 (a) counseling and using psychotherapy with individuals, families, or groups;

9 (b) providing information and referral services;

10 (c) providing, arranging, or supervising the provision of social services;

11 (d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or
12 groups;

13 (e) helping communities to organize to provide or improve social and health services;

14 (f) research or teaching related to social work; and

15 (g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and
16 make the evaluation and assessment."

17

18 **Section 11.** Section 37-23-102, MCA, is amended to read:

19 **"37-23-102. Definitions.** As used in this chapter, the following definitions apply:

20 (1) "Board" means the board of social work examiners ~~and~~ professional counselors, and mental health
21 peer support specialists established under 2-15-1744.

22 (2) "Licensee" means a person licensed under this chapter.

23 (3) "Professional counseling" means engaging in methods and techniques that include:

24 (a) counseling, which means the therapeutic process of:

25 (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and
26 objectives; or

27 (ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate
28 human development and to identify and remediate mental, emotional, or behavioral disorders and associated
29 distresses that interfere with mental health;

30 (b) assessment, which means selecting, administering, scoring, and interpreting instruments, including

1 psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes,
2 abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques
3 for understanding human behavior in relation to coping with, adapting to, or changing life situations;

4 (c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic
5 counseling strategies, techniques, and methods common to the behavioral sciences that are specifically
6 implemented in the context of a therapeutic relationship. Other treatment interventions include developmental
7 counseling, guidance, and consulting to facilitate normal growth and development, including educational and
8 career development.

9 (d) referral, which means evaluating information to identify needs or problems of an individual and to
10 determine the advisability of referral to other specialists, informing the individual of the judgment, and
11 communicating as requested or considered appropriate with the referral sources."

12

13 **Section 12.** Section 37-37-102, MCA, is amended to read:

14 **"37-37-102. Definitions.** As used in this chapter, the following definitions apply:

15 (1) "Board" means the board of social work examiners ~~and~~, professional counselors, and mental health
16 peer support specialists established in 2-15-1744.

17 (2) "Department" means the department of labor and industry.

18 (3) "Licensee" means a person licensed under this chapter.

19 (4) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders
20 within the context of interpersonal relationships, including marriage and family systems. Marriage and family
21 therapy involves the professional application of psychotherapeutic and family system theories and techniques,
22 counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples,
23 and families.

24 (5) "Practice of marriage and family therapy" means the provision of professional marriage and family
25 therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either
26 directly or through public or private organizations.

27 (6) "Qualified supervisor" means a supervisor determined by the board to meet standards established
28 by the board for supervision of clinical services.

29 (7) "Recognized educational institution" means:

30 (a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized

1 by the board and by a regional accrediting body; or

2 (b) a postgraduate training institute accredited by the commission on accreditation for marriage and
3 family therapy education."

4

5 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 7] are intended to be
6 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 7].

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- END -