

HOUSE BILL NO. 358

INTRODUCED BY R. LYNCH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO LICENSED
5 ADDICTION COUNSELORS; TRANSFERRING THE DUTIES RELATED TO REGULATING LICENSED
6 ADDICTION COUNSELORS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE BOARD OF
7 SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; RENAMING AND REVISING THE
8 MEMBERSHIP OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS;
9 REQUIRING APPLICANTS FOR LICENSURE AS ADDICTION COUNSELORS TO SUBMIT TO BACKGROUND
10 CHECKS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102,
11 37-22-201, 37-23-102, 37-35-102, 37-35-103, 37-35-201, 37-35-202, AND 37-37-102, MCA; AND REPEALING
12 SECTIONS 37-35-301, 37-35-303, AND 37-35-304, MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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Section 1. Section 2-15-1744, MCA, is amended to read:

"2-15-1744. Board of ~~social work examiners and professional counselors~~ behavioral health. (1) (a)

The governor shall appoint, with the consent of the senate, a board of ~~social work examiners and professional~~
19 ~~counselors~~ behavioral health consisting of ~~seven~~ nine members.

(b) ~~Three~~ Two members must be licensed social workers, and ~~three~~ two must be licensed professional
21 counselors.

(c) ~~One member~~ Two members must be appointed from and represent the general public and may not
23 be engaged in social work, but one may be engaged in marriage and family therapy.

(d) One member must be a licensed marriage and family therapist.

(e) Two members must be licensed addiction counselors.

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

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

Section 2. Section 37-17-104, MCA, is amended to read:

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



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

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

9 (c) the activities and services of a student, intern, or resident in psychology pursuing a course of study
10 at an accredited university or college or working in a generally recognized training center if these activities and
11 services constitute a part of the supervised course of study of the student, intern, or resident in psychology;

12 (d) the activities and services of a person who is not a resident of this state in rendering consulting
13 psychological services in this state when these services are rendered for a period which does not exceed, in the
14 aggregate, 60 days during a calendar year if the person is authorized under the laws of the state or country of
15 that person's residence to perform these activities and services. However, these persons shall report to the
16 department the nature and extent of the services in this state prior to providing those services if the services are
17 to exceed 10 days in a calendar year.

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

22 (f) the offering of lecture services.

23 (2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold
24 themselves out as performing psychological testing, evaluation, and assessment, as described in
25 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

26 (3) The board of ~~social work examiners and professional counselors~~ behavioral health shall adopt rules
27 that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and
28 assessment. The rules for licensed clinical social workers and professional counselors must be consistent with
29 the guidelines of their respective national associations. ~~Final rules must be adopted by October 1, 2010.~~ A
30 qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from

1 the date of adoption of the rules."

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3 **Section 3.** Section 37-22-102, MCA, is amended to read:

4 **"37-22-102. Definitions.** As used in this chapter:

5 (1) "Board" means the board of ~~social work examiners and professional counselors~~ behavioral health
6 established ~~under~~ in 2-15-1744.

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

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

9 (4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist
10 a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect
11 individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal
12 processes.

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

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

18 (b) providing information and referral services;

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

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

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

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

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

26

27 **Section 4.** Section 37-22-201, MCA, is amended to read:

28 **"37-22-201. Duties of board.** The board:

29 (1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, Title 37, chapter 35, and Title
30 37, chapter 37, to the attorney general or the appropriate county attorney, or both;

1 (2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 23,
 2 35, and 37 and this chapter. The board may, once a year by a consensus of board members, determine that there
 3 is no necessity for a board meeting.

4 (3) shall adopt rules that set professional, practice, and ethical standards for social workers, marriage
 5 and family therapists, addiction counselors, and professional counselors and other rules as may be reasonably
 6 necessary for the administration of chapters 23, 35, and 37 and this chapter; and

7 (4) may adopt rules governing the issuance of licenses of special competence in particular areas of
 8 practice as a licensed professional counselor. The board shall establish criteria for each particular area for which
 9 a license is issued."

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11 **Section 5.** Section 37-23-102, MCA, is amended to read:

12 **"37-23-102. Definitions.** As used in this chapter, the following definitions apply:

13 (1) "Board" means the board of ~~social work examiners and professional counselors~~ behavioral health
 14 established ~~under~~ in 2-15-1744.

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

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

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

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

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

23 (b) assessment, which means selecting, administering, scoring, and interpreting instruments, including
 24 psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes,
 25 abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques
 26 for understanding human behavior in relation to coping with, adapting to, or changing life situations;

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

1 career development.

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

5

6 **Section 6.** Section 37-35-102, MCA, is amended to read:

7 **"37-35-102. Definitions.** As used in this chapter, the following definitions apply:

8 (1) "Accredited college or university" means a college or university accredited by a regional or national
9 accrediting association for institutions of higher learning.

10 (2) "Addiction" means the condition or state in which an individual is physiologically or psychologically
11 dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

12 (3) ~~"Department" means the department of labor and industry provided for in 2-15-1701.~~ **"Board" means**
13 **the board of behavioral health provided for in 2-15-1744.**

14 (4) "Licensed addiction counselor" means a person who has the knowledge and skill necessary to
15 provide the therapeutic process of addiction and gambling dependence impulse control disorder counseling and
16 who is licensed under the provisions of this chapter."

17

18 **Section 7.** Section 37-35-103, MCA, is amended to read:

19 **"37-35-103. Department Board powers and duties.** (1) The ~~department~~ board shall:

20 (a) license and renew the licenses of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) defining any unprofessional conduct that is not included in ~~37-1-410~~ 37-1-316; and

24 (iii) setting criteria for training programs, internships, and continuing education requirements to ensure
25 the quality of addiction counseling.

26 (2) The ~~department~~ board may:

27 (a) adopt rules necessary to implement the provisions of this chapter;

28 (b) adopt rules specifying the scope of addiction counseling that are consistent with the education
29 required by 37-35-202; and

30 (c) establish licensure requirements and procedures that the ~~department~~ board considers appropriate."

1

2 **Section 8.** Section 37-35-201, MCA, is amended to read:

3 **"37-35-201. License required -- exceptions.** (1) Except as otherwise provided in this chapter, a person
4 may not practice addiction counseling or represent to the public that the person is a licensed addiction counselor
5 unless the person is licensed under the provisions of this chapter.

6 (2) This chapter does not prohibit an activity or service:

7 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed professional
8 counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation officer, court
9 employee, pastoral counselor, or school counselor, consistent with the person's licensure or certification and the
10 code of ethics of the person's profession, as long as the person does not represent by title that the person is a
11 licensed addiction counselor. If a person is a qualified member of a profession that is not licensed or certified or
12 for which there is no applicable code of ethics, this section does not prohibit an activity or service of the
13 profession as long as the person does not represent by title that the person is a licensed addiction counselor.

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

17 (c) of an employee of a business establishment performed solely for the benefit of the establishment's
18 employees;

19 (d) of a student in addiction counseling who is pursuing a course of study at an accredited college or
20 university or who is working in a generally recognized training center if the activity or service constitutes part of
21 the course of study; or

22 (e) of a person who is not a resident of this state if the activity or service is rendered for a period that
23 does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under the laws
24 of the state or country of residence to perform the activity or service. However, the person shall report to the
25 ~~department~~ board the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

26 (3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons and
27 health care providers licensed by the appropriate agencies of the state of Montana."

28

29 **Section 9.** Section 37-35-202, MCA, is amended to read:

30 **"37-35-202. Licensure requirements -- examination -- fees -- temporary practice permit --**

1 **fingerprint check.** (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit
2 an application fee in an amount established by the department board by rule and a written application on a form
3 provided by the department board that demonstrates that the applicant has completed the eligibility requirements
4 and competency standards as defined by department board rule.

5 (2) A person may apply for licensure as a licensed addiction counselor if the person has:

6 (a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology,
7 social work, or counseling, or a comparable degree from an accredited college or university; or

8 (b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse from
9 an accredited institution.

10 (3) Prior to becoming eligible to begin the examination process, each person shall complete supervised
11 work experience in an addiction treatment program as defined by the department board, in a program approved
12 by the department board, or in a similar program recognized under the laws of another state.

13 (4) Each applicant shall successfully complete a competency examination, in writing only, as defined by
14 rules adopted by the department board.

15 (5) (a) Except as provided in subsections (5)(d) and (6), an applicant who has completed all licensure
16 requirements except the required supervised work experience may apply for a temporary practice permit that
17 authorizes the applicant to complete the required supervised work experience.

18 (b) Temporary practice permits must be issued if it is determined that:

19 (i) a complete application approved by the department board has been submitted;

20 (ii) initial screening by program staff shows no current disciplinary action against the applicant in this or
21 any other state;

22 (iii) the applicant for a temporary practice permit may only function under the supervision of a supervisor
23 who is trained in addiction counseling or a related field as defined by rule and who has an active license in good
24 standing in Montana or any other state; and

25 (iv) the applicant has completed all educational requirements as prescribed in subsection (2)(a) or (2)(b).

26 (c) A person may practice licensed addiction counseling under a temporary practice permit until the
27 person either fails the first license examination for which the person is eligible following issuance of the temporary
28 practice permit or passes the examination and is granted a license.

29 (d) A student is not required to obtain a temporary practice permit.

30 (6) The provisions of subsection (5) do not apply until the department board has adopted rules

1 implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person
 2 who is engaged in a supervised work experience prior to the adoption of the rules.

3 (7) (a) As a prerequisite to the issuance of a license, the board shall require an applicant to submit
 4 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau
 5 of investigation as provided in 37-1-307.

6 (b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the
 7 opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust
 8 and if the board determines that the applicant is not, the license may be denied.

9 ~~(7)(8)~~ A person holding a license to practice as a licensed addiction counselor in this state may use the
 10 title "licensed addiction counselor".

11 ~~(8)(9)~~ For the purposes of this section, "comparable degree" means a degree with accredited college
 12 course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis,
 13 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant
 14 behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be
 15 in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this
 16 subsection may be obtained in an associate or master's degree program if the applicant does not have a
 17 qualifying baccalaureate degree."
 18

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

20 **"37-37-102. Definitions.** As used in this chapter, the following definitions apply:

21 (1) "Board" means the board of ~~social work examiners and professional counselors~~ behavioral health
 22 established in 2-15-1744.

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

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

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

30 (5) "Practice of marriage and family therapy" means the provision of professional marriage and family

1 therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either
2 directly or through public or private organizations.

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

5 (7) "Recognized educational institution" means:

6 (a) an educational institution that grants a bachelor's, master's, or doctoral degree and that is recognized
7 by the board and by a regional accrediting body; or

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

10
11 **NEW SECTION. Section 11. Repealer.** The following sections of the Montana Code Annotated are
12 repealed:

13 37-35-301. Unprofessional conduct complaint -- sanctions.

14 37-35-303. Deposit of fees.

15 37-35-304. Transition -- transfer of license.

16
17 **NEW SECTION. Section 12. Name change -- directions to code commissioner.** Wherever a
18 reference to the board of social work examiners and professional counselors appears in legislation enacted by
19 the 2015 legislature, the code commissioner is directed to change it to a reference to the board of behavioral
20 health.

21 - END -