



AN ACT GENERALLY REVISING LAWS RELATING TO LICENSED ADDICTION COUNSELORS; TRANSFERRING THE DUTIES RELATED TO REGULATING LICENSED ADDICTION COUNSELORS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; RENAMING AND REVISING THE MEMBERSHIP OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REQUIRING APPLICANTS FOR LICENSURE AS ADDICTION COUNSELORS TO SUBMIT TO BACKGROUND CHECKS; REVISING REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS ADDICTION COUNSELORS; PROVIDING A DEFINITION OF "ADDICTION COUNSELOR LICENSURE CANDIDATE"; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 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 SECTIONS 37-35-301, 37-35-303, AND 37-35-304, MCA.

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

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 counselors~~ behavioral health consisting of ~~seven~~ nine members.

(b) ~~Three~~ Three members must be licensed social workers, and ~~three~~ three must be licensed professional counselors. At least one of these members who is licensed as a social worker or professional counselor must also be licensed as a marriage and family therapist.

(c) ~~One member~~ One member must be appointed from and represent the general public and may not be engaged in social work.

(d) 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:

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

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

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

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

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

(f) the offering of lecture services.

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

(3) The board of ~~social work examiners and professional counselors~~ behavioral health shall adopt rules

that qualify a licensee under Title 37, chapter 22 or 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations. ~~Final rules must be adopted by October 1, 2010.~~ A qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from the date of adoption of the rules."

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

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

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

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

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

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

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

- (a) counseling and using psychotherapy with individuals, families, or groups;
- (b) providing information and referral services;
- (c) providing, arranging, or supervising the provision of social services;
- (d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;
- (e) helping communities to organize to provide or improve social and health services;
- (f) research or teaching related to social work; and
- (g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and

make the evaluation and assessment."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes,

abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

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

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

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

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

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

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

(3) "Addiction counselor licensure candidate" means a person who is registered pursuant to 37-35-202(5) to engage in addiction counseling and earn supervised work experience necessary for licensure.

~~(3)(4) "Department" means the department of labor and industry provided for in 2-15-1701. "Board"~~ means the board of behavioral health provided for in 2-15-1744.

~~(4)(5) "Licensed addiction counselor" means a person who has the knowledge and skill necessary to provide the therapeutic process of addiction and gambling dependence impulse control disorder counseling and who is licensed under the provisions of this chapter."~~

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

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

- (a) license and renew the licenses of qualified applicants;
- (b) adopt rules:

(i) for eligibility requirements and competency standards;

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

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

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

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

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

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

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

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

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

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

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

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

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

the course of study; or

(e) of a person who is registered as an addiction counselor licensure candidate; or

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

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

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

"37-35-202. Licensure and registration requirements -- examination -- fees --~~temporary practice permit -- fingerprint check.~~ (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the department board by rule and a written application on a form provided by the department board that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by department board rule.

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

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

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

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

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

(5) (a) Except as provided in subsections (5)(d) and (6), an applicant who has completed ~~all licensure requirements except~~ the requirements of subsection (2) but has not completed the required supervised work experience may apply for ~~a temporary practice permit that authorizes the applicant to complete the required supervised work experience~~ registration as an addiction counselor licensure candidate.

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

(b) An application for registration as an addiction counselor licensure candidate must be approved if it is determined that:

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

(ii) ~~initial screening by program staff shows no current~~ there is no legal or disciplinary action against the applicant in this or any other state;

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

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

(c) A person ~~may practice licensed addiction counseling under a temporary practice permit until the person either fails the first license examination for which the person is eligible following issuance of the temporary practice permit or passes the examination and is granted a license~~ registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate.

(d) A student is not required to ~~obtain a temporary practice permit~~ register as an addiction counselor licensure candidate.

(6) The provisions of subsection (5) do not apply until the department board has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.

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

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

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

~~(8)(9)~~ (9) For the purposes of this section, "comparable degree" means a degree with accredited college

course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master's degree program if the applicant does not have a qualifying baccalaureate degree."

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

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

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

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

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

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

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

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

(7) "Recognized educational institution" means:

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

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

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

- 37-35-301. Unprofessional conduct complaint -- sanctions.
- 37-35-303. Deposit of fees.
- 37-35-304. Transition -- transfer of license.

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

- END -

I hereby certify that the within bill,
HB 0358, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 358

INTRODUCED BY R. LYNCH

AN ACT GENERALLY REVISING LAWS RELATING TO LICENSED ADDICTION COUNSELORS; TRANSFERRING THE DUTIES RELATED TO REGULATING LICENSED ADDICTION COUNSELORS FROM THE DEPARTMENT OF LABOR AND INDUSTRY TO THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; RENAMING AND REVISING THE MEMBERSHIP OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; REQUIRING APPLICANTS FOR LICENSURE AS ADDICTION COUNSELORS TO SUBMIT TO BACKGROUND CHECKS; REVISING REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS ADDICTION COUNSELORS; PROVIDING A DEFINITION OF "ADDICTION COUNSELOR LICENSURE CANDIDATE"; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 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 SECTIONS 37-35-301, 37-35-303, AND 37-35-304, MCA.