

SENATE BILL NO. 22

INTRODUCED BY J. COHENOUR

BY REQUEST OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BEHAVIORAL HEALTH OCCUPATION LAWS; REVISING LAWS CONCERNING SOCIAL WORK, PROFESSIONAL COUNSELING, AND MARRIAGE AND FAMILY THERAPY; RENAMING THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS TO THE BOARD OF BEHAVIORAL HEALTH; PROVIDING FOR REGISTRATION AND REGULATION OF PERSONS SEEKING LICENSURE AS SOCIAL WORKERS, PROFESSIONAL COUNSELORS, OR MARRIAGE AND FAMILY THERAPISTS; REQUIRING BACKGROUND CHECKS FOR APPLICANTS FOR MARRIAGE AND FAMILY THERAPY LICENSURE; AND AMENDING SECTIONS 2-15-1744, 37-17-104, 37-22-102, 37-22-305, 37-23-102, 37-23-201, 37-37-102, AND 37-37-201, 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 members.

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

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

(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

1 psychological nature consistent with their training if they do not hold themselves out to the public by a title or
2 description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

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

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

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

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

20 (f) the offering of lecture services.

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

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

30

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

2 **"37-22-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

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

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

16 (b) providing information and referral services;

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

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

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

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

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

24 (6) "Social worker in training" means a person who is registered pursuant to [section 5] to engage in
25 social work and earn supervised work experience necessary for licensure."

26

27 **Section 4.** Section 37-22-305, MCA, is amended to read:

28 **"37-22-305. Representation to public as licensed clinical social worker -- limitations on use of title**
29 **-- limitations on practice.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use
30 the title "licensed clinical social worker". Except as provided in subsection (2), a person may not represent that

1 the person is a licensed clinical social worker by adding the letters "LSW" or "LCSW" after the person's name or
 2 by any other means unless licensed under this chapter.

3 (2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title
 4 "licensed social worker" or "LSW" may use the title "licensed clinical social worker" or "LCSW".

5 (3) Subsection (1) does not prohibit:

6 (a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral
 7 counselors, educators, or the general public engaged in social work like activities, from doing social work
 8 consistent with their training if they do not hold themselves out to the public by a title or description incorporating
 9 the words "licensed social worker" or "licensed clinical social worker";

10 (b) activities, services, and use of an official title by a person in the employ of or under a contract with
 11 a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care
 12 facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;

13 (c) an employer from performing social work like activities performed solely for the benefit of employees;

14 (d) activities and services of a student, intern, or resident in social work pursuing a course of study at
 15 an accredited university or college or working in a generally recognized training center if the activities and
 16 services constitute a part of the supervised course of study;

17 (e) activities and services by a person who is not a resident of this state that are rendered for a period
 18 that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law
 19 of the state or country of residence to perform the activities and services. However, the person shall report to the
 20 department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

21 (f) pending disposition of the application for a license, activities and services by a person who has
 22 recently become a resident of this state, has applied for a license within 90 days of taking up residency in this
 23 state, and is licensed to perform the activities and services in the state of former residence; or

24 (g) an activity or service of a social worker in training, professional counselor in training, or marriage and
 25 family therapist in training."

26
 27 **NEW SECTION. Section 5. Social worker in training -- registration requirements -- renewal --**
 28 **standards.** (1) A person who has completed the education required for licensure but who has not completed the
 29 supervised work experience required for licensure shall register as a social worker in training in order to engage
 30 in social work and earn supervised work experience hours in this state.

- 1 (2) To register, the person shall submit:
- 2 (a) the application and fee required by the board;
- 3 (b) proof of completion of the education requirement;
- 4 (c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal
- 5 bureau of investigation as provided in 37-1-307;
- 6 (d) proof of good moral character; and
- 7 (e) a training and supervision plan that meets the requirements set by the board.
- 8 (3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may
- 9 engage in social work under the conditions set by the board and shall use the title of "clinical social worker in
- 10 training".
- 11 (4) A person shall register annually as a social worker in training. The board may limit the number of
- 12 years that a person may act as a social worker in training.
- 13 (5) A social worker in training shall conform to the standards of conduct applicable to all licensees.
- 14 (6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
- 15 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
- 16 authorization to act as a social worker in training.
- 17 (7) The board may deny a license or issue a probationary license to an applicant for licensure based on
- 18 the applicant's conduct as a social worker in training.

19

20 **Section 6.** Section 37-23-102, MCA, is amended to read:

21 **"37-23-102. Definitions.** As used in this chapter, the following definitions apply:

- 22 (1) "Board" means the board of ~~social work examiners and professional counselors~~ behavioral health
- 23 established under 2-15-1744.
- 24 (2) "Licensee" means a person licensed under this chapter.
- 25 (3) "Professional counseling" means engaging in methods and techniques that include:
- 26 (a) counseling, which means the therapeutic process of:
- 27 (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and
- 28 objectives; or
- 29 (ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate
- 30 human development and to identify and remediate mental, emotional, or behavioral disorders and associated

1 distresses that interfere with mental health;

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

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

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

14 (4) "Professional counselor in training" means a person who is registered pursuant to [section 8] to
15 engage in professional counseling and earn supervised work experience necessary for licensure."

16

17 **Section 7.** Section 37-23-201, MCA, is amended to read:

18 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**
19 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed
20 clinical professional counselor" or "professional counselor".

21 (2) Except as provided in subsection (3), a person may not represent that the person is a licensed
22 professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the
23 person's name or by any other means, engage in the practice of professional counseling, or represent that the
24 person is engaged in the practice of professional counseling, unless licensed under this chapter.

25 (3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title
26 "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

27 (4) Subsection (2) does not prohibit:

28 (a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation
29 officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a
30 federal agency, or addiction counselor licensed pursuant to Title 37, chapter 35, from performing duties and

1 services consistent with the person's licensure or certification and the code of ethics of the person's profession
 2 or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is
 3 no applicable code of ethics, from performing duties and services consistent with the person's training, as long
 4 as the person does not represent by title that the person is engaging in the practice of professional counseling;

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

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

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

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

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

21 (g) an activity or service of a person who is ~~working to satisfactorily complete the 3,000 hours of~~
 22 ~~counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned~~
 23 ~~graduate program, as required by 37-23-202(1)(a), or is working to complete the 3,000 hours of social work~~
 24 ~~experience as required by 37-22-304~~ a social worker in training, professional counselor in training, or marriage
 25 and family therapist in training; or

26 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed
 27 psychologist when performing the activity or service in a manner consistent with the person's license and the code
 28 of ethics of the person's profession."
 29

30 NEW SECTION. **Section 8. Professional counselor in training -- registration -- renewal --**

1 **standards.** (1) A person who has completed the education required for licensure but who has not completed the
 2 supervised work experience required for licensure shall register as a professional counselor in training in order
 3 to engage in professional counseling and earn supervised work experience hours in this state.

4 (2) To register, the person shall submit:

5 (a) the application and fee required by the board;

6 (b) proof of completion of the education requirement;

7 (c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal
 8 bureau of investigation as provided in 37-1-307;

9 (d) proof of good moral character; and

10 (e) a training and supervision plan that meets the requirements set by the board.

11 (3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may
 12 engage in professional counseling under the conditions set by the board and shall use the title of "professional
 13 counselor in training".

14 (4) A person shall register annually as a professional counselor in training. The board may limit the
 15 number of years that a person may act as a professional counselor in training.

16 (5) A professional counselor in training shall conform to the standards of conduct applicable to all
 17 licensees.

18 (6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
 19 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
 20 authorization to act as a professional counselor in training.

21 (7) The board may deny a license or issue a probationary license to an applicant for licensure based on
 22 the applicant's conduct as a professional counselor in training.

23

24 **Section 9.** Section 37-37-102, MCA, is amended to read:

25 **"37-37-102. Definitions.** As used in this chapter, the following definitions apply:

26 (1) "Board" means the board of ~~social work examiners and professional counselors~~ behavioral health
 27 established in 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) "Marriage and family therapist in training" means a person who is registered pursuant to [section 11]

1 to engage in marriage and family therapy and earn supervised work experience necessary for licensure.

2 (4)(5) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional
3 disorders within the context of interpersonal relationships, including marriage and family systems. Marriage and
4 family therapy involves the professional application of psychotherapeutic and family system theories and
5 techniques, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals,
6 couples, and families.

7 (5)(6) "Practice of marriage and family therapy" means the provision of professional marriage and family
8 therapy services to individuals, couples, and families, singly or in groups, for a fee, monetary or otherwise, either
9 directly or through public or private organizations.

10 (6)(7) "Qualified supervisor" means a supervisor determined by the board to meet standards established
11 by the board for supervision of clinical services.

12 (7)(8) "Recognized educational institution" means:

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

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

17

18 **Section 10.** Section 37-37-201, MCA, is amended to read:

19 **"37-37-201. License requirements -- exemptions -- ~~temporary permit.~~** (1) An applicant for a license
20 shall pay an application fee set by the board by rule. The board may provide a separate, combined fee for
21 persons licensed by the board holding dual licenses. An applicant for a license under this section shall also
22 complete an application on a form provided by the department and provide documentation to the board that the
23 applicant:

24 (a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized
25 educational institution or a degree from a program accredited by the commission on accreditation for marriage
26 and family therapy education; or

27 (ii) has a graduate degree in an allied field from a recognized educational institution and graduate level
28 work that the board determines to be the equivalent of a master's degree in marriage and family therapy or
29 marriage and family counseling;

30 (b) has successfully passed an examination prescribed by the board;

1 (c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including
 2 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500 hours
 3 may be accumulated while achieving the educational credentials listed in subsection (1)(a); and

4 (d) is of good moral character. Being of good moral character includes in its meaning that the applicant
 5 has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a
 6 nature that renders the applicant unfit to practice marriage and family therapy.

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

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

13 ~~(2)(4)~~ An applicant is exempt from the examination requirement in subsection (1)(b) if the board is
 14 satisfied that:

15 (a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United
 16 States that imposes substantially the same requirements as this chapter and has passed an examination similar
 17 to that required by the board; or

18 ~~(b) for applications received before July 1, 2011, the applicant is a clinical member of the American~~
 19 ~~association for marriage and family therapy and is a current resident of this state; or~~

20 ~~(c)(b)~~ the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical
 21 professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the state
 22 for a period prescribed by the board.

23 ~~(3)(5)~~ A person is exempt from licensure as a marriage and family therapist if the person practices
 24 marriage and family therapy:

25 (a) under qualified supervision in a training institution or facility or other supervisory arrangements
 26 approved by the board and uses the title of intern;

27 (b) as part of the person's duties as a member of the clergy or priesthood; or

28 ~~(c) under a temporary permit that the board may issue under rules adopted to allow a 1-year temporary~~
 29 ~~permit to an applicant for licensure pending examination for a license or processing of the application for a~~
 30 ~~license. An applicant with a temporary permit under this subsection shall use the title of "licensed marriage and~~

1 ~~family therapy candidate" while registered as a social worker in training, professional counselor in training, or~~
 2 ~~marriage and family therapist in training."~~

3
 4 **NEW SECTION. Section 11. Marriage and family therapist in training -- registration -- renewal --**
 5 **standards.** (1) A person who has completed the education required for licensure but who has not completed the
 6 supervised work experience required for licensure shall register as a marriage and family therapist in training in
 7 order to engage in marriage and family therapy and earn supervised work experience hours in this state.

8 (2) To register, the person shall submit:
 9 (a) the application and fee required by the board;
 10 (b) proof of completion of the education requirement;
 11 (c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal
 12 bureau of investigation as provided in 37-1-307;
 13 (d) proof of good moral character; and
 14 (e) a training and supervision plan that meets the requirements set by the board.

15 (3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may
 16 engage in marriage and family therapy under the conditions set by the board and shall use the title of "marriage
 17 and family therapist in training".

18 (4) A person shall register annually as a marriage and family therapist in training. The board may limit
 19 the number of years that a person may act as a marriage and family therapist in training.

20 (5) A marriage and family therapist in training shall conform to the standards of conduct applicable to all
 21 licensees.

22 (6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other
 23 conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person's
 24 authorization to act as a marriage and family therapist in training.

25 (7) The board may deny a license or issue a probationary license to an applicant for licensure based on
 26 the applicant's conduct as a marriage and family therapist in training.

27
 28 **NEW SECTION. Section 12. Name change -- directions to code commissioner.** Wherever a
 29 reference to the board of social work examiners and professional counselors appears in legislation enacted by
 30 the 2015 legislature, the code commissioner is directed to change it to a reference to the board of behavioral

1 health.

2

3 NEW SECTION. **Section 13. Codification instruction.** (1) [Section 5] is intended to be codified as
4 an integral part of Title 37, chapter 22, part 3, and the provisions of Title 37, chapter 22, part 3, apply to [section
5 5].

6 (2) [Section 8] is intended to be codified as an integral part of Title 37, chapter 23, part 2, and the
7 provisions of Title 37, chapter 23, part 2, apply to [section 8].

8 (3) [Section 11] is intended to be codified as an integral part of Title 37, chapter 37, part 2, and the
9 provisions of Title 37, chapter 37, part 2, apply to [section 11].

10 - END -