

HOUSE BILL NO. 617

INTRODUCED BY A. OLSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSURE OF SPECIALISTS IN EDUCATIONAL PSYCHOLOGY; PROVIDING DEFINITIONS; PROVIDING OVERSIGHT BY THE BOARD OF PSYCHOLOGISTS; REVISING THE MEMBERSHIP OF THE BOARD OF PSYCHOLOGISTS; PROVIDING A PENALTY; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 2-15-1741 AND 37-17-104, 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 practice of educational psychology affects the public health, safety, and welfare of the citizens of Montana, the purposes of [sections 1 through 6] are to:

- (a) help address the need for highly qualified mental health providers in rural areas;
- (b) promote resilience in the children and adults of Montana;
- (c) provide better access to care; and
- (d) provide for the common good by ensuring the ethical, qualified, and professional practice of educational psychology.

(2) [Sections 1 through 6] and the rules adopted by the board pursuant to [section 3] set standards of qualification, education, training, and experience and are intended to establish professional ethics for individuals who seek licensure as specialists in educational psychology.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], the following definitions apply:

- (1) "Board" means the board of psychologists provided for in 2-15-1741.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Practice of educational psychology" means rendering or offering to render professional services in developmental, behavioral, social, emotional, and academic assessment, diagnosis, and intervention to an individual, family, group, or organization for a monetary or nonmonetary fee outside of the educational and agency

1 settings in which a person holding a class 6 specialist educator license in school psychology issued by the
2 Montana office of public instruction normally works.

3 (4) "Professional services in developmental, behavioral, social, emotional, and academic assessment,
4 diagnosis, and intervention" means the promotion of the emotional and behavioral health of and the facilitation
5 of learning and resilience in children, young adults, and adults by:

6 (a) assessing conditions that influence an individual's learning, behavior, and emotional well-being;

7 (b) diagnosing emotional, mental, and behavioral health conditions;

8 (c) providing counseling and behavioral interventions and treatment in order to meet an individual's
9 learning and developmental needs and in order to support and expand an individual throughout the individual's
10 life;

11 (d) consulting with individuals, families, groups, or organizations on the educational, behavioral,
12 developmental, emotional, or vocational needs of an individual and on the specific interventions needed to
13 ameliorate those needs, including recommendations for the modification or accommodation of environmental,
14 educational, and social-emotional factors and developmental conditions that adversely affect the learning,
15 adjustment, and performance of the individual;

16 (e) developing and implementing programs that are designed to evaluate the impact of learning
17 environments on individuals and identifying solutions to obstacles within a learning environment;

18 (f) providing specific information on the impacts of developmental, intellectual, social, behavioral, or
19 emotional conditions on an individual and formulating methods to facilitate growth and learning in accordance
20 with the needs of the individual; and

21 (g) administering and interpreting the results of formal and informal assessments used specifically to
22 determine an individual's specific cognitive abilities, academic background, and social, emotional, and
23 developmental skills and functioning and presenting the results to the individual, the individual's family, or to a
24 professional team working with the individual in order to devise, implement, monitor, and revise as needed the
25 emotional, behavioral, and educational interventions and plans for the individual based on the results.

26 (5) "Specialist in educational psychology" means a person licensed under [sections 1 through 6].
27

28 **NEW SECTION. Section 3. Board powers and duties related to licensed specialists in educational**
29 **psychology.** (1) The board shall adopt rules that set professional, practice, and ethical standards for specialists
30 in educational psychology and other rules as may be reasonably necessary for the administration of this chapter.

1 (2) The board may adopt rules that set requirements for licensure that are in addition to the requirements
2 provided in [section 4].

3
4 **NEW SECTION. Section 4. License requirements.** (1) An applicant for a license shall pay an
5 application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed
6 by the board holding dual licenses. An applicant for a license under this section shall also complete an application
7 on a form provided by the department and provide documentation to the board that the applicant:

8 (a) holds a current class 6 specialist educator license in school psychology issued by the Montana office
9 of public instruction;

10 (b) meets at least one of the following criteria:

11 (i) holds a master's degree or higher in school psychology from an accredited university program and
12 has completed a 1-year supervised school psychology internship; or

13 (ii) holds a master's degree or higher in school counseling, counseling, educational or clinical psychology,
14 social work, guidance, or marriage and family therapy and has completed a 1-year supervised school psychology
15 internship;

16 (c) (i) has completed graduate coursework with an official grade of "B" or higher in:

17 (A) individual intelligence testing;

18 (B) academic assessment;

19 (C) introduction to special education law and policy;

20 (D) behavioral assessment and behavioral interventions;

21 (E) exceptional children;

22 (F) child psychopathology;

23 (G) human growth and development;

24 (H) social and emotional assessment;

25 (I) individual and group counseling;

26 (J) the administration, role, and function of the school psychologist;

27 (K) curriculum-based measurement; and

28 (L) consultation and collaboration; and

29 (ii) has completed coursework covering at least one of the following:

30 (A) tests and measurement;

1 (B) psychometrics; or
2 (C) research design and statistics;
3 (d) has successfully completed 3 years, or its equivalent, of full-time employment in an educational
4 setting within the state of Montana as a fully credentialed school psychologist;
5 (e) has completed coursework or training in the following areas:
6 (i) crisis intervention for individuals and families;
7 (ii) suicide intervention and prevention models using trauma-informed community-based strategies; and
8 (iii) psychological assessment-adult psychopathology and diagnosis using current diagnostic systems;
9 and
10 (f) is of good moral character. Being of good moral character includes in its meaning that the applicant
11 has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a
12 nature that renders the applicant unfit to practice educational psychology.

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

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

19 (4) An applicant who meets the requirements of subsection (1)(a) and who is licensed under Title 37,
20 chapter 17, 22, 23, or 37, is exempt from the coursework and training requirements imposed by subsection (1)(e).

21
22 **NEW SECTION. Section 5. Representation to public as specialist in educational psychology.** (1)

23 Upon issuance of a license in accordance with this chapter, a licensee may:

24 (a) advertise services as a specialist in educational psychology;
25 (b) use the title of "licensed specialist in educational psychology" and add the letters "LSEP" after the
26 person's name; and
27 (c) practice educational psychology.

28 (2) Subsection (1) does not prohibit any of the following:

29 (a) individuals licensed as professional counselors, clinical professional counselors, clinical social
30 workers, psychiatric nurses, psychologists, or physicians, members of the clergy, or other qualified members of

1 professional groups identified by board rule from advertising or performing services similar to those described
 2 in [sections 1 through 6] as pertaining to educational psychologists in a manner consistent with the accepted
 3 standards of their respective professions. Only licensees under this chapter may use any title described in
 4 subsection (1)(b).

5 (b) a person who holds a class 6 specialist educator license in school psychology and who is employed
 6 by a school district as a school psychologist from performing school psychology services in a school.

7
 8 **NEW SECTION. Section 6. Violations -- penalties.** (1) It is a misdemeanor for a person to knowingly:

9 (a) indicate that the person is a licensed specialist in educational psychology without being licensed
 10 under this chapter;

11 (b) obtain or attempt to obtain a license by bribery or fraudulent representation; or

12 (c) make a false statement on any form used by the board to implement this chapter or the rules adopted
 13 under this chapter.

14 (2) A person convicted under this section shall be imprisoned in the county jail for a period not exceeding
 15 6 months or be fined not more than \$500, or both. A person convicted of a second or subsequent offense under
 16 this section shall be punished by both a fine and imprisonment.

17
 18 **Section 7.** Section 2-15-1741, MCA, is amended to read:

19 **"2-15-1741. Board of psychologists.** (1) There is a board of psychologists.

20 (2) The board consists of ~~six~~ eight members appointed by the governor with the consent of the senate.
 21 Two members must be licensed psychologists in private practice, one member must be a licensed psychologist
 22 in public health, one member must be a licensed psychologist engaged in the teaching of psychology, two
 23 members must be licensed specialists in educational psychology, and two members must be from the general
 24 public. A member may not serve more than two consecutive 5-year terms.

25 (3) Members shall serve staggered 5-year terms.

26 (4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."
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28 **Section 8.** Section 37-17-104, MCA, is amended to read:

29 **"37-17-104. Exemptions.** (1) Except as provided in subsection (2), this chapter does not prevent:

30 (a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral

1 counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a
2 psychological nature consistent with their training if they do not hold themselves out to the public by a title or
3 description incorporating the words "psychology", "psychologist", "psychological", or "psychologic";

4 (b) licensed specialists in educational psychology from providing services authorized under [sections
5 1 through 6]:

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

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

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

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

23 (f)(g) the offering of lecture services.

24 (2) Those qualified members of other professions described in subsection (1)(a) and (1)(b) may indicate
25 and hold themselves out as performing psychological testing, evaluation, and assessment, as described in
26 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

27 (3) The board of behavioral health shall adopt rules that qualify a licensee under Title 37, chapter 22 or
28 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers
29 and professional counselors must be consistent with the guidelines of their respective national associations. 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 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 6] are intended to be codified
4 as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 6].

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