

HOUSE BILL NO. 617

INTRODUCED BY A. OLSEN, R. EHLI, J. FLEMING, B. HARRIS, J. KARJALA, S. MALEK, D. SALOMON

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~~ YOUTH 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 A YOUTH, family, group, or organization for a monetary or nonmonetary fee outside of the educational



1 and agency settings in which a person holding a class 6 specialist educator license in school psychology issued  
2 by the 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~~ YOUTH by:

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

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

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

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

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

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

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

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

29 (6) "YOUTH" MEANS AN INDIVIDUAL ENROLLED IN A K-12 SCHOOL.

30

1            NEW SECTION. Section 3. Board powers and duties related to licensed specialists in educational  
2 **psychology.** (1) The board shall adopt:

3            (A) rules that set professional, practice, and ethical standards for specialists in educational psychology  
4 **and;**

5            (B) RULES THAT ESTABLISH THAT THE PRIMARY FOCUS OF THE PRACTICE OF EDUCATIONAL PSYCHOLOGY  
6 INVOLVES SERVICES TO YOUTH; AND

7            (C) other rules as may be reasonably necessary for the administration of this chapter.

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

10

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

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

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

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

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

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

24            (A) individual intelligence testing;

25            (B) academic assessment;

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

27            (D) behavioral assessment and behavioral interventions;

28            (E) exceptional children;

29            (F) child psychopathology;

30            (G) human growth and development;

- 1 (H) social and emotional assessment;
- 2 (I) individual and group counseling;
- 3 (J) the administration, role, and function of the school psychologist;
- 4 (K) curriculum-based measurement; and
- 5 (L) consultation and collaboration; and
- 6 (ii) has completed coursework covering at least one of the following:
- 7 (A) tests and measurement;
- 8 (B) psychometrics; or
- 9 (C) research design and statistics;
- 10 (d) has successfully completed 3 years, or its equivalent, of full-time employment in an educational
- 11 setting within the state of Montana as a fully credentialed school psychologist;
- 12 (e) has completed coursework or training in the following areas:
- 13 (i) crisis intervention for ~~individuals~~ YOUTH and families;
- 14 (ii) suicide intervention and prevention models using trauma-informed community-based strategies; and
- 15 (iii) psychological assessment-adult psychopathology and diagnosis using current diagnostic systems;
- 16 and
- 17 (f) is of good moral character. Being of good moral character includes in its meaning that the applicant
- 18 has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a
- 19 nature that renders the applicant unfit to practice educational psychology.

20 (2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit

21 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau

22 of investigation as provided in 37-1-307.

23 (3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the

24 opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust,

25 and if the board determines that the applicant is not, the license may be denied.

26 (4) An applicant who meets the requirements of subsection (1)(a) and who is licensed under Title 37,

27 chapter 17, 22, 23, or 37, is exempt from the coursework and training requirements imposed by subsection (1)(e).

28

29 **NEW SECTION. Section 5. Representation to public as specialist in educational psychology --**

30 **LIMITATION.** (1) Upon issuance of a license in accordance with this chapter, a licensee may:

1 (a) advertise services as a specialist in educational psychology;  
 2 (b) use the title of "licensed specialist in educational psychology" and add the letters "LSEP" after the  
 3 person's name; and

4 (c) practice educational psychology.

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

6 (a) individuals licensed as professional counselors, clinical professional counselors, clinical social  
 7 workers, psychiatric nurses, psychologists, or physicians, members of the clergy, or other qualified members of  
 8 professional groups identified by board rule from advertising or performing services similar to those described  
 9 in [sections 1 through 6] as pertaining to educational psychologists in a manner consistent with the accepted  
 10 standards of their respective professions. Only licensees under this chapter may use any title described in  
 11 subsection (1)(b).

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

14 (3) A LICENSEE MAY NOT CONTRACT INDEPENDENTLY WITH A SCHOOL TO PROVIDE SCHOOL PSYCHOLOGY  
 15 SERVICES.

16  
 17 NEW SECTION. Section 6. Violations -- penalties. (1) It is a misdemeanor for a person to knowingly:

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

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

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

23 (2) A person convicted under this section shall be imprisoned in the county jail for a period not exceeding  
 24 6 months or be fined not more than \$500, or both. A person convicted of a second or subsequent offense under  
 25 this section shall be punished by both a fine and imprisonment.

26

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

28 **"2-15-1741. Board of psychologists.** (1) There is a board of psychologists.

29 (2) The board consists of ~~six~~ eight members appointed by the governor with the consent of the senate.

30 Two members must be licensed psychologists in private practice, one member must be a licensed psychologist

1 in public health, one member must be a licensed psychologist engaged in the teaching of psychology, two  
 2 members must be licensed specialists in educational psychology, and two members must be from the general  
 3 public. A member may not serve more than two consecutive 5-year terms.

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

5 (4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."  
 6

7 **Section 8.** Section 37-17-104, MCA, is amended to read:

8 **"37-17-104. Exemptions.** (1) Except as provided in subsection (2), this chapter does not prevent:

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

13 (b) licensed specialists in educational psychology from providing services authorized under [sections  
 14 1 through 6];

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

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

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

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

1 person's application; and  
2 (f)(g) the offering of lecture services.

3 (2) Those qualified members of other professions described in subsection (1)(a) and (1)(b) may indicate  
4 and hold themselves out as performing psychological testing, evaluation, and assessment, as described in  
5 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.

6 (3) The board of behavioral health shall adopt rules that qualify a licensee under Title 37, chapter 22 or  
7 23, to perform psychological testing, evaluation, and assessment. The rules for licensed clinical social workers  
8 and professional counselors must be consistent with the guidelines of their respective national associations. A  
9 qualified licensee providing services under this exemption shall comply with the rules no later than 1 year from  
10 the date of adoption of the rules."

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12 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 6] are intended to be codified  
13 as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 6].

14 - END -