

1 SENATE BILL NO. 102

2 INTRODUCED BY J. SMALL

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LICENSURE REQUIREMENTS FOR
 5 SOCIAL WORKERS; CLARIFYING REQUIREMENTS FOR USE OF CERTAIN TITLES FOR SOCIAL
 6 WORKERS; CLARIFYING OUT-OF-STATE PROFESSIONAL COUNSELOR APPLICANTS; ELIMINATING
 7 REFERENCE LETTER REQUIREMENTS; REVISING CRIMINAL BACKGROUND CHECK AND
 8 FINGERPRINT REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-22-
 9 301, 37-22-305, 37-22-307, 37-22-308, 37-23-202, AND 37-35-102, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **Section 1.** Section 37-22-301, MCA, is amended to read:

15 **"37-22-301. License Licensed clinical social worker requirements -- rulemaking -- exemptions.**

16 (1) An applicant to be a licensed clinical social worker:

17 (a) must have a doctorate or master's degree in social work from a program accredited by the council
 18 on social work education or approved by the board; and

19 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
 20 completed at least 24 months of supervised post-master's degree work experience in psychotherapy, which
 21 must have included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client
 22 contact, within the past 5 years.

23 (2) After completing the required supervised work experience as a social worker licensure candidate,
 24 the applicant shall:

25 ~~(a) provide the board with three letters of reference from professionals licensed by the board or~~
 26 ~~academic professors who have knowledge of the applicant's professional performance;~~

27 ~~(b)~~(a) satisfactorily complete an examination prescribed by the board. An applicant who fails the
 28 examination may reapply to take the examination and may continue as a social worker licensure candidate,

1 subject to the terms set by the board.

2 ~~(e)~~(b) submit a completed application required by the board and the application fee prescribed by the
3 board.

4 (3) A licensed clinical social worker:

5 (a) is subject to the social work ethical standards adopted under 37-22-201;

6 (b) may engage in independent practice, as defined by the board, upon receiving a license; and

7 (c) may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social
8 worker".

9 (4) An applicant is exempt from the examination requirement in subsection ~~(2)(b)~~ (2)(a) if the
10 applicant:

11 (a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of
12 the United States under laws that have substantially the same requirements as this chapter; and

13 (b) has passed an examination similar to that required by the board.

14 (5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit
15 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
16 investigation as provided in 37-1-307. The board may require a criminal background check of applicants and
17 determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

18 (6) The board shall adopt rules to implement this section."
19

20 **Section 2.** Section 37-22-305, MCA, is amended to read:

21 **"37-22-305. Representation to public as licensed ~~clinical social worker~~ -- limitations on use of**
22 **title -- limitations on practice.** (1) (a) Upon issuance of a license in accordance with this chapter, a licensee
23 may use the title "social worker", "licensed social worker", "licensed clinical social worker", "licensed
24 baccalaureate social worker", or "licensed master's social worker".

25 (b) Except as provided in subsection (2), a person may not represent that the person is a social
26 worker, a licensed social worker, a licensed clinical social worker, a licensed baccalaureate social worker, or a
27 licensed master's social worker, by adding the letters "LSW", ~~or~~ "LCSW", "LBSW", or "LMSW" after the person's
28 name or by any other means unless licensed under this chapter.

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

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

4 (a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral
5 counselors, educators, or the general public engaged in social work like activities, from doing social work
6 consistent with their training if they do not hold themselves out to the public by a title or description
7 incorporating the words "social worker", "licensed social worker",¹ ~~or "licensed clinical social worker"~~, "licensed
8 baccalaureate social worker", or "licensed master's social worker";

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

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

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

18 (e) activities and services by a person who is not a resident of this state that are rendered for a period
19 that does not exceed, in the aggregate, 60 days during a calendar year or 45 consecutive calendar days if the
20 person is authorized under the law of the state or country of residence to perform the activities and services.
21 However, the person shall report to the department the nature and extent of the activities and services if they
22 exceed 10 days in a calendar year.

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

26 (g) activities or services of a social worker licensure candidate, professional counselor licensure
27 candidate, or marriage and family therapist licensure candidate."
28

1 **Section 3.** Section 37-22-307, MCA, is amended to read:

2 **"37-22-307. Licensed baccalaureate social worker requirements -- exemption -- rulemaking. (1)**

3 An applicant to be a licensed baccalaureate social worker:

4 (a) must have a bachelor's degree in social work from a program accredited by the council on social
5 work education or a program approved by the board by rule; and

6 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
7 completed supervised work experience as specified in ~~the training and supervision plan submitted to the board~~
8 ~~and approved by the board~~ 37-22-313 and board rule. Some of the required hours must be in direct client
9 contact.

10 (2) After completing the required supervised work experience as a social worker licensure candidate,
11 the applicant shall:

12 ~~(a) provide the board with three letters of reference from professionals licensed by the board or~~
13 ~~academic professors who have knowledge of the applicant's professional performance;~~

14 ~~(b)~~(a) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails
15 the examination may reapply to take the examination and may continue as a social worker licensure candidate,
16 subject to the terms set by the board.

17 ~~(c)~~(b) submit a completed application required by the board and the application fee prescribed by the
18 board; and

19 ~~(d)~~(c) as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint
20 checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

21 The board may require a criminal background check of applicants and determine the suitability for licensure as
22 provided in 37-1-201 through 37-1-205 and 37-1-307.

23 (3) A licensed baccalaureate social worker:

24 (a) is subject to the social work ethical standards adopted under 37-22-201;

25 (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);

26 (c) may engage in practice, as defined by the board, upon receiving a license; and

27 (d) may use the initials "LBSW" for "licensed baccalaureate social worker".

28 (4) An applicant is exempt from the examination requirement in subsection ~~(2)(e)~~ (2)(a) if the

1 applicant:

2 (a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of
3 the United States under laws that have substantially the same requirements as this chapter; and

4 (b) has passed an examination similar to that required by the board.

5 (5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable
6 work and education experience as provided in subsection (1) are exempt from examination procedures
7 provided in subsection ~~(2)(b)~~ (2)(a) and may be licensed under this section.

8 (6) The board ~~may require a criminal background check of applicants and~~ shall adopt rules to
9 implement this section."

10

11 **Section 4.** Section 37-22-308, MCA, is amended to read:

12 **"37-22-308. Licensed master's social worker requirements -- rulemaking -- exemption.** (1) An
13 applicant to be a licensed master's social worker:

14 (a) must have a master's degree in social work from a program accredited by the council on social
15 work education or a program approved by the board by rule; and

16 (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and
17 completed supervised work experience as specified in ~~the training and supervision plan submitted to the board~~
18 ~~and approved by the board~~ 37-22-313 and board rule. Some of the required hours must be in direct client
19 contact.

20 (2) After completing the required supervised work experience as a social worker licensure candidate,
21 the applicant shall:

22 ~~(a) provide the board with three letters of reference from professionals licensed by the board or~~
23 ~~academic professors who have knowledge of the applicant's professional performance;~~

24 ~~(b)~~(a) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails
25 the examination may reapply to take the examination and may continue as a social worker licensure candidate,
26 subject to the terms set by the board.

27 ~~(c)~~(b) submit a completed application required by the board and the application fee prescribed by the
28 board by rule; and

1 ~~(d)~~(c) as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint
 2 checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.
 3 The board may require a criminal background check of applicants and determine the suitability for licensure as
 4 provided in 37-1-201 through 37-1-205 and 37-1-307.

5 (3) A licensed master's social worker:

- 6 (a) is subject to the social work ethical standards adopted under 37-22-201;
- 7 (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);
- 8 (c) may engage in practice, as defined by the board, upon receiving a license; and
- 9 (d) may use the initials "LMSW" for "licensed master's social worker".

10 (4) An applicant is exempt from the examination requirement in subsection ~~(2)(e)~~ (2)(a) if the
 11 applicant:

12 (a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of
 13 the United States under laws that have substantially the same requirements as this chapter; and

14 (b) has passed an examination similar to that required by the board.

15 (5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable
 16 work and education experience as provided in subsection (1) are exempt from examination procedures
 17 provided in subsection ~~(2)(b)~~ (2)(a) and may be licensed under this section.

18 (6) ~~The board may require a criminal background check of applicants and shall adopt rules to~~
 19 ~~implement this section."~~

20

21 **Section 5.** Section 37-23-202, MCA, is amended to read:

22 "**37-23-202. Licensure requirements.** (1) An applicant for licensure must have satisfactorily:

23 (a) completed a ~~planned graduate program of 60 semester hours, primarily counseling in nature, 6~~
 24 ~~semester hours of which were earned in an advanced counseling practicum~~ that resulted in a graduate degree
 25 from an institution accredited to offer a graduate program in counseling with a minimum number of hours in
 26 areas or disciplines established by the board in rule;

27 (b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or
 28 licensed member of an allied mental health profession, at least half of which was postdegree. The applicant

1 must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

2 (c) passed an examination prepared and administered by:

3 (i) the national board of certified counselors; or

4 (ii) the national academy of certified clinical mental health counselors; and

5 (d) completed an application.

6 ~~(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that~~
 7 ~~consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution~~
 8 ~~accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours~~
 9 ~~necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a~~
 10 ~~period of 5 years.~~

11 ~~(3)(2)~~ As a prerequisite to the issuance of a license, the board shall require the applicant to submit
 12 fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of
 13 investigation as provided in 37-1-307.

14 ~~(4)(3)~~ If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant
 15 has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the
 16 public trust, and if the board determines that the applicant is not, the license may be denied."

17

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

19 **"37-35-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

24 (3) "Addiction counselor licensure candidate" means a person who is registered pursuant to 37-35-
 25 202(5) to engage in addiction counseling and earn supervised work experience necessary for licensure.

26 (4) "Board" means the board of behavioral health provided for in 2-15-1744.

27 (5) "Licensed addiction counselor" means a person who has the knowledge and skill necessary to
 28 provide the therapeutic process of addiction and gambling ~~dependence-impulse-control-disorder~~ counseling and

1 who is licensed under the provisions of this chapter."

2

3 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2021.

4 - END -