

HOUSE BILL NO. 137

INTRODUCED BY G. OBLANDER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LICENSING AND CERTIFICATION REQUIREMENTS FOR BEHAVIORAL HEALTH PRACTITIONERS; ESTABLISHING EXPERIENCE AND EDUCATION REQUIREMENTS; PROVIDING CONFIDENTIALITY; PROVIDING IMMUNITY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-4-502, 20-9-327, 27-1-1101, 33-30-1019, 33-30-1020, 37-1-401, 37-17-104, 41-3-127, 45-5-231, 45-5-501, 45-5-601, 45-5-709, 53-6-101, AND 53-21-102, MCA; AND REPEALING SECTIONS 37-22-101, 37-22-102, 37-22-103, 37-22-201, 37-22-301, 37-22-302, 37-22-305, 37-22-307, 37-22-308, 37-22-313, 37-22-401, 37-22-411, 37-22-412, 37-23-101, 37-23-102, 37-23-201, 37-23-202, 37-23-203, 37-23-206, 37-23-213, 37-23-301, 37-23-311, 37-23-312, 37-35-101, 37-35-102, 37-35-103, 37-35-201, 37-35-202, 37-35-204, 37-37-101, 37-37-102, 37-37-201, 37-37-202, 37-37-205, 37-37-301, 37-37-302, 37-38-101, 37-38-102, 37-38-106, 37-38-201, AND 37-38-202, MCA."

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

NEW SECTION. Section 1. Purpose. The practices of social work, professional counseling, marriage and family therapy, addiction counseling, and behavioral health peer support in the state of Montana are professional behavioral health practices affecting the public health, safety, and welfare and are subject to regulation and control in the public interest. It is a matter of public interest and concern that the collective practices of these professions warrant and receive the confidence of the public and that only qualified persons be permitted to practice in the behavioral health field from within or outside of Montana and engage with behavioral health clients located within the state. [Sections 1 through 14] must be liberally construed to carry out these objectives and purposes.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 14], the following definitions apply:

(1) "Addiction" means the condition or state in which an individual is physiologically or

psychologically dependent on alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

(2) "Addiction counseling" means using the knowledge and skill necessary to provide the therapeutic process of addiction treatment.

(3) "Approved examination" means a standardized test or examination of behavioral health knowledge, skills, and abilities that is approved by the board.

(4) "Approved program" means a behavioral health educational program accredited or sponsored by an entity that is recognized at the national, regional, or state level and approved by the board.

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

(6) "Baccalaureate social work" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, research, and the development, implementation, and administration of policies, programs, and activities.

(7) "Behavioral health" means for the purposes of regulation and licensure under this chapter, the practices of social work, professional counseling, marriage and family therapy, addiction counseling, and peer support regulated under [sections 1 through 14].

(8) "Behavioral health disorder" is a diagnosis of:

(a) a mental disorder as defined in 53-21-102; or

(b) chemical dependency as defined in 53-24-103.

(9) "Behavioral health peer support" means the use of personal experience with a behavioral health disorder to provide support, mentoring, guidance, and advocacy to individuals with behavioral health disorders while under the supervision of a mental health professional in an amount, duration, and scope appropriate to the setting and the demonstrated competency and experience of the peer support specialist.

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

(11) "Clinical professional counseling" means engaging in methods and techniques that include:

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

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

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

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

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

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

20 (12) (a) "Clinical social work" means the application of professional social work knowledge, skills,
21 and values in the differential diagnosis and treatment of psychosocial function, disability, or impairment,
22 including emotional, mental, and behavioral disorders and the perception of chronic pain. Treatment includes a
23 plan based on a differential diagnosis. Treatment may include but is not limited to the provision of
24 psychotherapy to individuals, couples, families, and groups across the life span. A clinical social work licensee
25 may also provide the services of baccalaureate and master's social work.

26 (b) The term includes the performance of psychological testing, evaluation, and assessment if the
27 licensee is qualified to administer testing and make evaluations and assessments pursuant to 37-17-104.

28 (13) "Department" means the department of labor and industry provided for in 2-15-1701.

(14) "Licensee" means an individual licensed under [sections 1 through 14] to practice social work, clinical professional counseling, addiction counseling, or marriage and family therapy or certified to provide behavioral health peer support.

(15) "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:

(a) 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;

(b) the provision of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, either directly or through public or private organizations; and

(c) the performance of psychological testing, evaluation, and assessment if the licensee is qualified to administer testing and make evaluations pursuant to 37-17-104.

(16) "Master's social work" means the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work includes the application of specialized knowledge and advanced skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

(17) "Mental health professional" means:

(a) a physician licensed under Title 37, chapter 3;

(b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing;

(c) a psychologist licensed under Title 37, chapter 17;

(d) a social worker licensed under [section 10];

(e) a professional counselor licensed under [section 11];

(f) an addiction counselor licensed under [section 12]; or

(g) a marriage and family therapist licensed under [section 13].

(18) "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.

(19) "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.

(20) "Supervised work experience" means work in a behavioral health field after receipt of the required degree and license but under:

(a) the supervision of an approved supervisor; and

(b) terms and conditions prescribed by the board by rule.

NEW SECTION. Section 3. Duties of board. The board:

(1) shall meet at least annually to perform the duties described in [sections 1 through 14];

(2) shall adopt rules to carry out the provisions of [sections 1 through 14], including but not limited to rules that set professional, practice, and ethical standards for licensees;

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

(4) shall recommend prosecutions for violations of [sections 1 through 14] to the attorney general or the appropriate county attorney, or both.

NEW SECTION. Section 4. Fees. Each applicant for a license or certification shall, upon submitting an application to the board, pay an application fee set by the department.

NEW SECTION. Section 5. Background checks. (1) As a prerequisite to the issuance of a license,

1 continue to practice.

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3 **NEW SECTION. Section 10. Social work license required -- qualifications.** (1) A person may not
4 practice social work unless licensed under Title 37, chapter 1, and [sections 1 through 14].

5 (2) Except as provided in subsection (6), an applicant for a clinical social work license must have:

6 (a) completed a master's or doctoral degree in social work from an approved program;

7 (b) successfully completed 3,000 hours of supervised social work practice; and

8 (c) passed an approved examination.

9 (3) An applicant for a master's social work license must have:

10 (a) completed a master's degree in an approved program;

11 (b) successfully completed ~~2,000~~ the required hours of supervised social work practice as

12 determined by board rule; and

13 (c) passed an approved examination.

14 (4) An applicant for a baccalaureate social work license must have:

15 (a) completed a bachelor's degree in social work from an approved program;

16 (b) successfully completed ~~2,000~~ the required hours of supervised social work practice as

17 determined by board rule; and

18 (c) passed an approved examination.

19 (5) A clinical social work licensee may engage in the independent practice of social work as

20 defined in board rule.

21 (6) An applicant for a clinical social work license who has not completed the degree requirements
22 of subsection (2)(a) may be licensed if the applicant meets requirements established by the board by rule for
23 additional postdegree social work experience equivalent to the provisions of subsections (2)(a) and (2)(b).

24 (7) The supervised social work practice required by this section must be completed as provided in
25 [section 9] and as prescribed by the board by rule.

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27 **NEW SECTION. Section 11. Clinical professional counseling license required -- qualifications.**

28 (1) A person may not practice clinical professional counseling unless licensed under Title 37, chapter 1, and