

Amendment - 1st Reading/2nd House-blue - Requested by: (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0137.002.002

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,~~ AND 53-21-1202, 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:

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- 1 37-35-201. License required -- exceptions.
- 2 37-35-202. Licensure and registration requirements -- examination -- fees -- fingerprint check.
- 3 37-35-204. Penalty.
- 4 37-37-101. Purpose.
- 5 37-37-102. Definitions.
- 6 37-37-201. License requirements -- exemptions.
- 7 37-37-202. Representation to public as licensed marriage and family therapist.
- 8 37-37-205. Marriage and family therapist licensure candidate -- registration -- renewal -- standards.
- 9 37-37-301. Violations -- penalties.
- 10 37-37-302. Immunity from misconduct allegations.
- 11 37-38-101. Behavioral health peer support specialist.
- 12 37-38-102. Definitions.
- 13 37-38-106. Privileged communications -- exceptions.
- 14 37-38-201. Certification required -- exceptions.
- 15 37-38-202. Certificate requirements -- supervision -- fees.

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17 **NEW SECTION. Section 31. Codification instruction.** [Sections 1 through 14] are intended to be

18 codified as an integral part of a new chapter in Title 37, and the provisions of Title 37 apply to [sections 1

19 through 14].

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21 **COORDINATION SECTION. Section 32. Coordination instruction.** If both House Bill No. 101 and

22 [this act] are passed and approved, then [sections 1 through 5 and 7 of House Bill No. 101] are void and

23 [section 1 of House Bill No. 101] must be replaced with the following and codified in the same new chapter as

24 [sections 1 through 14 of this act]:

25 **"NEW SECTION. Section 1. Licensure and certification reciprocity for out-of-state applicants.**

26 (1) An applicant for reciprocity licensure or certification is subject to the application procedure in this chapter

27 and must have an active license or certificate in good standing from a jurisdiction whose license or certification

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1 qualifications, measured at the time of application to this state, are substantially equivalent to the license or
2 certification qualifications in this state as determined by the department.

3 (2) If the qualifications in subsection (1) are not substantially equivalent, the department shall refer
4 the application to the board to determine if the deficiency can be addressed by the applicant's actual
5 qualifications and work experience."

7 COORDINATION SECTION. **Section 33. Coordination instruction.** If both House Bill No. 101 and
8 [this act] are passed and approved, then [sections 2 through 5 and 7 of House Bill No. 101] are void and
9 [section 6 of House Bill No. 101], amending 37-1-304, must be amended as follows:

10 **"37-1-304. Licensure of out-of-state applicants -- reciprocity.** (1) ~~A-Except as provided in [sections~~
11 1 through 14 of House Bill No. 137], a board shall issue a license to practice without examination to a person
12 licensed in another state if the board determines that:

13 (a) the other state's license standards at the time of application to this state are substantially
14 equivalent to or greater than the standards in this state; and

15 (b) there is no reason to deny the license under the laws of this state governing the profession or
16 occupation.

17 (2) The license may be issued if the applicant affirms or states in the application that the applicant
18 has requested verification from the state or states in which the person is licensed that the person is currently
19 licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or
20 impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely
21 affirmed or stated that the applicant has requested verification from another state, the board may summarily
22 suspend the license pending further action to discipline or revoke the license.

23 (3) This section does not prevent a board from entering into a reciprocity agreement with the
24 licensing authority of another state or jurisdiction. ~~The-Except as provided in [sections 1 through 14 of House~~
25 Bill No. 137], the agreement may not permit out-of-state licensees to obtain a license by reciprocity within this
26 state if the license applicant has not met standards that are substantially equivalent to or greater than the
27 standards required in this state as determined by the board on a case-by-case basis."

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