

BEHAVIORAL HEALTH CARE WORKFORCE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends the Mental Health Professional Practice Act and the Psychologist Licensing Act to allow, under certain circumstances, mental health therapists and substance use disorder counselors to engage in mental health therapy or substance use disorder counseling via Internet, telephone, or other electronic means and to allow for the remote training and supervision of mental health professionals and substance use disorder counselors via electronic means.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ grants rulemaking authority to the Division of Occupational and Professional Licensing relating to the method that mental health professional or psychologist license applicants may complete training hours;
- ▶ provides that individuals licensed and in good standing to practice remote mental health therapy or substance use disorder counseling in other jurisdictions may provide short term transitional remote mental health therapy or remote substance use disorder counseling to clients or patients relocating to the state of Utah; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-102, as last amended by Laws of Utah 2012, Chapter 179**58-60-107**, as last amended by Laws of Utah 2012, Chapter 179**58-60-205**, as last amended by Laws of Utah 2012, Chapter 113

33 **58-60-305**, as last amended by Laws of Utah 2010, Chapter 214
 34 **58-60-405**, as last amended by Laws of Utah 2012, Chapter 179
 35 **58-60-502**, as last amended by Laws of Utah 2012, Chapter 179
 36 **58-61-102**, as last amended by Laws of Utah 2012, Chapter 117
 37 **58-61-304**, as last amended by Laws of Utah 2009, Chapter 183
 38 **58-61-307**, as last amended by Laws of Utah 2007, Chapter 306

39

40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **58-60-102** is amended to read:

42 **58-60-102. Definitions.**

43 In addition to the definitions in Section 58-1-102, as used in this chapter:

44 (1) "Client" or "patient" means an individual who consults or is examined or
 45 interviewed by an individual licensed under this chapter who is acting in the individual's
 46 professional capacity.

47 (2) "Confidential communication" means information obtained by an individual
 48 licensed under this chapter, including information obtained by the individual's examination of
 49 the client or patient, which is:

50 (a) (i) transmitted between the client or patient and an individual licensed under this
 51 chapter in the course of that relationship; or

52 (ii) transmitted among the client or patient, an individual licensed under this chapter,
 53 and individuals who are participating in the diagnosis or treatment under the direction of an
 54 individual licensed under this chapter, including members of the client's or patient's family; and

55 (b) made in confidence, for the diagnosis or treatment of the client or patient by the
 56 individual licensed under this chapter, and by a means not intended to be disclosed to third
 57 persons other than those individuals:

58 (i) present to further the interest of the client or patient in the consultation,
 59 examination, or interview;

60 (ii) reasonably necessary for the transmission of the communications; or

61 (iii) participating in the diagnosis and treatment of the client or patient under the
 62 direction of the mental health therapist.

63 (3) "Hypnosis" means, when referring to individuals exempted from licensure under

64 this chapter, a process by which an individual induces or assists another individual into a
65 hypnotic state without the use of drugs or other substances and for the purpose of increasing
66 motivation or to assist the individual to alter lifestyles or habits.

67 (4) "Individual" means a natural person.

68 (5) "Mental health therapist" means an individual licensed under this title as:

69 (a) a physician and surgeon, or osteopathic physician engaged in the practice of mental
70 health therapy;

71 (b) an advanced practice registered nurse, specializing in psychiatric mental health
72 nursing;

73 (c) a psychologist qualified to engage in the practice of mental health therapy;

74 (d) a certified psychology resident qualifying to engage in the practice of mental health
75 therapy;

76 (e) a clinical social worker;

77 (f) a certified social worker;

78 (g) a marriage and family therapist;

79 (h) an associate marriage and family therapist;

80 (i) a clinical mental health counselor; or

81 (j) an associate clinical mental health counselor.

82 (6) "Mental illness" means a mental or emotional condition defined in an approved
83 diagnostic and statistical manual for mental disorders generally recognized in the professions of
84 mental health therapy listed under Subsection (5).

85 (7) "Practice of mental health therapy" means treatment or prevention of mental illness,
86 whether in person or remotely, including:

87 (a) conducting a professional evaluation of an individual's condition of mental health,
88 mental illness, or emotional disorder consistent with standards generally recognized in the
89 professions of mental health therapy listed under Subsection (5);

90 (b) establishing a diagnosis in accordance with established written standards generally
91 recognized in the professions of mental health therapy listed under Subsection (5);

92 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or
93 emotional disorder; and

94 (d) engaging in the conduct of professional intervention, including psychotherapy by

95 the application of established methods and procedures generally recognized in the professions
96 of mental health therapy listed under Subsection (5).

97 (9) "Remotely" means communicating via Internet, telephone, or other electronic
98 means that facilitate real-time audio or visual interaction between individuals when they are not
99 physically present in the same room at the same time.

100 [~~(8)~~] (10) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

101 [~~(9)~~] (11) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110,
102 and may be further defined by division rule.

103 Section 2. Section **58-60-107** is amended to read:

104 **58-60-107. Exemptions from licensure.**

105 (1) Except as modified in Section 58-60-103, the exemptions from licensure in Section
106 58-1-307 apply to this chapter.

107 (2) (a) In addition to the exemptions from licensure in Section 58-1-307, the following
108 may engage in acts included within the definition of practice as a mental health therapist,
109 subject to the stated circumstances and limitations, without being licensed under this chapter:

110 (b) the following when practicing within the scope of the license held:

111 (i) a physician and surgeon or osteopathic physician and surgeon licensed under
112 Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

113 (ii) an advanced practice registered nurse, specializing in psychiatric mental health
114 nursing, licensed under Chapter 31b, Nurse Practice Act; and

115 (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

116 (3) a recognized member of the clergy while functioning in a ministerial capacity as
117 long as the member of the clergy does not represent that the member of the clergy is, or use the
118 title of, a license classification in Subsection 58-60-102(5);

119 (4) an individual who is offering expert testimony in a proceeding before a court,
120 administrative hearing, deposition upon the order of a court or other body having power to
121 order the deposition, or a proceeding before a master, referee, or alternative dispute resolution
122 provider;

123 (5) an individual engaged in performing hypnosis who is not licensed under this title in
124 a profession which includes hypnosis in its scope of practice, and who:

125 (a) (i) induces a hypnotic state in a client for the purpose of increasing motivation or

- 126 altering lifestyles or habits, such as eating or smoking, through hypnosis;
- 127 (ii) consults with a client to determine current motivation and behavior patterns;
- 128 (iii) prepares the client to enter hypnotic states by explaining how hypnosis works and
129 what the client will experience;
- 130 (iv) tests clients to determine degrees of suggestibility;
- 131 (v) applies hypnotic techniques based on interpretation of consultation results and
132 analysis of client's motivation and behavior patterns; and
- 133 (vi) trains clients in self-hypnosis conditioning;
- 134 (b) may not:
- 135 (i) engage in the practice of mental health therapy;
- 136 (ii) use the title of a license classification in Subsection 58-60-102(5); or
- 137 (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in
138 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
139 disorders;
- 140 (6) an individual's exemption from licensure under Subsection 58-1-307(1)(b)
141 terminates when the student's training is no longer supervised by qualified faculty or staff and
142 the activities are no longer a defined part of the degree program;
- 143 (7) an individual holding an earned doctoral degree or master's degree in social work,
144 marriage and family therapy, or clinical mental health counseling, who is employed by an
145 accredited institution of higher education and who conducts research and teaches in that
146 individual's professional field, but only if the individual does not engage in providing or
147 supervising professional services regulated under this chapter to individuals or groups
148 regardless of whether there is compensation for the services;
- 149 (8) an individual in an on-the-job training program approved by the division while
150 under the supervision of qualified persons;
- 151 (9) an individual providing general education in the subjects of alcohol, drug use, or
152 substance use disorders, including prevention; ~~and~~
- 153 (10) an individual providing advice or counsel to another individual in a setting of their
154 association as friends or relatives and in a nonprofessional and noncommercial relationship, if
155 there is no compensation paid for the advice or counsel[-]; and
- 156 (11) An individual who is licensed, in good standing, to practice mental health therapy

157 or substance use disorder counseling in a state or territory of the United States outside of Utah
158 may practice mental health therapy remotely or substance use disorder counseling remotely
159 with a client in Utah only if:

160 (a) the individual is present in the state or territory where the individual is licensed to
161 practice mental health therapy or substance use disorder counseling;

162 (b) the client relocates to Utah and has been present in Utah for less than 45 days;

163 (c) the client is a client of the individual immediately before the client relocates to
164 Utah; and

165 (d) within 10 days after the day on which the client enters Utah, the individual provides
166 written notice to the division of the individual's intent to provide mental health therapy or
167 substance use disorder counseling remotely to the client.

168 Section 3. Section **58-60-205** is amended to read:

169 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**
170 **certified social worker, and social service worker.**

171 (1) An applicant for licensure as a clinical social worker shall:

172 (a) submit an application on a form provided by the division;

173 (b) pay a fee determined by the department under Section 63J-1-504;

174 (c) be of good moral character;

175 (d) produce certified transcripts from an accredited institution of higher education
176 recognized by the division in collaboration with the board verifying satisfactory completion of
177 an education and earned degree as follows:

178 (i) an earned master's degree in social work resulting from completion of an education
179 program accredited by the Council on Social Work Education; or

180 (ii) an earned doctoral degree in social work that results from successful completion of
181 a clinical concentration and practicum approved by the division and defined by rule under
182 Section 58-1-203;

183 (e) have completed a minimum of 4,000 hours of clinical social work training as
184 defined by division rule under Section 58-1-203 in not less than two years and under the
185 supervision of a clinical social worker supervisor approved by the division in collaboration
186 with the board;

187 (f) document successful completion of not less than 1,000 hours of supervised training

188 in mental health therapy obtained after completion of the education requirement in Subsection
189 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection
190 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were
191 obtained under the direct [~~personal face to face~~] supervision of a clinical social worker
192 [~~approved by the division in collaboration with the board~~], as defined by rule;

193 (g) have completed a case work, group work, or family treatment course sequence with
194 a clinical practicum in content as defined by rule under Section 58-1-203; and

195 (h) pass the examination requirement established by rule under Section 58-1-203.

196 (2) An applicant for licensure as a certified social worker shall:

197 (a) submit an application on a form provided by the division;

198 (b) pay a fee determined by the department under Section 63J-1-504;

199 (c) be of good moral character;

200 (d) produce certified transcripts from an accredited institution of higher education
201 recognized by the division in collaboration with the Social Worker Licensing Board verifying
202 satisfactory completion of an education and an earned degree as follows:

203 (i) a social work education program accredited by the Council on Social Work
204 Education and an earned master's degree resulting from completion of that program; or

205 (ii) an education program that contains approved clinical social work concentration and
206 practicum in content as defined by rule under Section 58-1-203 and an earned doctorate
207 resulting from completion of that program; and

208 (e) pass the examination requirement established by rule under Section 58-1-203.

209 (3) (a) An applicant for certification as a certified social worker intern shall meet the
210 requirements of Subsections (2)(a), (b), (c), and (d).

211 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the
212 examination required under Subsection (2)(e) or six months, whichever occurs first.

213 (c) A certified social worker intern may provide mental health therapy under the
214 general supervision of a clinical social worker.

215 (4) An applicant for licensure as a social service worker shall:

216 (a) submit an application on a form provided by the division;

217 (b) pay a fee determined by the department under Section 63J-1-504;

218 (c) be of good moral character;

219 (d) produce certified transcripts from an accredited institution of higher education
220 recognized by the division in collaboration with the Social Worker Licensing Board verifying
221 satisfactory completion of an earned degree resulting from education as follows:

222 (i) a bachelor's degree in a social work program accredited by the Council on Social
223 Work Education;

224 (ii) a master's degree in a field approved by the division in collaboration with the social
225 worker board;

226 (iii) a bachelor's degree in any field if the applicant:

227 (A) except as provided in Subsection 58-60-205.2(2), has completed at least three
228 semester hours, or the equivalent, in each of the following areas:

229 (I) social welfare policy;

230 (II) human growth and development; and

231 (III) social work practice methods, as defined by rule; and

232 (B) provides documentation that the applicant has completed at least 2,000 hours of
233 qualifying experience under the supervision of a mental health therapist, which experience is
234 approved by the division in collaboration with the Social Worker Licensing Board, and which
235 is performed after completion of the requirements to obtain the bachelor's degree required
236 under this Subsection (4); or

237 (iv) successful completion of the first academic year of a Council on Social Work
238 Education approved master's of social work curriculum and practicum; and

239 (e) pass the examination requirement established by rule under Section 58-1-203.

240 (5) The division shall ensure that the rules for an examination described under
241 Subsections (1)(h), (2)(e), and (4)(e) allow additional time to complete the examination if
242 requested by an applicant who is:

243 (a) a foreign born legal resident of the United States for whom English is a second
244 language; or

245 (b) an enrolled member of a federally recognized Native American tribe.

246 Section 4. Section **58-60-305** is amended to read:

247 **58-60-305. Qualifications for licensure.**

248 (1) All applicants for licensure as marriage and family therapists shall:

249 (a) submit an application on a form provided by the division;

- 250 (b) pay a fee determined by the department under Section 63J-1-504;
- 251 (c) be of good moral character;
- 252 (d) produce certified transcripts evidencing completion of a masters or doctorate degree
253 in marriage and family therapy from:
- 254 (i) a program accredited by the Commission on Accreditation for Marriage and Family
255 Therapy Education; or
- 256 (ii) an accredited institution meeting criteria for approval established by rule under
257 Section 58-1-203;
- 258 (e) have completed a minimum of 4,000 hours of marriage and family therapy training
259 as defined by division rule under Section 58-1-203, in not less than two years, under the
260 supervision of a marriage and family therapist supervisor who meets the requirements of
261 Section 58-60-307, and obtained after completion of the education requirement in Subsection
262 (1)(d);
- 263 (f) document successful completion of not less than 1,000 hours of supervised training
264 in mental health therapy obtained after completion of the education requirement described in
265 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of
266 training described in Subsection (1)(e), and of which documented evidence demonstrates not
267 less than 100 of the supervised hours were obtained during direct, personal, [~~face-to-face~~]
268 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307,
269 as defined by rule; and
- 270 (g) pass the examination requirement established by division rule under Section
271 58-1-203.
- 272 (2) (a) All applicants for licensure as an associate marriage and family therapist shall
273 comply with the provisions of Subsections (1)(a), (b), (c), and (d).
- 274 (b) An individual's license as an associate marriage and family therapist is limited to
275 the period of time necessary to complete clinical training as described in Subsections (1)(e) and
276 (f) and extends not more than one year from the date the minimum requirement for training is
277 completed, unless the individual presents satisfactory evidence to the division and the
278 appropriate board that the individual is making reasonable progress toward passing of the
279 qualifying examination for that profession or is otherwise on a course reasonably expected to
280 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years

281 past the date the minimum supervised clinical training requirement has been completed.

282 Section 5. Section **58-60-405** is amended to read:

283 **58-60-405. Qualifications for licensure.**

284 (1) An applicant for licensure as a clinical mental health counselor shall:

285 (a) submit an application on a form provided by the division;

286 (b) pay a fee determined by the department under Section 63J-1-504;

287 (c) be of good moral character;

288 (d) produce certified transcripts from an accredited institution of higher education

289 recognized by the division in collaboration with the board verifying satisfactory completion of:

290 (i) an education and degree in an education program in counseling with a core
291 curriculum defined by division rule under Section 58-1-203 preparing one to competently
292 engage in mental health therapy; and

293 (ii) an earned doctoral or master's degree resulting from that education program;

294 (e) have completed a minimum of 4,000 hours of clinical mental health counselor
295 training as defined by division rule under Section 58-1-203, in not less than two years, under
296 the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social
297 worker, registered psychiatric mental health nurse specialist, or marriage and family therapist
298 supervisor approved by the division in collaboration with the board, and obtained after
299 completion of the education requirement in Subsection (1)(d);

300 (f) document successful completion of not less than 1,000 hours of supervised training
301 in mental health therapy obtained after completion of the education requirement in Subsection
302 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection
303 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were
304 obtained under the direct ~~[personal face-to-face]~~ supervision of a mental health therapist
305 ~~[approved by the division in collaboration with the board]~~, as defined by rule; and

306 (g) pass the examination requirement established by division rule under Section
307 58-1-203.

308 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall
309 comply with the provisions of Subsections (1)(a), (b), (c), and (d).

310 (b) Except as provided under Subsection (2)(c), an individual's licensure as an
311 associate clinical mental health counselor is limited to the period of time necessary to complete

312 clinical training as described in Subsections (1)(e) and (f) and extends not more than one year
313 from the date the minimum requirement for training is completed.

314 (c) The time period under Subsection (2)(b) may be extended to a maximum of two
315 years past the date the minimum supervised clinical training requirement has been completed,
316 if the applicant presents satisfactory evidence to the division and the appropriate board that the
317 individual is:

318 (i) making reasonable progress toward passing of the qualifying examination for that
319 profession; or

320 (ii) otherwise on a course reasonably expected to lead to licensure.

321 Section 6. Section **58-60-502** is amended to read:

322 **58-60-502. Definitions.**

323 In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

324 (1) "Board" means the Substance Use Disorder Counselor Licensing Board created in
325 Section 58-60-503.

326 (2) (a) "Counseling" means a collaborative process that facilitates the client's progress
327 toward mutually determined treatment goals and objectives.

328 (b) "Counseling" includes:

329 (i) methods that are sensitive to an individual client's characteristics, to the influence of
330 significant others, and to the client's cultural and social context; and

331 (ii) an understanding, appreciation, and ability to appropriately use the contributions of
332 various addiction counseling models as the counseling models apply to modalities of care for
333 individuals, groups, families, couples, and significant others.

334 (3) "Direct supervision" means:

335 (a) a minimum of one hour of supervision by a supervisor of the substance use disorder
336 counselor for every 40 hours of client care provided by the substance use disorder counselor,
337 which supervision may include group supervision;

338 (b) the supervision is conducted in a face-to-face manner, unless otherwise approved
339 on a case-by-case basis by the division in collaboration with the board; and

340 (c) a supervisor is available for consultation with the counselor at all times.

341 (4) "General supervision" shall be defined by division rule.

342 (5) "Group supervision" means more than one counselor licensed under this part meets

343 with the supervisor at the same time.

344 (6) "Individual supervision" means only one counselor licensed under this part meets
345 with the supervisor at a given time.

346 (7) "Practice as a certified advanced substance use disorder counselor" and "practice as
347 a certified advanced substance use disorder counselor intern" means providing services
348 described in Subsection (9) under the direct supervision of a mental health therapist or licensed
349 advanced substance use disorder counselor.

350 (8) "Practice as a certified substance use disorder counselor" and "practice as a certified
351 substance use disorder counselor intern" means providing the services described in Subsections
352 (10)(a) and (b) under the direct supervision of a mental health therapist or licensed advanced
353 substance use disorder counselor.

354 (9) "Practice as a licensed advanced substance use disorder counselor" means:

355 (a) providing the services described in Subsections (10)(a) and (b);

356 (b) screening and assessing of individuals, including identifying substance use disorder
357 symptoms and behaviors and co-occurring mental health issues; and

358 (c) treatment planning for substance use disorders, including initial planning, ongoing
359 intervention, continuity of care, discharge planning, planning for relapse prevention, and long
360 term recovery support.

361 (10) (a) "Practice as a substance use disorder counselor" means providing services as
362 an employee of a substance use disorder agency under the general supervision of a licensed
363 mental health therapist to individuals or groups of persons, whether in person or remotely, for
364 conditions of substance use disorders consistent with the education and training of a substance
365 use disorder counselor required under this part, and the standards and ethics of the profession
366 as approved by the division in collaboration with the board.

367 (b) "Practice as a substance use disorder counselor" includes:

368 (i) administering the screening process by which a client is determined to need
369 substance use disorder services, which may include screening, brief intervention, and treatment
370 referral;

371 (ii) conducting the administrative intake procedures for admission to a program;

372 (iii) conducting orientation of a client, including:

373 (A) describing the general nature and goals of the program;

- 374 (B) explaining rules governing client conduct and infractions that can lead to
375 disciplinary action or discharge from the program;
- 376 (C) explaining hours during which services are available in a nonresidential program;
- 377 (D) treatment costs to be borne by the client, if any; and
- 378 (E) describing the client's rights as a program participant;
- 379 (iv) conducting assessment procedures by which a substance use disorder counselor
380 gathers information related to an individual's strengths, weaknesses, needs, and substance use
381 disorder symptoms for the development of the treatment plan;
- 382 (v) participating in the process of treatment planning, including recommending specific
383 interventions to support existing treatment goals and objectives developed by the substance use
384 disorder counselor, the mental health therapist, and the client to:
- 385 (A) identify and rank problems needing resolution;
- 386 (B) establish agreed upon immediate and long term goals; and
- 387 (C) decide on a treatment process and the resources to be utilized;
- 388 (vi) monitoring compliance with treatment plan progress;
- 389 (vii) providing substance use disorder counseling services to alcohol and drug use
390 disorder clients and significant people in the client's life as part of a comprehensive treatment
391 plan, including:
- 392 (A) leading specific task-oriented groups, didactic groups, and group discussions;
- 393 (B) cofacilitating group therapy with a licensed mental health therapist; and
- 394 (C) engaging in one-on-one interventions and interactions coordinated by a mental
395 health therapist;
- 396 (viii) performing case management activities that bring services, agencies, resources, or
397 people together within a planned framework of action toward the achievement of established
398 goals, including, when appropriate, liaison activities and collateral contacts;
- 399 (ix) providing substance use disorder crisis intervention services;
- 400 (x) providing client education to individuals and groups concerning alcohol and other
401 substance use disorders, including identification and description of available treatment services
402 and resources;
- 403 (xi) identifying the needs of the client that cannot be met by the substance use disorder
404 counselor or substance use disorder agency and referring the client to appropriate services and

405 community resources;

406 (xii) developing and providing effective reporting and recordkeeping procedures and
407 services, which include charting the results of the assessment and treatment plan, writing
408 reports, progress notes, discharge summaries, and other client-related data; and

409 (xiii) consulting with other professionals in regard to client treatment and services to
410 assure comprehensive quality care for the client.

411 (c) "Practice as a substance use disorder counselor" does not include:

412 (i) the diagnosing of mental illness, including substance use disorders, as defined in
413 Section 58-60-102;

414 (ii) engaging in the practice of mental health therapy as defined in Section 58-60-102;
415 or

416 (iii) the performance of a substance use disorder diagnosis, other mental illness
417 diagnosis, or psychological testing.

418 (11) "Program" means a substance use disorder agency that provides substance use
419 disorder services, including recovery support services.

420 (12) "Recovery support services" means services provided to an individual who is
421 identified as having need of substance use disorder preventive or treatment services, either
422 before, during, or after an episode of care that meets the level of care standards established by
423 division rule.

424 (13) "Substance use disorder agency" means a public or private agency, health care
425 facility, or health care practice that:

426 (a) provides substance use disorder services, recovery support services, primary health
427 care services, or substance use disorder preventive services; and

428 (b) employs qualified mental health therapists in sufficient number to:

429 (i) evaluate the condition of clients being treated by each counselor licensed under this
430 part and employed by the substance use disorder agency; and

431 (ii) ensure that appropriate substance use disorder services are being given.

432 (14) "Substance use disorder education program" means a formal program of substance
433 use disorder education offered by an accredited institution of higher education that meets
434 standards established by division rule.

435 Section 7. Section **58-61-102** is amended to read:

436 **58-61-102. Definitions.**

437 In addition to the definitions in Section 58-1-102, as used in this chapter:

438 (1) "Board" means the Psychologist Licensing Board created in Section 58-61-201.

439 (2) "Client" or "patient" means an individual who consults or is examined or
440 interviewed by a psychologist acting in his professional capacity.441 (3) "Confidential communication" means information, including information obtained
442 by the psychologist's examination of the client or patient, which is:443 (a) (i) transmitted between the client or patient and a psychologist in the course of that
444 relationship; or445 (ii) transmitted among the client or patient, the psychologist, and individuals who are
446 participating in the diagnosis or treatment under the direction of the psychologist, including
447 members of the client's or patient's family; and448 (b) made in confidence, for the diagnosis or treatment of the client or patient by the
449 psychologist, and by a means not intended to be disclosed to third persons other than those
450 individuals:451 (i) present to further the interest of the client or patient in the consultation,
452 examination, or interview;

453 (ii) reasonably necessary for the transmission of the communications; or

454 (iii) participating in the diagnosis and treatment of the client or patient under the
455 direction of the psychologist.456 (4) "Hypnosis" means, regarding individuals exempted from licensure under this
457 chapter, a process by which one individual induces or assists another individual into a hypnotic
458 state without the use of drugs or other substances and for the purpose of increasing motivation
459 or to assist the individual to alter lifestyles or habits.

460 (5) "Individual" means a natural person.

461 (6) "Mental health therapist" means an individual licensed under this title as a:

462 (a) physician and surgeon, or osteopathic physician engaged in the practice of mental
463 health therapy;

464 (b) registered psychiatric mental health nurse specialist;

465 (c) psychologist qualified to engage in the practice of mental health therapy;

466 (d) clinical social worker;

467 (e) certified social worker;

468 (f) marriage and family therapist; or

469 (g) professional counselor.

470 (7) "Mental illness" means a mental or emotional condition defined in an approved
471 diagnostic and statistical manual for mental disorders generally recognized in the professions of
472 mental health therapy listed under Subsection (6).

473 (8) "Practice of mental health therapy" means the treatment or prevention of mental
474 illness, whether in person or remotely, including:

475 (a) conducting a professional evaluation of an individual's condition of mental health,
476 mental illness, or emotional disorder;

477 (b) establishing a diagnosis in accordance with established written standards generally
478 recognized in the professions of mental health therapy listed under Subsection (6);

479 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or
480 emotional disorder; and

481 (d) engaging in the conduct of professional intervention, including psychotherapy by
482 the application of established methods and procedures generally recognized in the professions
483 of mental health therapy listed under Subsection (6).

484 (9) (a) "Practice of psychology" includes:

485 (i) the practice of mental health therapy by means of observation, description,
486 evaluation, interpretation, intervention, and treatment to effect modification of human behavior
487 by the application of generally recognized professional psychological principles, methods, and
488 procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or
489 dysfunction, the symptoms of any of these, or maladaptive behavior;

490 (ii) the observation, description, evaluation, interpretation, or modification of human
491 behavior by the application of generally recognized professional principles, methods, or
492 procedures requiring the education, training, and clinical experience of a psychologist, for the
493 purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or
494 undesired behavior and of enhancing interpersonal relationships, work and life adjustment,
495 personal effectiveness, behavioral health, and mental health;

496 (iii) psychological testing and the evaluation or assessment of personal characteristics
497 such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological

498 functioning;

499 (iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis,
500 and behavior analysis and therapy;

501 (v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism
502 and substance abuse, disorders of habit or conduct, and the psychological aspects of physical
503 illness, accident, injury, or disability; and

504 (vi) psychoeducational evaluation, therapy, remediation, and consultation.

505 (b) An individual practicing psychology may provide services to individuals, couples,
506 families, groups of individuals, members of the public, and individuals or groups within
507 organizations or institutions.

508 (10) "Remotely" means communicating via Internet, telephone, or other electronic
509 means that facilitate real-time audio or visual interaction between individuals when they are not
510 physically present in the same room at the same time.

511 ~~[(10)]~~ (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-61-501.

512 ~~[(11)]~~ (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and
513 58-61-502, and may be further defined by division rule.

514 Section 8. Section **58-61-304** is amended to read:

515 **58-61-304. Qualifications for licensure by examination or endorsement.**

516 (1) An applicant for licensure as a psychologist based upon education, clinical training,
517 and examination shall:

518 (a) submit an application on a form provided by the division;

519 (b) pay a fee determined by the department under Section 63J-1-504;

520 (c) be of good moral character;

521 (d) produce certified transcripts of credit verifying satisfactory completion of a doctoral
522 degree in psychology that includes specific core course work established by division rule under
523 Section 58-1-203, from an institution of higher education whose doctoral program, at the time
524 the applicant received the doctoral degree, met approval criteria established by division rule
525 made in consultation with the board;

526 (e) have completed a minimum of 4,000 hours of psychology training as defined by
527 division rule under Section 58-1-203 in not less than two years and under the supervision of a
528 psychologist supervisor approved by the division in collaboration with the board;

529 (f) to be qualified to engage in mental health therapy, document successful completion
530 of not less than 1,000 hours of supervised training in mental health therapy obtained after
531 completion of a master's level of education in psychology, which training may be included as
532 part of the 4,000 hours of training required in Subsection (1)(e), and for which documented
533 evidence demonstrates not less than one hour of supervision for each 40 hours of supervised
534 training was obtained under the direct [~~personal face-to-face~~] supervision of a psychologist
535 [~~approved by the division in collaboration with the board~~], as defined by rule;

536 (g) pass the examination requirement established by division rule under Section
537 58-1-203; and

538 (h) meet with the board, upon request for good cause, for the purpose of evaluating the
539 applicant's qualifications for licensure.

540 (2) An applicant for licensure as a psychologist by endorsement based upon licensure
541 in another jurisdiction shall:

542 (a) submit an application on a form provided by the division;

543 (b) pay a fee determined by the department under Section 63J-1-504;

544 (c) be of good moral character and professional standing, and not have any disciplinary
545 action pending or in effect against the applicant's psychologist license in any jurisdiction;

546 (d) have passed the Utah Psychologist Law and Ethics Examination established by
547 division rule;

548 (e) provide satisfactory evidence the applicant is currently licensed in another state,
549 district, or territory of the United States, or in any other jurisdiction approved by the division in
550 collaboration with the board;

551 (f) provide satisfactory evidence the applicant has actively practiced psychology in that
552 jurisdiction for not less than 2,000 hours or one year, whichever is greater;

553 (g) provide satisfactory evidence that:

554 (i) the education, supervised experience, examination, and all other requirements for
555 licensure in that jurisdiction at the time the applicant obtained licensure were substantially
556 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant
557 obtained licensure in the other jurisdiction; or

558 (ii) the applicant is:

559 (A) a current holder of diplomate status in good standing from the American Board of

560 Professional Psychology;

561 (B) currently credentialed as a health service provider in psychology by the National
562 Register of Health Service Providers in Psychology; or

563 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the
564 Association of State and Provincial Psychology Boards; and

565 (h) meet with the board, upon request for good cause, for the purpose of evaluating the
566 applicant's qualifications for licensure.

567 (3) (a) An applicant for certification as a psychology resident shall comply with the
568 provisions of Subsections (1)(a), (b), (c), (d), and (h).

569 (b) (i) An individual's certification as a psychology resident is limited to the period of
570 time necessary to complete clinical training as described in Subsections (1)(e) and (f) and
571 extends not more than one year from the date the minimum requirement for training is
572 completed, unless the individual presents satisfactory evidence to the division and the
573 Psychologist Licensing Board that the individual is making reasonable progress toward passing
574 the qualifying examination or is otherwise on a course reasonably expected to lead to licensure
575 as a psychologist.

576 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the
577 date the minimum supervised clinical training requirement has been completed.

578 Section 9. Section **58-61-307** is amended to read:

579 **58-61-307. Exemptions from licensure.**

580 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section
581 58-1-307 apply to this chapter.

582 (2) In addition to the exemptions from licensure in Section 58-1-307, the following
583 when practicing within the scope of the license held, may engage in acts included within the
584 definition of practice as a psychologist, subject to the stated circumstances and limitations,
585 without being licensed under this chapter:

586 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah
587 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

588 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,
589 Nurse Practice Act;

590 (c) a recognized member of the clergy while functioning in his ministerial capacity as

591 long as he does not represent himself as or use the title of psychologist;

592 (d) an individual who is offering expert testimony in any proceeding before a court,
593 administrative hearing, deposition upon the order of any court or other body having power to
594 order the deposition, or proceedings before any master, referee, or alternative dispute resolution
595 provider;

596 (e) an individual engaged in performing hypnosis who is not licensed under this title in
597 a profession which includes hypnosis in its scope of practice, and who:

598 (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or
599 altering lifestyles or habits, such as eating or smoking, through hypnosis;

600 (B) consults with a client to determine current motivation and behavior patterns;

601 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and
602 what the client will experience;

603 (D) tests clients to determine degrees of suggestibility;

604 (E) applies hypnotic techniques based on interpretation of consultation results and
605 analysis of client's motivation and behavior patterns; and

606 (F) trains clients in self-hypnosis conditioning;

607 (ii) may not:

608 (A) engage in the practice of mental health therapy;

609 (B) represent himself using the title of a license classification in Subsection
610 58-60-102(5); or

611 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in
612 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
613 disorders;

614 (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b)
615 terminates when the student's training is no longer supervised by qualified faculty or staff and
616 the activities are no longer a defined part of the degree program;

617 (g) an individual holding an earned doctoral degree in psychology who is employed by
618 an accredited institution of higher education and who conducts research and teaches in that
619 individual's professional field, but only if the individual does not engage in providing delivery
620 or supervision of professional services regulated under this chapter to individuals or groups
621 regardless of whether there is compensation for the services;

622 (h) any individual who was employed as a psychologist by a state, county, or municipal
623 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently
624 has maintained employment as a psychologist in the same state, county, or municipal agency or
625 other political subdivision while engaged in the performance of his official duties for that
626 agency or political subdivision;

627 (i) an individual licensed as a school psychologist under Section 53A-6-104:

628 (i) may represent himself as and use the terms "school psychologist" or "licensed
629 school psychologist"; and

630 (ii) is restricted in his practice to employment within settings authorized by the State
631 Board of Education; ~~and~~

632 (j) an individual providing advice or counsel to another individual in a setting of their
633 association as friends or relatives and in a nonprofessional and noncommercial relationship, if
634 there is no compensation paid for the advice or counsel[-]; and

635 (k) An individual who is licensed, in good standing, to practice mental health therapy
636 in a state or territory of the United States outside of Utah may practice mental health therapy
637 remotely with a client in Utah only if:

638 (i) the individual is present in the state or territory where the individual is licensed to
639 practice mental health therapy;

640 (ii) the client relocates to Utah and has been present in Utah for less than 45 days;

641 (iii) the client is a client of the individual immediately before the client relocates to
642 Utah; and

643 (iv) within 10 days after the day on which the client enters Utah, the individual
644 provides written notice to the division of the individual's intent to provide mental health
645 therapy remotely to the client.

Legislative Review Note
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