

MENTAL HEALTH PROFESSIONAL PRACTICE ACT

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Martin R. Stephens

Perry Buckner

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; ESTABLISHING AN EXEMPTION TO THE MENTAL HEALTH THERAPIST'S ACT FOR AN EMPLOYEE OF AN ORGANIZATION WHO IS PARTICIPATING IN A TRAINING PROGRAM, HAS A MASTER'S OR DOCTORAL DEGREE, AND OPERATES UNDER THE DIRECT SUPERVISION OF A LICENSED PROFESSIONAL; ESTABLISHING THE PROCEDURES UNDER WHICH A MENTAL HEALTH THERAPIST LICENSED IN ANOTHER STATE MAY BE LICENSED IN UTAH; AND PERMITTING A PERSON WITH CERTAIN LICENSING DEFICIENCIES TO OBTAIN A TEMPORARY CERTIFICATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-60-107, as last amended by Chapter 184, Laws of Utah 1996

ENACTS:

58-60-115, Utah Code Annotated 1953

58-60-116, Utah Code Annotated 1953

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

Section 1. Section **58-60-107** is amended to read:

58-60-107. Exemptions from licensure.

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

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

(a) a physician and surgeon or osteopathic physician and surgeon licensed under [~~Chapter 12, Practice of Medicine and Surgery~~] Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

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

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

(2) a recognized member of the clergy while functioning in his ministerial capacity as long as he does not represent himself as or use the title of a license classification in Subsection 58-60-102(5);

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

(4) an individual engaged in performing hypnosis who is not licensed under Title 58, Occupations and Professions, in a profession which includes hypnosis in its scope of practice, and who:

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

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

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

(iv) tests clients to determine degrees of suggestibility;

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

(vi) trains clients in self-hypnosis conditioning;

(b) may not:

(i) engage in the practice of mental health therapy;

(ii) represent himself using the title of a license classification in Subsection 58-60-102(5);

or

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

(5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while completing any supervised clinical training requirement for licensure extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but any exemption under this subsection may not exceed two years past the date the minimum supervised clinical training requirement has been completed;

(6) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or professional counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(7) an individual, holding an earned doctoral degree or master's degree in a discipline which is a prerequisite for practice as a mental health therapist, who provides mental health therapy as an employee of a public or private organization which provides mental health therapy while under the direct supervision of a person licensed under this chapter as part of a professional training program approved by the division and offered through the agency for not more than 12 months;

~~[(7)]~~ (8) an individual providing general education in the subjects of alcohol or drug use or abuse, including prevention; and

~~[(8)]~~ (9) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel.

Section 2. Section **58-60-115** is enacted to read:

58-60-115. License by endorsement.

The division shall issue a license by endorsement under this chapter to a person who:

(1) submits an application on a form provided by the division;

- (2) pays a fee determined by the department under Section 63-38-3.2;
- (3) provides documentation of current licensure in good standing in any state, district, or territory of the United States to practice in the profession in which licensure is being sought;
- (4) provides documentation of having been actively engaged in the legal practice of his profession, including mental health therapy, for not less than 4,000 hours during the three years immediately preceding the date of application for licensure in Utah;
- (5) has passed the profession specific jurisprudence examination if required of a new applicant; and
- (6) is of good moral character and professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction.

Section 3. Section **58-60-116** is enacted to read:

58-60-116. Temporary certificate.

- (1) Unless it would pose an unjustifiable risk to public health or safety, the division shall issue a temporary certificate to an individual who:
 - (a) applies for licensure under this chapter;
 - (b) has earned a master's or doctoral degree in a discipline which is a prerequisite for licensure under this chapter;
 - (c) has one or more deficiencies in course work, experience, training, or examination;
 - (d) is of good moral character and professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction; and
 - (e) is an employee of a public or private organization which provides mental health therapy.
- (2) A temporary certificate issued under this section shall expire upon the earlier of:
 - (a) issuance of the license applied for; or
 - (b) three years from the date the temporary certificate was issued.
- (3) A person issued a temporary certificate under this section may practice as if licensed but only under the direct supervision of a person licensed in the applicable profession under this chapter.