

Senator Karen Hale proposes to substitute the following bill:

MENTAL HEALTH THERAPIST LICENSING

ACT AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Karen Hale

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; AMENDING THE EXEMPTIONS TO THE LICENSURE REQUIREMENTS OF THE MENTAL HEALTH PROFESSIONAL PRACTICE ACT; REMOVING THE POWER OF THE DIVISION TO ISSUE TEMPORARY CERTIFICATES; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

58-60-102, as enacted by Chapter 32, Laws of Utah 1994

58-60-103, as last amended by Chapter 248, Laws of Utah 1997

58-60-107, as last amended by Chapter 311, Laws of Utah 1998

REPEALS:

58-60-116, as enacted by Chapter 311, Laws of Utah 1998

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

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

58-60-102. Definitions.

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

(1) "Client" or "patient" means an individual who consults or is examined or interviewed by a mental health therapist acting in his professional capacity.

(2) "Confidential communication" means information, including information obtained by the mental health therapist's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and a mental health therapist in the course

26 of that relationship; or

27 (ii) transmitted among the client or patient, the mental health therapist, and individuals
28 who are participating in the diagnosis or treatment under the direction of the mental health
29 therapist, including members of the client's or patient's family; and

30 (b) made in confidence, for the diagnosis or treatment of the client or patient by the mental
31 health therapist, and by a means not intended to be disclosed to third persons other than those
32 individuals:

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

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

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

38 (3) "Hypnosis" means, regarding individuals exempted from licensure under this chapter,
39 a process by which one individual induces or assists another individual into a hypnotic state
40 without the use of drugs or other substances and for the purpose of increasing motivation or to
41 assist the individual to alter lifestyles or habits.

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

43 (5) "Mental health therapist" means an individual licensed under this title as [a]:

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

46 (b) ~~[registered psychiatric mental health nurse specialist]~~ an advanced practice registered
47 nurse, specializing in psychiatric mental health nursing;

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

49 (d) a clinical social worker;

50 (e) a certified social worker;

51 (f) a marriage and family therapist; or

52 (g) a professional counselor.

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

56 (7) "Practice of mental health therapy" means treatment or prevention of mental illness,

57 including:

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

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

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

65 (d) engaging in the conduct of professional intervention, including psychotherapy by the
66 application of established methods and procedures generally recognized in the professions of
67 mental health therapy listed under Subsection (5).

68 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

69 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may
70 be further defined by division rule.

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

72 **58-60-103. Licensure required.**

73 (1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice
74 Act, or Chapter 68, Utah Osteopathic Medical Practice Act; Chapter [31] 31b, Nurse Practice Act;
75 Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order
76 to:

77 (a) engage in or represent he will engage in the practice of mental health therapy, clinical
78 social work, certified social work, marriage and family therapy, or professional counseling; or

79 (b) practice as or represent himself as a mental health therapist, clinical social worker,
80 certified social worker, marriage and family therapist, professional counselor, psychiatrist,
81 psychologist, or registered psychiatric mental health nurse specialist.

82 (2) An individual shall be licensed under this chapter or exempted from licensure under
83 this chapter in order to:

84 (a) engage in or represent that he is engaged in practice as a social service worker; or

85 (b) represent himself as or use the title of social service worker.

86 (3) An individual shall be licensed under this chapter or exempted from licensure under
87 this chapter in order to:

88 (a) engage in or represent that he is engaged in practice as a licensed substance abuse
89 counselor; or

90 (b) represent himself as or use the title of licensed substance abuse counselor.

91 Section 3. Section **58-60-107** is amended to read:

92 **58-60-107. Exemptions from licensure.**

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

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

97 (a) a physician and surgeon or osteopathic physician and surgeon licensed under Title 58,
98 Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice
99 Act;

100 (b) ~~[a registered psychiatric mental health nurse specialist licensed under Chapter 31,] an~~
101 advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed
102 under Title 58, Chapter 31b, Nurse Practice Act; and

103 (c) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act;

104 (2) a recognized member of the clergy while functioning in his ministerial capacity as long
105 as he does not represent himself as or use the title of a license classification in Subsection
106 58-60-102(5);

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

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

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

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

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

- 119 (iv) tests clients to determine degrees of suggestibility;
- 120 (v) applies hypnotic techniques based on interpretation of consultation results and analysis
121 of client's motivation and behavior patterns; and
- 122 (vi) trains clients in self-hypnosis conditioning;
- 123 (b) may not:
- 124 (i) engage in the practice of mental health therapy;
- 125 (ii) represent himself using the title of a license classification in Subsection 58-60-102(5);
- 126 or
- 127 (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in
128 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
129 disorders;
- 130 (5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while
131 completing any supervised clinical training requirement for licensure extends not more than one
132 year from the date the minimum requirement for training is completed, unless the individual
133 presents satisfactory evidence to the division and the appropriate board that the individual is
134 making reasonable progress toward passing of the qualifying examination for that profession or
135 is otherwise on a course reasonably expected to lead to licensure, but any exemption under this
136 subsection may not exceed two years past the date the minimum supervised clinical training
137 requirement has been completed;
- 138 (6) an individual holding an earned doctoral degree or master's degree in social work,
139 marriage and family therapy, or professional counseling, who is employed by an accredited
140 institution of higher education and who conducts research and teaches in that individual's
141 professional field, but only if the individual does not engage in providing or supervising
142 professional services regulated under this chapter to individuals or groups regardless of whether
143 there is compensation for the services;
- 144 (7) an individual~~[-holding an earned doctoral degree or master's degree in a discipline~~
145 ~~which is a prerequisite for practice as a mental health therapist, who provides mental health~~
146 ~~therapy as an employee of a public or private organization which provides mental health therapy~~
147 ~~while under the direct supervision of a person licensed under this chapter as part of a professional~~
148 ~~training program approved by the division and offered through the agency for not more than 12~~
149 ~~months]~~ in an on-the-job training program approved by the division while under the supervision

150 of qualified persons;

151 (8) an individual providing general education in the subjects of alcohol or drug use or
152 abuse, including prevention; and

153 (9) 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.

156 **Section 4. Repealer.**

157 This act repeals:

158 Section **58-60-116, Temporary certificate.**