

28 health therapist, and by a means not intended to be disclosed to third persons other than those
29 individuals:

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

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

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

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

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

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

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

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

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

45 (d) a clinical social worker;

46 (e) a certified social worker;

47 (f) a marriage and family therapist; or

48 (g) a professional counselor.

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

52 (7) "Practice of mental health therapy" means treatment or prevention of mental illness,
53 including:

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

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

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

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

64 (8) "Rebirthing therapy" means the reenactment of the birthing process through therapy
65 techniques that create a situation in which a patient may suffer physical injury or death.

66 [~~(8)~~] (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

67 [~~(9)~~] (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and
68 may be further defined by division rule.

69 Section 2. Section **58-60-109** is amended to read:

70 **58-60-109. Unlawful conduct.**

71 (1) As used in this chapter, "unlawful conduct" includes:

72 [~~(1)~~] (a) practice of the following unless licensed in the appropriate classification or
73 exempted from licensure under this title:

74 [~~(a)~~] (i) mental health therapy;

75 [~~(b)~~] (ii) clinical social work;

76 [~~(c)~~] (iii) certified social work;

77 [~~(d)~~] (iv) marriage and family therapy;

78 [~~(e)~~] (v) professional counseling;

79 [~~(f)~~] (vi) practice as a social service worker; or

80 [~~(g)~~] (vii) licensed substance abuse counselor;

81 [~~(2)~~] (b) practice of mental health therapy by a licensed psychologist who has not
82 acceptably documented to the division his completion of the supervised training in mental health
83 therapy required under Subsection 58-61-304(1)(f); or

84 [~~(3)~~] (c) representing oneself as or using the title of any of the following unless currently
85 licensed in a license classification under this title:

86 [~~(a)~~] (i) psychiatrist;

87 [~~(b)~~] (ii) psychotherapist;

88 [~~(c)~~] (iii) registered psychiatric mental health nurse specialist;

89 [~~(d)~~] (iv) mental health therapist;

90 ~~[(e)]~~ (v) clinical social worker;
 91 ~~[(f)]~~ (vi) certified social worker;
 92 ~~[(g)]~~ (vii) marriage and family therapist;
 93 ~~[(h)]~~ (viii) professional counselor;
 94 ~~[(i)]~~ (ix) clinical hypnotist;
 95 ~~[(j)]~~ (x) social service worker;
 96 ~~[(k)]~~ (xi) licensed substance abuse counselor;
 97 ~~[(l)]~~ (xii) certified professional counselor intern; or
 98 ~~[(m)]~~ (xiii) certified marriage and family therapist intern~~[-];~~ or
 99 (d) using or recommending rebirthing therapy or any therapy technique that may be
 100 considered similar to rebirthing therapy.

101 (2) For purposes of Subsection (1), a parent or legal guardian may not consent to rebirthing
 102 therapy on behalf of a child or ward.

103 Section 3. Section **58-60-111** is amended to read:

104 **58-60-111. Penalty for unlawful conduct.**

105 An individual who commits any act of unlawful conduct as defined in:

- 106 (1) Subsection 58-60-109(1)~~(a)~~ or ~~[(2)]~~ (b) is guilty of a third degree felony; or
 107 (2) Subsection 58-60-109~~[(3)]~~ (1)(c) or (d) is guilty of a class A misdemeanor.

108 Section 4. Section **58-61-501** is amended to read:

109 **58-61-501. Unlawful conduct.**

110 (1) As used in this chapter, "unlawful conduct" includes:

111 ~~[(1)]~~ (a) practice of psychology unless licensed as a psychologist or certified psychology
 112 resident under this chapter or exempted from licensure under this title;

113 ~~[(2)]~~ (b) practice of mental health therapy by a licensed psychologist who has not
 114 acceptably documented to the division his completion of the supervised training in psychotherapy
 115 required under Subsection 58-61-304(1)(f); ~~[(or)]~~

116 ~~[(3)]~~ (c) representing oneself as or using the title of psychologist, or certified psychology
 117 resident unless currently licensed under this chapter~~[-];~~ or

118 (d) using or recommending rebirthing therapy, as defined in Section 58-60-102, or any
 119 therapy technique that may be considered similar to rebirthing therapy.

120 (2) For purposes of Subsection (1), a parent or legal guardian may not consent to rebirthing

121 therapy on behalf of a child or ward.

122 Section 5. Section **58-61-503** is amended to read:

123 **58-61-503. Penalty for unlawful conduct.**

124 An individual who commits any act of unlawful conduct as defined in:

125 (1) Subsection 58-61-501(1)(a) or [~~(2)~~] (b) is guilty of a third degree felony; or

126 (2) Subsection 58-61-501[~~(3)~~] (1)(c) or (d) is guilty of a class A misdemeanor.

Legislative Review Note
as of 2-6-02 8:34 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel