

HB0229S01 compared with HB0229

~~{deleted text}~~ shows text that was in HB0229 but was deleted in HB0229S01.

inserted text shows text that was not in HB0229 but was inserted into HB0229S01.

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Representative Keith Grover proposes the following substitute bill:

MENTAL HEALTH PROFESSIONAL PRACTICE ACT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ deletes face to face supervision requirements and allows certain training and supervision ~~{to be conducted online;~~
- ▶ allows}of and by certain mental health therapists to ~~{practice}~~be conducted remotely;
- ▶ provides that no more than 50% of the total hours of supervision or training may be conducted remotely;
- ▶ provides that an associate marriage and family therapist is a mental health therapist;

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- ▶ clarifies that the following mental health therapists may work as an independent contractor or a volunteer, under the supervision of a licensed mental health therapist:
 - licensed certified social worker;
 - licensed associate professional counselor;
 - licensed associate marriage and family therapist; or
 - licensed substance abuse counselor; 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 1999, Chapter 81

58-60-107, as last amended by Laws of Utah 2001, Chapter 281

58-60-117, as last amended by Laws of Utah 2009, Chapter 183

58-60-202, as last amended by Laws of Utah 2010, Chapters 78 and 214

58-60-205, as last amended by Laws of Utah 2010, Chapter 214

58-60-207, as enacted by Laws of Utah 1994, Chapter 32

58-60-302, as enacted by Laws of Utah 1994, Chapter 32

58-60-305, as last amended by Laws of Utah 2010, Chapter 214

58-60-308, as last amended by Laws of Utah 2010, Chapter 214

58-60-402, as enacted by Laws of Utah 1994, Chapter 32

58-60-405, as last amended by Laws of Utah 2010, Chapter 214

58-60-407, as last amended by Laws of Utah 2010, Chapter 214

58-60-502, as last amended by Laws of Utah 2007, Chapter 283

~~{ 58-60-508, as last amended by Laws of Utah 2010, Chapter 214~~

~~58-61-307, as last amended by Laws of Utah 2007, Chapter 306~~

ENACTS:

58-60-118, Utah Code Annotated 1953

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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 of that relationship; or

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

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

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

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

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

~~{ (3) "Generally recognized" refers to practices and standards, not necessarily national standards, recognized by mental health therapists in their respective field of practice.~~

~~{ (3) (4) }~~ "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by which one individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

~~{ (4) (5) }~~ "Individual" means a natural person.

~~{ (5) (6) }~~ "Mental health therapist" means an individual licensed under this title as:

(a) a physician and surgeon, or osteopathic physician ~~[engaged]~~ trained in the practice

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of mental health therapy;

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

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

(d) a clinical social worker;

(e) a certified social worker;

(f) a marriage and family therapist; ~~or~~

(g) a professional counselor ~~;~~ or

(h) an associate marriage and family therapist.

~~(6)~~ ~~(7)~~ "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection ~~(5)~~ ~~(6)~~.

~~(7)~~ ~~(8)~~ "Practice of mental health therapy" means treatment or prevention of mental illness, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection ~~(5)~~ ~~(6)~~;

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection ~~(5)~~ ~~(6)~~;

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

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection ~~(5)~~ ~~(6)~~;

~~7~~;

(8) "Remotely" means engaging in the practice of mental health therapy via the Internet, telephone, or other means where the patient and the therapist are not physically present in the same room at the same time.

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

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

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

58-60-107. Exemptions from licensure.

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

(2) ~~[(a)]~~ 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:

~~[(b)]~~ (a) the following when practicing within the scope of the license held:

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

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

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

~~[(3)]~~ (b) 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 ~~[(4)]~~(5) ~~[(6)]~~;

~~[(4)]~~ (c) 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;

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

~~[(a)]~~ (i) (A) 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)]~~ (B) consults with a client to determine current motivation and behavior patterns;

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

~~[(iv)]~~ (D) tests ~~[clients]~~ the client to determine degrees of suggestibility;

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

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~~[(vi)]~~ (F) trains ~~[clients]~~ the client in self-hypnosis conditioning;

~~[(b)]~~ (ii) may not:

~~[(+)]~~ (A) engage in the practice of mental health therapy;

~~[(+)]~~ (B) represent himself using the title of a license classification in Subsection 58-60-102 ~~[(+)]~~(5) ~~[(6)]~~; or

~~[(+)]~~ (C) 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;

~~[(6) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;]~~

~~[(7)]~~ (e) 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;

~~[(8)]~~ (f) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons, that training program may provide in-person or online services;

~~[(9)]~~ (g) an individual providing general education in the subjects of alcohol or drug use or abuse, including prevention; and

~~[(+)]~~ (h) 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.

~~(3) An individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program.~~

Section 3. Section 58-60-117 is amended to read:

58-60-117. Externship licenses.

(1) The division shall issue a temporary license under Part 2, Social Worker Licensing

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Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional Counselor Licensing Act, of this chapter to a person who:

(a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional Counselor Licensing Act;

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

(c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

(d) has one or more deficiencies in course work, experience, or training;

(e) provides mental health therapy as an employee, independent contractor, or volunteer, of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) is of good moral character and has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license 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 license was issued.

(3) The temporary license issued under this section is an externship license.

Section ~~3~~4. Section **58-60-118** is enacted to read:

58-60-118. Limitation on online supervision and training.

Not more than 50% of the total hours of supervision or training required under any section of this chapter may be conducted using live, interactive online training that is conducted by a mental health therapist.

Section ~~4~~5. Section **58-60-202** is amended to read:

58-60-202. Definitions.

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

(1) "Board" means the Social Worker Licensing Board created in Section 58-60-203.

(2) (a) "Practice as a social service worker" means performance of general entry level services under general supervision of a mental health therapist through the application of social work theory, methods, and ethics in order to enhance the social or psychosocial functioning of

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an individual, a couple, a family, a group, or a community, including:

- (i) conducting:
 - (A) a non-clinical psychosocial assessment; or
 - (B) a home study;
- (ii) collaborative planning and goal setting;
- (iii) ongoing case management;
- (iv) progress monitoring;
- (v) supportive counseling;
- (vi) information gathering;
- (vii) making referrals; and
- (viii) engaging in advocacy.

(b) "Practice as a social service worker" does not include:

- (i) diagnosing or treating mental illness; or
- (ii) providing psychotherapeutic services to an individual, couple, family, group, or

community.

(3) "Practice of clinical social work" includes:

(a) the practice of mental health therapy by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(b) the application of generally recognized psychotherapeutic and social work principles and practices requiring the education, training, and clinical experience of a clinical social worker; and

(c) supervision of the practice of a certified social worker or social service worker as the supervision is required under this chapter and as further defined by division rule.

(4) "Practice of certified social work" includes:

(a) the supervised practice of mental health therapy by a clinical social worker by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating

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mental or emotional illness or dysfunctions, the symptoms of any of these, or maladaptive behavior;

(b) the supervised or independent and unsupervised application of generally recognized professional social work principles and practices requiring the education, training, and experience of a certified social worker; and

(c) supervision of the practice of a social service worker as the supervision is required under this chapter and as further defined by division rule.

(5) "Program accredited by the Council on Social Work Education" means a program that:

(a) was accredited by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program; or

(b) was in candidacy for accreditation by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program.

(6) (a) "Supervision of a social service worker" means supervision conducted by an individual licensed as a mental health therapist under this title in accordance with division rules made in collaboration with the board.

(b) "Supervision of a social service worker" includes supervision that is conducted ~~online~~ remotely.

Section 6. Section 58-60-205 is amended to read:

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

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

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

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

(c) be of good moral character;

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

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

(ii) an earned doctoral degree in social work that results from successful completion of

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a clinical concentration and practicum approved by the division and defined by rule under Section 58-1-203;

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

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

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

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

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

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

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

(c) be of good moral character;

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

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

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

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

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

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the

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examination required under Subsection (2)(e) or six months, whichever occurs first.

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

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

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

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

(c) be of good moral character;

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

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

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

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

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

(I) social welfare policy;

(II) human growth and development; and

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

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

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

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

Section ~~57~~7. Section **58-60-207** is amended to read:

58-60-207. Scope of practice -- Limitations.

(1) A clinical social worker may engage in all acts and practices defined as the practice

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of clinical social work without supervision, in private and independent practice, or as an employee of another person ~~{ or independent contractor }~~, limited only by the licensee's education, training, and competence.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of a clinical social worker and as an employee, an independent contractor, or a volunteer, of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, ~~for~~ an independent contractor, or a volunteer, ~~{,}~~ if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other licensed clinical or certified social workers, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section ~~{6}~~ 8. Section **58-60-302** is amended to read:

58-60-302. Definitions.

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

(1) "Assess" means the use of diagnostic procedures, tests, and interview techniques generally accepted as standard in mental health therapy to diagnose any condition related to mental, emotional, behavioral, and social disorders or dysfunctions.

(2) "Board" means the Marriage and Family Therapist Licensing Board created in Section 58-60-303.

(3) "Practice of marriage and family therapy" includes:

(a) the process of providing professional mental health therapy including psychotherapy to individuals, couples, families, or groups;

(b) utilizing established principles that recognize the interrelated nature of individual problems and dysfunctions in family members to assess, diagnose, and treat mental, emotional,

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and behavioral disorders;

(c) individual, premarital, relationship, marital, divorce, and family therapy;

(d) specialized modes of treatment for the purpose of diagnosing and treating mental, emotional, and behavioral disorders, modifying interpersonal and intrapersonal dysfunction, and promoting mental health; and

(e) assessment utilized to develop, recommend, and implement appropriate plans of treatment, dispositions, and placement related to the functioning of the individual, couple, family, or group.

(3) "Supervision" includes both in-person and ~~online~~ remote supervision.

Section 9. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) ~~[All applicants]~~ An applicant for licensure as marriage and family therapists shall:

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

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

(c) be of good moral character;

(d) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(e) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203, in not less than two years, under the supervision of a marriage and family therapist supervisor who meets the requirements of Section 58-60-307, and obtained after completion of the education requirement in Subsection (1)(d);

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct ~~[, personal, face-to-face]~~

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supervision by a marriage and family therapist supervisor qualified under Section 58-60-307; and

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

(2) (a) ~~[All applicants]~~ An applicant for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and 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 the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section ~~{7}~~10. Section **58-60-308** is amended to read:

58-60-308. Scope of practice -- Limitations.

(1) A licensed marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy without supervision, in private and independent practice, or as an employee of another person ~~{ or independent contractor }~~, limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(d), a licensed associate marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:

(i) within the scope of employment, or as an independent contractor or a volunteer, as a licensed associate marriage and family therapist with a public agency or a private clinic as defined by division rule; and

(ii) under the supervision of a licensed marriage and family therapist who is qualified as a supervisor under Section 58-60-307.

(b) A licensed associate marriage and family therapist may not engage in the independent practice of marriage and family therapy.

Section ~~{8}~~11. Section **58-60-402** is amended to read:

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58-60-402. Definitions.

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

(1) "Board" means the Professional Counselor Licensing Board created in Section 58-60-403.

(2) "Practice of professional counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

(3) "Supervision" includes both in-person and ~~online~~ remote supervision.

Section 12. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) ~~[All applicants]~~ An applicant for licensure as a professional counselor shall:

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

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

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:

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

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

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

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection

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(1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct ~~[personal face-to-face]~~ supervision of a mental health therapist approved by the division in collaboration with the board; and

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

(2) (a) ~~[All applicants]~~ An applicant for licensure as an associate professional counselor shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) An individual's licensure as an associate professional counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and 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 the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section ~~9~~13. Section **58-60-407** is amended to read:

58-60-407. Scope of practice -- Limitations.

(1) A licensed professional counselor may engage in all acts and practices defined as the practice of professional counseling without supervision, in private and independent practice, or as an employee of another person, ~~or independent contractor,~~ or volunteer ~~(f)~~ limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(d), a licensed associate professional counselor may engage in all acts and practices defined as the practice of professional counseling if the practice is:

(i) within the scope of employment, or as an independent contractor or a volunteer, as a licensed professional counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Subsection 58-60-102~~(5)~~~~(6)~~(7).

(b) A licensed associate professional counselor may not engage in the independent

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practice of professional counseling.

Section ~~{10}~~14. Section **58-60-502** is amended to read:

58-60-502. Definitions.

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

- (1) "Approved agency" means an agency licensed by the Department of Human Services or a general acute hospital or specialty hospital as defined in Section 26-21-2 and licensed by the state Department of Health that:
 - (a) provides substance abuse services; and
 - (b) provides qualified mental health therapists in sufficient number to evaluate the conditions of the clients being treated by counselors licensed under this part employed by the approved agency or independently contracting or volunteering with the approved agency to ensure that appropriate substance abuse services are being given.
- (2) "Board" means the Substance Abuse Counselor Licensing Board created in Section 58-60-503.
- (3) "Direct supervision" means:
 - (a) a supervisor provides a minimum of one hour of supervision to the licensed substance abuse counselor for every 40 hours of client care provided by the counselor, which supervision may include group and {online}remote supervision;
 - (b) the supervision is conducted in a face-to-face manner or via a remote real-time presence, unless otherwise approved on a case-by-case basis by the division in collaboration with the board; and
 - (c) a supervisor is available for consultation with the counselor at all times.
- (4) "General supervision" shall be defined by the division by rule.
- (5) "Group supervision" means more than one counselor licensed under this part meets with the supervisor at the same time, whether in person, {telephonically,} or {online}remotely.
- (6) "Individual supervision" means only one counselor licensed under this part meets with the supervisor at a given time.
- (7) (a) "Practice as a licensed substance abuse counselor" means providing services as an employee~~{or}~~, an independent contractor, or as a volunteer, of an approved agency under the general supervision of a licensed mental health therapist, to individuals or groups of persons for conditions of substance abuse, consistent with the education and training of a

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licensed substance abuse counselor required under this part, and the standards and ethics of the profession as approved by the division in collaboration with the board, and includes:

(i) administering the screening process by which a client is determined appropriate and eligible for admission to a particular program;

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

(iii) conducting orientation of a client, including:

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

(B) explaining rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

(C) explaining hours during which services are available in a nonresidential program;

(D) treatment costs to be borne by the client, if any; and

(E) describing the client's rights as a program participant;

(iv) conducting those assessment procedures by which a substance abuse counselor identifies an individual's strengths, weaknesses, problems, and needs for the development of the treatment plan;

(v) participating in the process of treatment planning by which the substance abuse counselor, the mental health therapist, and the client:

(A) identify and rank problems needing resolution;

(B) establish agreed upon immediate and long term goals; and

(C) decide on a treatment process and the resources to be utilized;

(vi) providing substance abuse counseling services to alcohol and drug abuse clients and significant other persons in the client's life as part of a comprehensive treatment plan, including the following, but not including mental health therapy:

(A) leading specific task-oriented groups, didactic groups, and group discussions;

(B) cofacilitating group therapy with a licensed mental health therapist; and

(C) engaging in one-on-one interventions and interactions coordinated and directly supervised by a mental health therapist;

(vii) performing case management activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;

(viii) providing substance abuse crisis intervention services;

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(ix) providing client education to individuals and groups concerning alcohol and other drug abuse, including identification and description of available treatment services and resources;

(x) identifying the needs of the client that cannot be met by the substance abuse counselor or agency and referring the client to appropriate services and community resources;

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

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

(b) "Practice as a certified substance abuse counselor, certified substance abuse counselor intern, or certified substance abuse counselor extern" means providing the services described in Subsections (7)(a) and (b) under the direct supervision of a mental health therapist or licensed substance abuse counselor.

(c) "Practice as a licensed substance abuse counselor" does not include:

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

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

(iii) the performance of a substance abuse diagnosis, any other mental illness diagnosis, or psychological testing.

(8) "Program" means a residential or nonresidential program that provides substance abuse services.

(9) "Substance abuse education program" means a formal program of substance abuse education offered by an accredited institution of higher education that meets standards established by the division by rule in collaboration with the board and includes a minimum of 300 hours of classroom education and a supervised field work practicum of at least 300 hours.

~~{ Section 11. Section 58-60-508 is amended to read:~~

~~58-60-508. Core functions of the mental health therapist supervisor:~~

~~(1) Each supervisor of licensed substance abuse counselors shall:~~

~~(a) be a licensed mental health therapist qualified by education and experience to treat~~

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~~substance abuse;~~

~~—— (b) be currently working in the substance abuse treatment field;~~

~~—— (c) review substance abuse counselor assessment procedures;~~

~~—— (d) provide substance abuse diagnosis and other mental health diagnoses in accordance with Subsection 58-60-102[(7)](8);~~

~~—— (e) participate in the development of a treatment plan;~~

~~—— (f) approve the treatment plan; and~~

~~—— (g) provide direct supervision for not more than five persons, unless granted an exception in writing from the board and the division.~~

~~—— (2) Each supervisor of a certified substance abuse counselor, certified substance abuse counselor intern, or certified substance abuse counselor extern shall:~~

~~—— (a) (i) be a licensed substance abuse counselor with:~~

~~—— (A) until July 1, 2011, at least one year of experience as a licensed substance abuse counselor; or~~

~~—— (B) beginning on July 1, 2011, at least two years of experience as a licensed substance abuse counselor; or~~

~~—— (ii) be a licensed mental health therapist qualified by education and experience to treat substance abuse;~~

~~—— (b) be currently working in the substance abuse field; and~~

~~—— (c) provide direct supervision for no more than three persons, unless granted an exception in writing from the board and the division.~~

~~—— Section 12. Section 58-61-307 is amended to read:~~

~~—— **58-61-307. Exemptions from licensure.**~~

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

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

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

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- ~~—— (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b, Nurse Practice Act;~~
- ~~—— (c) 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 psychologist;~~
- ~~—— (d) 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;~~
- ~~—— (e) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:~~
 - ~~—— (i) (A) 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;~~
 - ~~—— (B) consults with a client to determine current motivation and behavior patterns;~~
 - ~~—— (C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;~~
 - ~~—— (D) tests clients to determine degrees of suggestibility;~~
 - ~~—— (E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and~~
 - ~~—— (F) trains clients in self-hypnosis conditioning;~~
 - ~~—— (ii) may not:~~
 - ~~—— (A) engage in the practice of mental health therapy;~~
 - ~~—— (B) represent himself using the title of a license classification in Subsection 58-60-102[(5)](6); or~~
 - ~~—— (C) 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;~~
- ~~—— (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;~~
- ~~—— (g) an individual holding an earned doctoral degree in psychology who is employed by an accredited institution of higher education and who conducts research and teaches in that~~

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~~individual's professional field, but only if the individual does not engage in providing delivery or supervision of professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;~~

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

~~—— (i) an individual licensed as a school psychologist under Section 53A-6-104;~~

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

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

~~—— (j) 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.~~

Legislative Review Note

~~—— as of 1-19-11 1:25 PM~~

~~————— Office of Legislative Research and General Counsel}~~