

**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: \_\_\_\_\_

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**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 of and by certain mental health therapists to 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;
- ▶ 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.

**1st Sub. H.B. 229**



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **58-60-102**, as last amended by Laws of Utah 1999, Chapter 81
- 33 **58-60-107**, as last amended by Laws of Utah 2001, Chapter 281
- 34 **58-60-117**, as last amended by Laws of Utah 2009, Chapter 183
- 35 **58-60-202**, as last amended by Laws of Utah 2010, Chapters 78 and 214
- 36 **58-60-205**, as last amended by Laws of Utah 2010, Chapter 214
- 37 **58-60-207**, as enacted by Laws of Utah 1994, Chapter 32
- 38 **58-60-302**, as enacted by Laws of Utah 1994, Chapter 32
- 39 **58-60-305**, as last amended by Laws of Utah 2010, Chapter 214
- 40 **58-60-308**, as last amended by Laws of Utah 2010, Chapter 214
- 41 **58-60-402**, as enacted by Laws of Utah 1994, Chapter 32
- 42 **58-60-405**, as last amended by Laws of Utah 2010, Chapter 214
- 43 **58-60-407**, as last amended by Laws of Utah 2010, Chapter 214
- 44 **58-60-502**, as last amended by Laws of Utah 2007, Chapter 283

45 ENACTS:

46 **58-60-118**, Utah Code Annotated 1953



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

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

50 **58-60-102. Definitions.**

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

- 52 (1) "Client" or "patient" means an individual who consults or is examined or
- 53 interviewed by a mental health therapist acting in his professional capacity.
- 54 (2) "Confidential communication" means information, including information obtained
- 55 by the mental health therapist's examination of the client or patient, which is:
- 56 (a) (i) transmitted between the client or patient and a mental health therapist in the

57 course of that relationship; or

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

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

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

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

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

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

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

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

75 (a) a physician and surgeon, or osteopathic physician [~~engaged~~] trained in the practice  
76 of mental health therapy;

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

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

80 (d) a clinical social worker;

81 (e) a certified social worker;

82 (f) a marriage and family therapist; [~~or~~]

83 (g) a professional counselor[-]; or

84 (h) an associate marriage and family therapist.

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

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

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

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

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

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

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

103 [~~8~~] (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

104 [~~9~~] (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110,  
105 and may be further defined by division rule.

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

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

108 (1) Except as modified in Section 58-60-103, the exemptions from licensure in Section  
109 58-1-307 apply to this chapter.

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

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

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

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

119 (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;  
120 ~~[(3)]~~ (b) a recognized member of the clergy while functioning in his ministerial  
121 capacity as long as he does not represent himself as or use the title of a license classification in  
122 Subsection 58-60-102(5);

123 ~~[(4)]~~ (c) an individual who is offering expert testimony in any proceeding before a  
124 court, administrative hearing, deposition upon the order of any court or other body having  
125 power to order the deposition, or proceedings before any master, referee, or alternative dispute  
126 resolution provider;

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

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

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

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

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

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

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

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

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

140 ~~[(ii)]~~ (B) represent himself using the title of a license classification in Subsection  
141 58-60-102(5); or

142 ~~[(iii)]~~ (C) use hypnosis with or treat a medical, psychological, or dental condition  
143 defined in generally recognized diagnostic and statistical manuals of medical, psychological, or  
144 dental disorders;

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

148 ~~[(7)]~~ (e) an individual holding an earned doctoral degree or master's degree in social  
149 work, marriage and family therapy, or professional counseling, who is employed by an

150 accredited institution of higher education and who conducts research and teaches in that  
151 individual's professional field, but only if the individual does not engage in providing or  
152 supervising professional services regulated under this chapter to individuals or groups  
153 regardless of whether there is compensation for the services;

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

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

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

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

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

166 **58-60-117. Externship licenses.**

167 (1) The division shall issue a temporary license under Part 2, Social Worker Licensing  
168 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional Counselor  
169 Licensing Act, of this chapter to a person who:

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

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

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

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

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

180 (f) is of good moral character and has no disciplinary action pending or in effect

181 against the applicant in connection with the practice of mental health therapy, in any  
182 jurisdiction.

183 (2) A temporary license issued under this section shall expire upon the earlier of:

184 (a) issuance of the license applied for; or

185 (b) three years from the date the temporary license was issued.

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

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

188 **58-60-118. Limitation on online supervision and training.**

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

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

193 **58-60-202. Definitions.**

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

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

196 (2) (a) "Practice as a social service worker" means performance of general entry level  
197 services under general supervision of a mental health therapist through the application of social  
198 work theory, methods, and ethics in order to enhance the social or psychosocial functioning of  
199 an individual, a couple, a family, a group, or a community, including:

200 (i) conducting:

201 (A) a non-clinical psychosocial assessment; or

202 (B) a home study;

203 (ii) collaborative planning and goal setting;

204 (iii) ongoing case management;

205 (iv) progress monitoring;

206 (v) supportive counseling;

207 (vi) information gathering;

208 (vii) making referrals; and

209 (viii) engaging in advocacy.

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

211 (i) diagnosing or treating mental illness; or

212 (ii) providing psychotherapeutic services to an individual, couple, family, group, or  
213 community.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**  
250 **certified social worker, and social service worker.**

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

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

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

254 (c) be of good moral character;

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

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

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

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

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

273 (g) have completed a case work, group work, or family treatment course sequence with

- 274 a clinical practicum in content as defined by rule under Section 58-1-203; and
- 275 (h) pass the examination requirement established by rule under Section 58-1-203.
- 276 (2) An applicant for licensure as a certified social worker shall:
- 277 (a) submit an application on a form provided by the division;
- 278 (b) pay a fee determined by the department under Section 63J-1-504;
- 279 (c) be of good moral character;
- 280 (d) produce certified transcripts from an accredited institution of higher education
- 281 recognized by the division in collaboration with the Social Worker Licensing Board verifying
- 282 satisfactory completion of an education and an earned degree as follows:
- 283 (i) a social work education program accredited by the Council on Social Work
- 284 Education and an earned master's degree resulting from completion of that program; or
- 285 (ii) an education program that contains approved clinical social work concentration and
- 286 practicum in content as defined by rule under Section 58-1-203 and an earned doctorate
- 287 resulting from completion of that program; and
- 288 (e) pass the examination requirement established by rule under Section 58-1-203.
- 289 (3) (a) An applicant for certification as a certified social worker intern shall meet the
- 290 requirements of Subsections (2)(a), (b), (c), and (d).
- 291 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the
- 292 examination required under Subsection (2)(e) or six months, whichever occurs first.
- 293 (c) A certified social worker intern may provide mental health therapy under the
- 294 general supervision of a clinical social worker.
- 295 (4) An applicant for licensure as a social service worker shall:
- 296 (a) submit an application on a form provided by the division;
- 297 (b) pay a fee determined by the department under Section 63J-1-504;
- 298 (c) be of good moral character;
- 299 (d) produce certified transcripts from an accredited institution of higher education
- 300 recognized by the division in collaboration with the Social Worker Licensing Board verifying
- 301 satisfactory completion of an earned degree resulting from education as follows:
- 302 (i) a bachelor's degree in a social work program accredited by the Council on Social
- 303 Work Education;
- 304 (ii) a master's degree in a field approved by the division in collaboration with the social

305 worker board;

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

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

309 (I) social welfare policy;

310 (II) human growth and development; and

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

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

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

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

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

321 **58-60-207. Scope of practice -- Limitations.**

322 (1) A clinical social worker may engage in all acts and practices defined as the practice  
323 of clinical social work without supervision, in private and independent practice, or as an  
324 employee of another person, limited only by the licensee's education, training, and competence.

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

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

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

335 (c) including engaging in the private, independent, unsupervised practice of social

336 work as a self-employed individual, in partnership with other licensed clinical or certified  
337 social workers, as a professional corporation, or in any other capacity or business entity, so  
338 long as he does not practice unsupervised psychotherapy; and

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

340 Section 8. Section **58-60-302** is amended to read:

341 **58-60-302. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

363 **58-60-305. Qualifications for licensure.**

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

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

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

367 (c) be of good moral character;

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

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

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

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

379 (f) document successful completion of not less than 1,000 hours of supervised training  
380 in mental health therapy obtained after completion of the education requirement described in  
381 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of  
382 training described in Subsection (1)(e), and of which documented evidence demonstrates not  
383 less than 100 of the supervised hours were obtained during direct[, ~~personal, face-to-face~~]  
384 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307;  
385 and

386 (g) pass the examination requirement established by division rule under Section  
387 58-1-203.

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

390 (b) An individual's license as an associate marriage and family therapist is limited to  
391 the period of time necessary to complete clinical training as described in Subsections (1)(e) and  
392 (f) and extends not more than one year from the date the minimum requirement for training is  
393 completed, unless the individual presents satisfactory evidence to the division and the  
394 appropriate board that the individual is making reasonable progress toward passing of the  
395 qualifying examination for that profession or is otherwise on a course reasonably expected to  
396 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
397 past the date the minimum supervised clinical training requirement has been completed.

398 Section 10. Section **58-60-308** is amended to read:

399 **58-60-308. Scope of practice -- Limitations.**

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

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

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

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

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

414 Section 11. Section **58-60-402** is amended to read:

415 **58-60-402. Definitions.**

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

417 (1) "Board" means the Professional Counselor Licensing Board created in Section  
418 58-60-403.

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

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

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

427 **58-60-405. Qualifications for licensure.**

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

- 429 (a) submit an application on a form provided by the division;
- 430 (b) pay a fee determined by the department under Section 63J-1-504;
- 431 (c) be of good moral character;
- 432 (d) produce certified transcripts from an accredited institution of higher education  
433 recognized by the division in collaboration with the board verifying satisfactory completion of:
- 434 (i) an education and degree in an education program in counseling with a core  
435 curriculum defined by division rule under Section 58-1-203 preparing one to competently  
436 engage in mental health therapy; and
- 437 (ii) an earned doctoral or master's degree resulting from that education program;
- 438 (e) have completed a minimum of 4,000 hours of professional counselor training as  
439 defined by division rule under Section 58-1-203, in not less than two years, under the  
440 supervision of a professional counselor, psychiatrist, psychologist, clinical social worker,  
441 registered psychiatric mental health nurse specialist, or marriage and family therapist  
442 supervisor approved by the division in collaboration with the board, and obtained after  
443 completion of the education requirement in Subsection (1)(d);
- 444 (f) document successful completion of not less than 1,000 hours of supervised training  
445 in mental health therapy obtained after completion of the education requirement in Subsection  
446 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
447 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
448 obtained under the direct [~~personal face to face~~] supervision of a mental health therapist  
449 approved by the division in collaboration with the board; and
- 450 (g) pass the examination requirement established by division rule under Section  
451 58-1-203.
- 452 (2) (a) [~~All applicants~~] An applicant for licensure as an associate professional  
453 counselor shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).
- 454 (b) An individual's licensure as an associate professional counselor is limited to the  
455 period of time necessary to complete clinical training as described in Subsections (1)(e) and (f)  
456 and extends not more than one year from the date the minimum requirement for training is  
457 completed, unless the individual presents satisfactory evidence to the division and the  
458 appropriate board that the individual is making reasonable progress toward passing of the  
459 qualifying examination for that profession or is otherwise on a course reasonably expected to

460 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
461 past the date the minimum supervised clinical training requirement has been completed.

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

463 **58-60-407. Scope of practice -- Limitations.**

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

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

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

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

476 (b) A licensed associate professional counselor may not engage in the independent  
477 practice of professional counseling.

478 Section 14. Section **58-60-502** is amended to read:

479 **58-60-502. Definitions.**

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

481 (1) "Approved agency" means an agency licensed by the Department of Human  
482 Services or a general acute hospital or specialty hospital as defined in Section 26-21-2 and  
483 licensed by the state Department of Health that:

484 (a) provides substance abuse services; and

485 (b) provides qualified mental health therapists in sufficient number to evaluate the  
486 conditions of the clients being treated by counselors licensed under this part employed by the  
487 approved agency or independently contracting or volunteering with the approved agency to  
488 ensure that appropriate substance abuse services are being given.

489 (2) "Board" means the Substance Abuse Counselor Licensing Board created in Section  
490 58-60-503.

491 (3) "Direct supervision" means:

492 (a) a supervisor provides a minimum of one hour of supervision to the licensed  
493 substance abuse counselor for every 40 hours of client care provided by the counselor, which  
494 supervision may include group and remote supervision;

495 (b) the supervision is conducted in a face-to-face manner or via a remote real-time  
496 presence, unless otherwise approved on a case-by-case basis by the division in collaboration  
497 with the board; and

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

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

500 (5) "Group supervision" means more than one counselor licensed under this part meets  
501 with the supervisor at the same time, whether in person or remotely.

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

504 (7) (a) "Practice as a licensed substance abuse counselor" means providing services as  
505 an employee, an independent contractor, or as a volunteer, of an approved agency under the  
506 general supervision of a licensed mental health therapist, to individuals or groups of persons  
507 for conditions of substance abuse, consistent with the education and training of a licensed  
508 substance abuse counselor required under this part, and the standards and ethics of the  
509 profession as approved by the division in collaboration with the board, and includes:

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

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

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

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

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

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

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

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

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

522 the treatment plan;

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

525 (A) identify and rank problems needing resolution;

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

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

528 (vi) providing substance abuse counseling services to alcohol and drug abuse clients

529 and significant other persons in the client's life as part of a comprehensive treatment plan,

530 including the following, but not including mental health therapy:

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

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

533 (C) engaging in one-on-one interventions and interactions coordinated and directly

534 supervised by a mental health therapist;

535 (vii) performing case management activities which bring services, agencies, resources,

536 or people together within a planned framework of action toward the achievement of established

537 goals, including, when appropriate, liaison activities and collateral contacts;

538 (viii) providing substance abuse crisis intervention services;

539 (ix) providing client education to individuals and groups concerning alcohol and other

540 drug abuse, including identification and description of available treatment services and

541 resources;

542 (x) identifying the needs of the client that cannot be met by the substance abuse

543 counselor or agency and referring the client to appropriate services and community resources;

544 (xi) developing and providing effective reporting and recordkeeping procedures and

545 services, which include charting the results of the assessment and treatment plan, writing

546 reports, progress notes, discharge summaries, and other client-related data; and

547 (xii) consulting with other professionals in regard to client treatment and services to

548 assure comprehensive quality care for the client.

549 (b) "Practice as a certified substance abuse counselor, certified substance abuse

550 counselor intern, or certified substance abuse counselor extern" means providing the services

551 described in Subsections (7)(a) and (b) under the direct supervision of a mental health therapist

552 or licensed substance abuse counselor.

- 553 (c) "Practice as a licensed substance abuse counselor" does not include:  
554 (i) the diagnosing of mental illness, including substance abuse, as defined in Section  
555 58-60-102;  
556 (ii) engaging in the practice of mental health therapy as defined in Section 58-60-102;  
557 or  
558 (iii) the performance of a substance abuse diagnosis, any other mental illness diagnosis,  
559 or psychological testing.  
560 (8) "Program" means a residential or nonresidential program that provides substance  
561 abuse services.  
562 (9) "Substance abuse education program" means a formal program of substance abuse  
563 education offered by an accredited institution of higher education that meets standards  
564 established by the division by rule in collaboration with the board and includes a minimum of  
565 300 hours of classroom education and a supervised field work practicum of at least 300 hours.

# FISCAL NOTE

H.B. 229 1st Sub. (Buff)

SHORT TITLE: Mental Health Professional Practice Act

SPONSOR: Grover, K.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.

2/24/2011, 12:04 PM, Lead Analyst: Pratt, S./Attorney: GCL

Office of the Legislative Fiscal Analyst