The Office of Professional Licensure Review

CY 2023 LICENSURE REVIEW OF BEHAVIORAL HEALTH OCCUPATIONS

The Office of Professional Licensure Review

November 16, 2022
OPLR STATUTORY OVERVIEW

- **Executive Order 2021-01** required each executive agency to review rules and regulations for occupational licensing to 1) identify rules and regulations that are no longer necessary, and 2) reduce barriers to working while still protecting the health, safety, and well-being of Utah residents.

- **SB 16** (2022 general session) created the Office of Professional Licensure Review (OPLR) within the Department of Commerce to perform the following duties:
  
  The office shall:
  
  (1) conduct a **sunrise review** of any applications to establish a new regulated occupation
  
  (2) conduct a **review of each regulated occupation** at least once every 10 years
  
  (3) review and respond to any **legislator inquiry** regarding a proposed or existing regulated occupation
  
  (4) **report** to the Business and Labor Interim Committee annually

- **SB 16** (2022 general session) was enacted and became Utah Code 13-1b, which applies to any regulation of an occupation that is administered by a state executive branch agency (13-1b-102)
OPLR PROPOSES A COMPREHENSIVE REVIEW OF MENTAL AND BEHAVIORAL HEALTH LICENSES

Department of Commerce

- Social Worker (9,200 active licensees)
- Clinical Mental Health Counselor (2,600)
- Psychologist (1,200)
- Marriage & Family Therapist (1,400)
- Therapeutic Recreation Specialist (700)
- Behavior Analyst (700)
- Substance Use Disorder Counselor (500)
- Vocational Rehabilitation Counselor (200)
- State Certified Music Therapist (70)

Department of Health and Human Services

- Certified Case Manager (1,000)
- Certified Peer Support Specialist (100)
- Child/Family Peer Support Specialist/Family Resource Facilitator (25)
- Certified Crisis Worker (130)
- Behavioral Emergency Services Technician (0)
- Advanced Behavioral Emergency Services Technician (0)
MENTAL HEALTH LICENSING REFORM CAN HAVE LARGE IMPACT FOR UTAHNS

- Utah has a severe mental health crisis
  - Suicide is the leading cause of death for Utah’s youth aged 15-24 (American Foundation for Suicide Prevention)
  - Utah ranks 47th (51st is worst) in the U.S. for prevalence of mental illness in 2022 (Mental Health America)

- There is a shortage of mental health professionals in Utah
  - All 29 Utah counties are HRSA-designated shortage areas for mental health professionals (HRSA)
  - Per conversations with executive branch agencies and others, the shortage leaves positions unfilled leading to long wait times for mental health care
  - 25% of those with severe mental illness, and 50% of youth with depression are going untreated in Utah (Kaiser Family Foundation)

- Utah’s mental health professionals may be under-prepared to prevent harm to consumers
  - DOPL sees a higher-than-average rate of substantiated complaints against mental health occupations relative to other occupations

- Mental health licensing reform has broad support
  - 50+ exploratory conversations with legislators, executive branch agencies, academics, researchers, advocates, and others indicates broad support for action on licensing reform to help address the shortage

Source: See CY 2023 List for Periodic Review for sourcing
OPLR WILL CONDUCT THOROUGH REVIEWS

Phase I: Background

1. Basic info (internal)
   • Scope of practice
   • Requirements (time, education, experience)
   • Contingent regulation (e.g., exemptions)
   • Related occupations
   • # active licensees

2. Stakeholders
   • Interested legislators
   • Licensing agency & boards
   • Industry groups/assoc.
   • Employers
   • Higher ed/training orgs.
   • Expert researchers & academics
   • Major reports & key data sources
   • [Stakeholder survey]

Phase II: Data gathering and analysis

1. Harm: Risk to public health, safety, and financial welfare
   • Understand mechanism of harm (via investigators, consumer groups)
   • # of complaints/investigations
   • QALY/DALYs/VSL methods; insurance/actuarial data

2. Consumer: Economic effects for the public (e.g., access, cost)
   • Total # licensees; # consumers affected
   • # of open positions for the occupation; shortage/waitlist for services
   • Growth in occupation: past, present, projected future
   • Compensation (wage increases, overtime, signing bonuses)

3. Practitioner: Economic effects for the practitioner/field (e.g., burden)
   • Cost/time required for training
   • Economic impact to organization/firm/employer
   • Impact on reimbursement (where applicable, e.g., CMS)
   • Changes in technology, best practice, market

4. Benchmarks: Other jurisdictions
   • State-level scope of practice, qualifications, time requirements
   • International examples (as applicable)

5. Alternative oversight: Other actors
   • Non-state oversight (e.g., accrediting bodies, local enforcement)
   • Market forces (e.g., online ratings, employer hiring policies)

Phase III: Solution generation

1. Necessity of regulation
2. Regulating agency (expertise, capacity)
3. Regulatory option (e.g., private credentialing, registration vs licensing, micro-licenses)
4. Scope of practice changes
5. Licensing burden (e.g., education, exam, time req’s)
6. Mobility/Foreign licenses
7. Effects of proposed regulatory changes
   • Harm prevention
   • Economic impacts
8. Cost to the state to regulate
9. Best practice examples from other jurisdictions
10. Board composition
11. [Stakeholder survey]

Phase IV: Review & submission

1. OPLR drafting and Office review process
2. Internal Commerce editorial board
3. Formal review and response by licensing agency/division/boards
4. Formal review/response by interested groups (e.g., industry associations)
5. Submit to Business and Labor Interim Committee
6. Publish on OPLR website
THANK YOU!

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## DOPL License Subcategories

<table>
<thead>
<tr>
<th>Social Worker</th>
<th>Marriage and Family Therapist</th>
<th>Substance Use Disorder Counselor</th>
<th>Vocational Rehabilitation Counselor</th>
<th>Recreational Therapy</th>
<th>State Certified Music Therapist</th>
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<tbody>
<tr>
<td>Licensed Clinical Social Worker</td>
<td>Marriage &amp; Family Therapist</td>
<td>Licensed SUDC</td>
<td>Licensed Vocational Rehabilitation Counselor</td>
<td>Therapeutic Recreation Specialist</td>
<td>State Certified Music Therapist</td>
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<tr>
<td>Social Service Worker</td>
<td>Associate Marriage &amp; Family Therapist</td>
<td>Licensed Advanced SUDC</td>
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<td>Therapeutic Recreation Technician</td>
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<td>Certified Social Worker</td>
<td>Associate MFT Extern</td>
<td>Certified Advanced SUDC</td>
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<td>Master Therapeutic Recreation Specialist</td>
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<td>Certified Social Worker Intern</td>
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<td>Certified SUDC</td>
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<td>Clinical Mental Health Counselor</td>
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<td>Certified SUDC Intern</td>
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<td>Clinical Mental Health Counselor</td>
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<td>Associate Clinical Mental Health Counselor Extern</td>
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<td>Volunteer Clinical Mental Health Counselor</td>
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<td>Psychologist</td>
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<td>Certified Psychology Resident</td>
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<td>Behavior Analyst</td>
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<td>Assistant Behavior Analyst</td>
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<td>Behavior Specialist</td>
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<td>Assistant Behavior Specialist</td>
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*No subcategories exist for DHHS mental/behavioral health licenses*
### MH/BH LICENSES NOT INCLUDED IN OPLR LIST FOR REVIEW

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<tr>
<th>DOPL</th>
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<tr>
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<td>Student Health &amp; Counseling Support</td>
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<td>DPS</td>
<td>Peace officer certification: Special Function Officer (SFO), Basic Corrections Officer (BCO), Law Enforcement Officer (LEO)</td>
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<td>APRN-CRNA without PP</td>
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<td>APRN-CRNA Controlled Substance</td>
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<td>A.P.R.N. without P.P.</td>
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<td>Occupational Therapist</td>
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<td>Occupational Therapy Assistant</td>
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<td>Physician &amp; Surgeon</td>
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<td>Restricted Associate Physician</td>
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<td>Osteopathic Physician &amp; Surgeon</td>
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<td>Physician Assistant</td>
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<td>Naturopath Physician</td>
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<td>Naturopath including Surgery &amp; OB</td>
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<td>Genetic Counselors</td>
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<td><em>Please note, for all DOPL licenses under Title 58, there may be temporary, volunteer, extern, intern, and apprentice licenses.</em></td>
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<tr>
<td>DHHS</td>
<td>Qualified Medical Provider</td>
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<td>Pharmacy Medical Provider</td>
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PROPOSED DELIVERABLES

Report Grouping and Timing

● Occupational grouping of reports
  ○ The CY 2023 review will be grouped by licensing agency and statute (e.g., 58-60)
  ○ Thus MFT, LCSW, CMHC, and SUDC licenses (and related sub-licenses) will be addressed in a single report

● Updates to the Legislature
  ○ OPLR will have updates available for interim committees throughout the summer of 2023
  ○ Final reports will be submitted as they are completed, prioritizing those most likely to require statutory changes

Report Structure

● Background and Context

● Policy Landscape
  ○ Policy examples from other jurisdictions
  ○ Policy alternatives

● Analysis and Findings
  ○ Impact on Consumers
    ■ Risk of Harm
    ■ Availability of Services
    ■ Quality of Services
  ○ Impact on Practitioners
    ■ Entry into Occupation
    ■ Practice of Occupation
    ■ Portability of License
  ○ Impact on the State
    ■ Administration & Enforcement
      Costs, Expertise, & Resources

● Recommendations