

Behavioral Health Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies licensing provisions for mental health therapists.

Highlighted Provisions:

This bill:

- makes a technical correction;
- expands the scopes of practice for mental health therapists; and
- creates the Mental Health Professionals Education and Enforcement Fund.

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 2024, Chapter 420

ENACTS:

58-60-118, Utah Code Annotated 1953

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.

As used in this chapter, unless a different meaning is established by definition under a specific section or part:

- (1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.
- (2) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.
- (3) "Clinical supervision" means work experience conducted under the supervision of a clinical supervisor, including[;]

[~~(a)~~] the practice of mental health therapy, direct client care, direct clinical supervision, direct observation, and other duties and activities completed in the course of the day-to-day job functions and work of[~~a~~]:

[~~(i)~~] (a) a certified social worker;

[~~(ii)~~] (b) an associate marriage and family therapist;

[~~(iii)~~] (c) an associate clinical mental health counselor; or

[~~(iv)~~] (d) an associate master addiction counselor, wherein the supervisor is available for consultation with the supervisee by personal face-to-face contact, or direct voice contact by telephone, radio, or other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(4) "Clinical supervisor" means an individual who oversees and mentors one or more mental health therapists licensed under this chapter, and who:

(a)(i) is licensed, in good standing, as a mental health therapist;

(ii) is approved or certified in good standing as a supervisor by a national professional organization for social work, mental health counseling, addiction counseling, marriage and family therapy, psychology, medicine, or nursing, or other organization as approved by the division;

(iii)(A) has completed eight or more hours of supervision instruction that meets minimum standards established by the division in rule; or

(B) has completed a graduate course on clinical supervision from an accredited program;

(iv) completes continuing education in clinical supervision, as established by the division in rule; and

(v) provides supervision to no more than the number of individuals to whom the supervisor can reasonably provide clinical supervision by performing the duties and responsibilities of a supervisor, including:

(A) being available to the supervisee for consultation by personal face-to-face contact, or by direct voice contact by telephone, video conference, or other means within a reasonable time frame;

(B) providing instruction, direction, oversight, observation, evaluation, and feedback, to enable the supervisee to acquire the knowledge, skills, techniques, and abilities necessary to engage in the practice of behavioral health care ethically, safely, and competently; and

(C) maintaining routine personal contact with the supervisee; and

(b)(i) is qualified and acting as a valid supervisor, in accordance with applicable law and division rules, as of April 30, 2024; and

(ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.

(5) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a)(i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, 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 individual licensed under this chapter, 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.

(6) "Designated examiner" means the same as that term is defined in Section 26B-5-301.

(7)(a) "Direct client care" means the practice of mental health therapy performed as an applicant for licensure.

(b) "Direct client care" includes:

(i) the practice of mental health therapy;

(ii) the utilization of patient-reported progress and outcomes to inform care; and

(iii) direct observation.

(8)(a) "Direct clinical supervision" means an applicant for licensure and the applicant's direct clinical supervisor meeting in real time and in accordance with the applicant for licensure's supervision contract as defined by division rule.

(b) "Direct clinical supervision" includes group supervision.

(9) "Direct clinical supervisor" means the clinical supervisor who has signed the supervision contract with the applicant for licensure.

(10) "Direct observation" means observation of an applicant for licensure's live or recorded

direct client care:

(a)(i) by the applicant for licensure's clinical supervisor; or

(ii) by a licensee under Subsection (4)(a) who the applicant for licensure's direct clinical supervisor approves; and

(b) after which the applicant for licensure and the observer under Subsection (10)(a) meet, in-person or electronically, to discuss the direct client care for the purpose of developing the applicant for licensure's clinical knowledge and skill.

(11) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.

(12) "Group supervision" means an applicant for licensure meeting with the applicant's direct clinical supervisor and at least one of the direct clinical supervisor's other supervised applicants for licensure:

(a) while the clinical supervisor and the applicants:

(i) can see and openly communicate with each other; and

(ii) are present in the same room or via electronic video; and

(b) for the purpose of developing the applicants' clinical knowledge and skill.

(13) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an 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.

(14) "Individual" means a natural person.

(15) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

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

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

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

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

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) a physician assistant specializing in mental health care under Section 58-70a-501.1;

(g) a clinical social worker;

- (h) a certified social worker;
- (i) a marriage and family therapist;
- (j) an associate marriage and family therapist;
- (k) a clinical mental health counselor;
- (l) an associate clinical mental health counselor;
- (m) a master addiction counselor; or
- (n) an associate master addiction counselor.

(16) "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 (15).

(17) "Practice of mental health therapy" means treatment or prevention of another individual's mental illness or emotional disorder, whether in person or remotely, 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 (15);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (15);

(c) conveying an opinion as to the validity of an individual's established diagnosis;

~~[(e)]~~ (d) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

~~[(d)]~~ (e) engaging in the conduct of professional intervention, including: [-]

(i) psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (15) [-]

; and

(ii) modes of treatment designed to treat interpersonal dysfunction; and

(f) holding oneself out as providing, or has having the skills, experience, or training to competently provide, any of the services described in Subsections (17)(a) through (e).

(18) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

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

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

Section 2. Section **58-60-118** is enacted to read:

58-60-118 . Mental Health Professionals Education and Enforcement Fund.

- (1) There is created an expendable special revenue fund known as the "Mental Health Professionals Education and Enforcement Fund."
- (2) The fund consists of money from administrative penalties collected pursuant to this chapter.
- (3) The fund shall earn interest, and all interest earned on fund money shall be deposited into the fund.
- (4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:
 - (a) education and training of licensees under this chapter;
 - (b) education and training of the public or other interested persons in matters concerning the laws governing the practices licensed under this chapter; and
 - (c) enforcement of this chapter by:
 - (i) investigating unprofessional or unlawful conduct; and
 - (ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.
- (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.
- (6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section 3. Effective date.

This bill takes effect on May 7, 2025.