

1 **MENTAL HEALTH PROFESSIONAL PRACTICE**

2 **ACT**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Martin R. Stephens**

6 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; PROVIDING AN
7 EXEMPTION FROM THE MENTAL HEALTH THERAPIST'S ACT FOR COLLEGE
8 GRADUATES WHO ARE RECEIVING TRAINING UNDER THE DIRECTION OF A
9 LICENSED PROFESSIONAL; AND ESTABLISHING THE PROCEDURES UNDER
10 WHICH A MENTAL HEALTH THERAPIST LICENSED IN ANOTHER STATE MAY BE
11 LICENSED IN UTAH.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **58-60-107**, as last amended by Chapter 184, Laws of Utah 1996

15 ENACTS:

16 **58-60-115**, Utah Code Annotated 1953

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

18 Section 1. Section **58-60-107** is amended to read:

19 **58-60-107. Exemptions from licensure.**

20 In addition to the exemptions from licensure in Section 58-1-307, the following may
21 engage in acts included within the definition of practice as a mental health therapist, subject to the
22 stated circumstances and limitations, without being licensed under this chapter:

23 (1) the following when practicing within the scope of the license held:

24 (a) a physician and surgeon or osteopathic physician and surgeon licensed under [~~Chapter~~
25 ~~12, Practice of Medicine and Surgery~~] Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
26 Osteopathic Medical Practice Act;

27 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31, Nurse

1 Practice Act; and

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

3 (2) a recognized member of the clergy while functioning in his ministerial capacity as long
4 as he does not represent himself as or use the title of a license classification in Subsection
5 58-60-102(5);

6 (3) an individual who is offering expert testimony in any proceeding before a court,
7 administrative hearing, deposition upon the order of any court or other body having power to order
8 the deposition, or proceedings before any master, referee, or alternative dispute resolution
9 provider;

10 (4) an individual engaged in performing hypnosis who is not licensed under Title 58,
11 Occupations and Professions, in a profession which includes hypnosis in its scope of practice, and
12 who:

13 (a) (i) induces a hypnotic state in a client for the purpose of increasing motivation or
14 altering lifestyles or habits, such as eating or smoking, through hypnosis;

15 (ii) consults with a client to determine current motivation and behavior patterns;

16 (iii) prepares the client to enter hypnotic states by explaining how hypnosis works and
17 what the client will experience;

18 (iv) tests clients to determine degrees of suggestibility;

19 (v) applies hypnotic techniques based on interpretation of consultation results and analysis
20 of client's motivation and behavior patterns; and

21 (vi) trains clients in self-hypnosis conditioning;

22 (b) may not:

23 (i) engage in the practice of mental health therapy;

24 (ii) represent himself using the title of a license classification in Subsection 58-60-102(5);

25 or

26 (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in
27 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
28 disorders;

29 (5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while
30 completing any supervised clinical training requirement for licensure extends not more than one
31 year from the date the minimum requirement for training is completed, unless the individual

1 presents satisfactory evidence to the division and the appropriate board that the individual is
2 making reasonable progress toward passing of the qualifying examination for that profession or
3 is otherwise on a course reasonably expected to lead to licensure, but any exemption under this
4 subsection may not exceed two years past the date the minimum supervised clinical training
5 requirement has been completed;

6 (6) an individual holding an earned doctoral degree or master's degree in social work,
7 marriage and family therapy, or professional counseling, who is employed by an accredited
8 institution of higher education and who conducts research and teaches in that individual's
9 professional field, but only if the individual does not engage in providing or supervising
10 professional services regulated under this chapter to individuals or groups regardless of whether
11 there is compensation for the services;

12 (7) an individual holding an earned doctoral degree, master's degree, bachelor's degree in
13 sociology, psychology, family sciences, social work, marriage and family therapy, or professional
14 counseling who provides social work or mental health therapy under the direct supervision of a
15 person licensed under this chapter whose scope of practice includes such work or therapy:

16 (a) upon application by the individual for licensure under this chapter until notified by the
17 division of:

18 (i) any deficiencies in the individual's application; and

19 (ii) the time within which the individual may rectify those deficiencies while working
20 under direct supervision; or

21 (b) while participating in a professional training program offered through the individual's
22 employer for no more than nine months;

23 [~~7~~] (8) an individual providing general education in the subjects of alcohol or drug use
24 or abuse, including prevention; and

25 [~~8~~] (9) an individual providing advice or counsel to another individual in a setting of
26 their association as friends or relatives and in a nonprofessional and noncommercial relationship,
27 if there is no compensation paid for the advice or counsel.

28 Section 2. Section **58-60-115** is enacted to read:

29 **58-60-115. License by endorsement.**

30 (1) The division shall issue a license by endorsement under this chapter to a person who:

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

- 1 (b) pays a fee determined by the department under Section 63-38-3.2;
- 2 (c) is currently licensed in good standing in any state, district, or territory of the United
- 3 States to practice in the profession in which licensure is sought;
- 4 (d) has been actively engaged in the legal practice of his profession for not less than 4,000
- 5 hours during the three years immediately preceding the date of application for licensure in Utah;
- 6 and
- 7 (e) does not have any action pending against his license.
- 8 (2) (a) Before any person may be issued a license under this section, he shall produce
- 9 satisfactory evidence of his qualifications, identity, and good standing in his profession.
- 10 (b) Upon producing the evidence required by Subsection (2)(a) to the division, the person
- 11 may practice his profession under the direct supervision of a person licensed pursuant to this
- 12 chapter in the same profession until:
- 13 (i) the person's license is issued; or
- 14 (ii) the application for licensure is denied.

Legislative Review Note
as of 2-10-98 4:09 PM

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

Office of Legislative Research and General Counsel