

Representative Martin R. Stephens proposes to substitute the following bill:

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; ESTABLISHING AN
7 EXEMPTION TO THE MENTAL HEALTH THERAPIST'S ACT FOR AN EMPLOYEE OF
8 AN AGENCY WHO IS PARTICIPATING IN A TRAINING PROGRAM, HAS A MASTER'S
9 OR DOCTORAL DEGREE, AND OPERATES UNDER THE DIRECT SUPERVISION OF
10 A LICENSED PROFESSIONAL; ESTABLISHING THE PROCEDURES UNDER WHICH
11 A MENTAL HEALTH THERAPIST LICENSED IN ANOTHER STATE MAY BE
12 LICENSED IN UTAH; AND PERMITTING A PERSON WITH CERTAIN LICENSING
13 DEFICIENCIES TO OBTAIN A TEMPORARY LICENSE.

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

15 AMENDS:

16 **58-60-107**, as last amended by Chapter 184, Laws of Utah 1996

17 ENACTS:

18 **58-60-115**, Utah Code Annotated 1953

19 **58-60-116**, Utah Code Annotated 1953

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

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

22 **58-60-107. Exemptions from licensure.**

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

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

2 (a) a physician and surgeon or osteopathic physician and surgeon licensed under [~~Chapter~~
3 ~~12, Practice of Medicine and Surgery~~] Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
4 Osteopathic Medical Practice Act;

5 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31, Nurse
6 Practice Act; and

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

8 (2) a recognized member of the clergy while functioning in his ministerial capacity as long
9 as he does not represent himself as or use the title of a license classification in Subsection
10 58-60-102(5);

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

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

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

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

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

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

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

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

27 (b) may not:

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

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

30 or

31 (iii) use hypnosis with or treat a medical, psychological, or dental condition defined in

1 generally recognized diagnostic and statistical manuals of medical, psychological, or dental
2 disorders;

3 (5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while
4 completing any supervised clinical training requirement for licensure extends not more than one
5 year from the date the minimum requirement for training is completed, unless the individual
6 presents satisfactory evidence to the division and the appropriate board that the individual is
7 making reasonable progress toward passing of the qualifying examination for that profession or
8 is otherwise on a course reasonably expected to lead to licensure, but any exemption under this
9 subsection may not exceed two years past the date the minimum supervised clinical training
10 requirement has been completed;

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

17 (7) an individual, holding an earned doctoral degree or master's degree in a discipline
18 which is a prerequisite for practice as a mental health therapist, who provides mental health
19 therapy as an employee of an agency under the direct supervision of a person licensed under this
20 chapter as part of a professional training program offered through the agency for not more than 12
21 months;

22 [~~(7)~~] (8) an individual providing general education in the subjects of alcohol or drug use
23 or abuse, including prevention; and

24 [~~(8)~~] (9) an individual providing advice or counsel to another individual in a setting of
25 their association as friends or relatives and in a nonprofessional and noncommercial relationship,
26 if there is no compensation paid for the advice or counsel.

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

28 **58-60-115. License by endorsement.**

29 The division shall issue a license by endorsement under this chapter to a person who:

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

31 (2) pays a fee determined by the department under Section 63-38-3.2;

1 (3) provides documentation of current licensure in good standing in any state, district, or
2 territory of the United States to practice in the profession in which licensure is being sought;

3 (4) provides documentation of having been actively engaged in the legal practice of his
4 profession for not less than 4,000 hours during the three years immediately preceding the date of
5 application for licensure in Utah;

6 (5) has passed the profession specific jurisdiction examination if required of a new
7 applicant; and

8 (6) has no disciplinary action pending or in effect against the applicant's license in any
9 jurisdiction.

10 Section 3. Section **58-60-116** is enacted to read:

11 **58-60-116. Temporary license.**

12 (1) The division shall issue a temporary license to an individual who:

13 (a) applies for licensure under this title;

14 (b) has earned a master's or doctoral degree in a discipline which is a prerequisite for
15 licensure under this chapter; and

16 (c) has one or more deficiencies in course work, experience, or training.

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

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

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

20 (3) A person practicing under a temporary license issued under this section may only
21 practice under the direct supervision of a person licensed in the applicable profession under this
22 chapter.