

MENTAL HEALTH THERAPIST LICENSING ACT AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Karen Hale

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; AMENDING THE EXEMPTIONS TO THE LICENSURE REQUIREMENTS OF THE MENTAL HEALTH PROFESSIONAL PRACTICE ACT; REMOVING THE POWER OF THE DIVISION TO ISSUE TEMPORARY CERTIFICATES; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

58-60-102, as enacted by Chapter 32, Laws of Utah 1994

58-60-103, as last amended by Chapter 248, Laws of Utah 1997

58-60-107, as last amended by Chapter 311, Laws of Utah 1998

REPEALS:

58-60-116, as enacted by Chapter 311, Laws of Utah 1998

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.

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

(1) "Client" or "patient" means an individual who consults or is examined or interviewed by a mental health therapist acting in his professional capacity.

(2) "Confidential communication" means information, including information obtained by the mental health therapist's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and a mental health therapist in the course of that relationship; or

(ii) transmitted among the client or patient, the mental health therapist, and individuals who are participating in the diagnosis or treatment under the direction of the mental health therapist, 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 mental

health therapist, 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.

(3) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by which one 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.

(4) "Individual" means a natural person.

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

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

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

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

(d) a clinical social worker;

(e) a certified social worker;

(f) a marriage and family therapist; or

(g) a professional counselor.

(6) "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 (5).

(7) "Practice of mental health therapy" means treatment or prevention of mental illness, 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 (5);

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

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

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

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

(9) "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 **58-60-103** is amended to read:

58-60-103. Licensure required.

(1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; Chapter ~~[31]~~ 31b, Nurse Practice Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order to:

(a) engage in or represent he will engage in the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or professional counseling; or

(b) practice as or represent himself as a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, or registered psychiatric mental health nurse specialist.

(2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in or represent that he is engaged in practice as a social service worker; or

(b) represent himself as or use the title of social service worker.

(3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in or represent that he is engaged in practice as a licensed substance abuse counselor; or

(b) represent himself as or use the title of licensed substance abuse counselor.

Section 3. Section **58-60-107** is amended to read:

58-60-107. Exemptions from licensure.

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

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

(a) a physician and surgeon or osteopathic physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) ~~[a registered psychiatric mental health nurse specialist licensed under Chapter 31,]~~ an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(c) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act;

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

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

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

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

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

- (iii) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;
 - (iv) tests clients to determine degrees of suggestibility;
 - (v) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and
 - (vi) trains clients in self-hypnosis conditioning;
- (b) may not:
- (i) engage in the practice of mental health therapy;
 - (ii) represent himself using the title of a license classification in Subsection 58-60-102(5);

or

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

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

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

(7) an individual~~[-holding an earned doctoral degree or master's degree in a discipline which~~

~~is a prerequisite for practice as a mental health therapist, who provides mental health therapy as an employee of a public or private organization which provides mental health therapy while under the direct supervision of a person licensed under this chapter as part of a professional training program approved by the division and offered through the agency for not more than 12 months] in an on-the-job training program approved by the division while under the supervision of qualified persons;~~

(8) an individual providing general education in the subjects of alcohol or drug use or abuse, including prevention; and

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

Section 4. Repealer.

This act repeals:

Section 58-60-116, Temporary certificate.