

**DESIGNATED MENTAL RETARDATION
PROFESSIONAL AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends the definition of a mental retardation professional within the Services to People With Disabilities chapter of the Utah Human Services Code.

Highlighted Provisions:

This bill:

- ▶ adds licensed marriage and family therapists and professional counselors to the list of mental health professionals that may become qualified as a mental retardation professional; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-5-101, as last amended by Chapters 46 and 351, Laws of Utah 2006

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

Section 1. Section **62A-5-101** is amended to read:



28 **62A-5-101. Definitions.**

29 As used in this chapter:

30 (1) "Approved provider" means a person approved by the division to provide
31 home-based services.

32 (2) "Board" means the Board of Services for People with Disabilities established in
33 accordance with Section 62A-1-105.

34 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
35 nature, including a cerebral vascular accident.

36 (b) "Brain injury" does not include a deteriorating disease.

37 (4) "Designated mental retardation professional" means:

38 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
39 who:

40 (i) (A) has at least one year of specialized training in working with persons with mental
41 retardation; or

42 (B) has at least one year of clinical experience with persons with mental retardation;
43 and

44 (ii) is designated by the division as specially qualified, by training and experience, in
45 the treatment of mental retardation; or

46 (b) a clinical [or] social worker, certified social worker, marriage and family therapist,
47 or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional
48 Practice Act, who:

49 (i) has at least two years of clinical experience with persons with mental retardation;
50 and

51 (ii) is designated by the division as specially qualified, by training and experience, in
52 the treatment of mental retardation.

53 (5) "Deteriorating disease" includes:

54 (a) multiple sclerosis;

55 (b) muscular dystrophy;

56 (c) Huntington's chorea;

57 (d) Alzheimer's disease;

58 (e) ataxia; or

59 (f) cancer.

60 (6) "Developmental center" means the Utah State Developmental Center, established in
61 accordance with Part 2, Utah State Developmental Center.

62 (7) "Direct service worker" means a person who provides services to a person with a
63 disability:

64 (a) when the services are rendered in:

65 (i) the physical presence of the person with a disability; or

66 (ii) a location where the person rendering the services has access to the physical
67 presence of the person with a disability; and

68 (b) under:

69 (i) a contract with the division; or

70 (ii) a grant agreement with the division.

71 (8) "Director" means the director of the Division of Services for People with
72 Disabilities.

73 (9) (a) "Disability" means a severe, chronic disability that:

74 (i) is attributable to:

75 (A) mental retardation;

76 (B) a condition that qualifies a person as a person with a related condition, as defined
77 in 42 C.F.R. 435.1009;

78 (C) a physical disability; or

79 (D) a brain injury;

80 (ii) is likely to continue indefinitely;

81 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
82 substantial functional limitation in three or more of the following areas of major life activity:

83 (I) self-care;

84 (II) receptive and expressive language;

85 (III) learning;

86 (IV) mobility;

87 (V) self-direction;

88 (VI) capacity for independent living; or

89 (VII) economic self-sufficiency; or

- 90 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
91 limitation in three or more of the following areas:
- 92 (I) memory or cognition;
 - 93 (II) activities of daily life;
 - 94 (III) judgment and self-protection;
 - 95 (IV) control of emotions;
 - 96 (V) communication;
 - 97 (VI) physical health; or
 - 98 (VII) employment; and
- 99 (iv) requires a combination or sequence of special interdisciplinary or generic care,
100 treatment, or other services that:
- 101 (A) may continue throughout life; and
 - 102 (B) must be individually planned and coordinated.
- 103 (b) "Disability" does not include a condition due solely to:
- 104 (i) mental illness;
 - 105 (ii) personality disorder;
 - 106 (iii) hearing impairment;
 - 107 (iv) visual impairment;
 - 108 (v) learning disability;
 - 109 (vi) behavior disorder;
 - 110 (vii) substance abuse; or
 - 111 (viii) the aging process.
- 112 (10) "Division" means the Division of Services for People with Disabilities.
- 113 (11) "Eligible to receive division services" or "eligibility" means qualification, based
114 on criteria established by the division in accordance with Subsection 62A-5-102(4), to receive
115 services that are administered by the division.
- 116 (12) "Endorsed program" means a facility or program that:
- 117 (a) is operated:
 - 118 (i) by the division; or
 - 119 (ii) under contract with the division; or
 - 120 (b) provides services to a person committed to the division under Part 3, Admission to

121 Mental Retardation Facility.

122 (13) "Licensed physician" means:

123 (a) an individual licensed to practice medicine under:

124 (i) Title 58, Chapter 67, Utah Medical Practice Act; or

125 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

126 (b) a medical officer of the United States Government while in this state in the
127 performance of official duties.

128 (14) "Mental retardation" means a significant, subaverage general intellectual
129 functioning, that:

130 (a) exists concurrently with deficits in adaptive behavior; and

131 (b) is manifested during the developmental period as defined in the current edition of
132 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
133 Psychiatric Association.

134 (15) "Mental retardation facility" means a residential facility for a person with mental
135 retardation, that receives state or federal funds under Title XIX of the federal Social Security
136 Act, for the purpose of serving a mentally retarded person in this state.

137 (16) "Physical disability" means a medically determinable physical impairment that has
138 resulted in the functional loss of two or more of a person's limbs.

139 (17) "Public funds" means state or federal funds that are disbursed by the division.

140 (18) "Resident" means an individual under observation, care, or treatment in a mental
141 retardation facility.

Legislative Review Note
as of 11-15-06 5:01 PM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-06 11:08 AM

The Health and Human Services Interim Committee recommended this bill.