

1                   **BEHAVIORAL HEALTH CARE WORKFORCE AMENDMENTS**

2   2013 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Ronda Rudd Menlove**

5                                   Senate Sponsor: Allen M. Christensen

---

6

7           **LONG TITLE**

8           **General Description:**

9           This bill amends the Mental Health Professional Practice Act and Psychologist  
10          Licensing Act to allow mental health therapists and substance use disorder counselors  
11          to engage in mental health therapy or substance use disorder counseling via Internet,  
12          telephone, or other electronic means, to allow mental health therapists and substance  
13          abuse therapists licensed in other jurisdictions to provide short term transitional care to  
14          clients relocating to Utah, and to allow for the remote training and supervision of  
15          mental health professionals and substance use disorder counselors via electronic means.

16          **Highlighted Provisions:**

17                  This bill:

- 18                  ▶ defines terms;
- 19                  ▶ permits licensed mental health therapists and substance use disorder counselors to  
20          offer therapy remotely via Internet, telephone, or other electronic means under  
21          existing authority of the Division of Occupational and Professional Licensing  
22          (DOPL);
- 23                  ▶ grants rulemaking authority to DOPL relating to the method that mental health  
24          professional or psychologist license applicants may complete training hours;
- 25                  ▶ provides that individuals licensed and in good standing to practice remote mental  
26          health therapy or substance use disorder counseling in other jurisdictions may  
27          provide short term transitional remote mental health therapy or remote substance



28 use disorder counseling to clients or patients relocating to the state of Utah; and

29       ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 AMENDS:

36       **58-60-102**, as last amended by Laws of Utah 2012, Chapter 179

37       **58-60-107**, as last amended by Laws of Utah 2012, Chapter 179

38       **58-60-205**, as last amended by Laws of Utah 2012, Chapter 113

39       **58-60-305**, as last amended by Laws of Utah 2010, Chapter 214

40       **58-60-405**, as last amended by Laws of Utah 2012, Chapter 179

41       **58-60-502**, as last amended by Laws of Utah 2012, Chapter 179

42       **58-61-102**, as last amended by Laws of Utah 2012, Chapter 117

43       **58-61-304**, as last amended by Laws of Utah 2009, Chapter 183

44       **58-61-307**, as last amended by Laws of Utah 2007, Chapter 306



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

47       Section 1. Section **58-60-102** is amended to read:

48       **58-60-102. Definitions.**

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

50       (1) "Client" or "patient" means an individual who consults or is examined or  
51 interviewed by an individual licensed under this chapter who is acting in the individual's  
52 professional capacity.

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

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

58           (ii) transmitted among the client or patient, an individual licensed under this chapter,

59 and individuals who are participating in the diagnosis or treatment under the direction of an  
60 individual licensed under this chapter, including members of the client's or patient's family; and

61 (b) made in confidence, for the diagnosis or treatment of the client or patient by the  
62 individual licensed under this chapter, and by a means not intended to be disclosed to third  
63 persons other than those individuals:

64 (i) present to further the interest of the client or patient in the consultation,  
65 examination, or interview;

66 (ii) reasonably necessary for the transmission of the communications; or

67 (iii) participating in the diagnosis and treatment of the client or patient under the  
68 direction of the mental health therapist.

69 (3) "Hypnosis" means, when referring to individuals exempted from licensure under  
70 this chapter, a process by which an individual induces or assists another individual into a  
71 hypnotic state without the use of drugs or other substances and for the purpose of increasing  
72 motivation or to assist the individual to alter lifestyles or habits.

73 (4) "Individual" means a natural person.

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

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

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

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

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

82 (e) a clinical social worker;

83 (f) a certified social worker;

84 (g) a marriage and family therapist;

85 (h) an associate marriage and family therapist;

86 (i) a clinical mental health counselor; or

87 (j) an associate clinical mental health counselor.

88 (6) "Mental illness" means a mental or emotional condition defined in an approved  
89 diagnostic and statistical manual for mental disorders generally recognized in the professions of

90 mental health therapy listed under Subsection (5).

91 (7) "Practice of mental health therapy" means treatment or prevention of mental illness,  
92 whether in person or remotely, including:

93 (a) conducting a professional evaluation of an individual's condition of mental health,  
94 mental illness, or emotional disorder consistent with standards generally recognized in the  
95 professions of mental health therapy listed under Subsection (5);

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

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

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

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

106 [~~8~~] (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

107 [~~9~~] (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110,  
108 and may be further defined by division rule.

109 Section 2. Section **58-60-107** is amended to read:

110 **58-60-107. Exemptions from licensure.**

111 (1) Except as modified in Section 58-60-103, the exemptions from licensure in Section  
112 58-1-307 apply to this chapter.

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

117 [~~b~~] (a) the following when practicing within the scope of the license held:

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

120 (ii) an advanced practice registered nurse, specializing in psychiatric mental health

121 nursing, licensed under Chapter 31b, Nurse Practice Act; and  
122 (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;  
123 ~~[(3)]~~ (b) a recognized member of the clergy while functioning in a ministerial capacity  
124 as long as the member of the clergy does not represent that the member of the clergy is, or use  
125 the title of, a license classification in Subsection 58-60-102(5);  
126 ~~[(4)]~~ (c) an individual who is offering expert testimony in a proceeding before a court,  
127 administrative hearing, deposition upon the order of a court or other body having power to  
128 order the deposition, or a proceeding before a master, referee, or alternative dispute resolution  
129 provider;  
130 ~~[(5)]~~ (d) an individual engaged in performing hypnosis who is not licensed under this  
131 title in a profession which includes hypnosis in its scope of practice, and who:  
132 ~~[(a)]~~ (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation  
133 or altering lifestyles or habits, such as eating or smoking, through hypnosis;  
134 ~~[(ii)]~~ (B) consults with a client to determine current motivation and behavior patterns;  
135 ~~[(iii)]~~ (C) prepares the client to enter hypnotic states by explaining how hypnosis works  
136 and what the client will experience;  
137 ~~[(iv)]~~ (D) tests clients to determine degrees of suggestibility;  
138 ~~[(v)]~~ (E) applies hypnotic techniques based on interpretation of consultation results and  
139 analysis of client's motivation and behavior patterns; and  
140 ~~[(vi)]~~ (F) trains clients in self-hypnosis conditioning;  
141 ~~[(b)]~~ (ii) may not:  
142 ~~[(i)]~~ (A) engage in the practice of mental health therapy;  
143 ~~[(ii)]~~ (B) use the title of a license classification in Subsection 58-60-102(5); or  
144 ~~[(iii)]~~ (C) use hypnosis with or treat a medical, psychological, or dental condition  
145 defined in generally recognized diagnostic and statistical manuals of medical, psychological, or  
146 dental disorders;  
147 ~~[(6)]~~ (e) an individual's exemption from licensure under Subsection 58-1-307(1)(b)  
148 terminates when the student's training is no longer supervised by qualified faculty or staff and  
149 the activities are no longer a defined part of the degree program;  
150 ~~[(7)]~~ (f) an individual holding an earned doctoral degree or master's degree in social  
151 work, marriage and family therapy, or clinical mental health counseling, who is employed by

152 an accredited institution of higher education and who conducts research and teaches in that  
153 individual's professional field, but only if the individual does not engage in providing or  
154 supervising professional services regulated under this chapter to individuals or groups  
155 regardless of whether there is compensation for the services;

156 ~~[(8)]~~ (g) an individual in an on-the-job training program approved by the division while  
157 under the supervision of qualified persons;

158 ~~[(9)]~~ (h) an individual providing general education in the subjects of alcohol, drug use,  
159 or substance use disorders, including prevention; ~~[and]~~

160 ~~[(10)]~~ (i) an individual providing advice or counsel to another individual in a setting of  
161 their association as friends or relatives and in a nonprofessional and noncommercial  
162 relationship, if there is no compensation paid for the advice or counsel[-]; and

163 (j) an individual who is licensed, in good standing, to practice mental health therapy or  
164 substance use disorder counseling in a state or territory of the United States outside of Utah  
165 may provide short term transitional mental health therapy remotely or short term transitional  
166 substance use disorder counseling remotely to a client in Utah only if:

167 (i) the individual is present in the state or territory where the individual is licensed to  
168 practice mental health therapy or substance use disorder counseling;

169 (ii) the client relocates to Utah;

170 (iii) the client is a client of the individual immediately before the client relocates to  
171 Utah;

172 (iv) the individual provides the short term transitional mental health therapy or short  
173 term transitional substance use disorder counseling remotely to the client only during the 45  
174 day period beginning on the day on which the client relocates to Utah;

175 (v) within 10 days after the day on which the client relocates to Utah, the individual  
176 provides written notice to the division of the individual's intent to provide short term  
177 transitional mental health therapy or short term transitional substance use disorder counseling  
178 remotely to the client; and

179 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

180 Section 3. Section **58-60-205** is amended to read:

181 **58-60-205. Qualifications for licensure or certification as a clinical social worker,**  
182 **certified social worker, and social service worker.**

183 (1) An applicant for licensure as a clinical social worker shall:  
184 (a) submit an application on a form provided by the division;  
185 (b) pay a fee determined by the department under Section 63J-1-504;  
186 (c) be of good moral character;  
187 (d) produce certified transcripts from an accredited institution of higher education  
188 recognized by the division in collaboration with the board verifying satisfactory completion of  
189 an education and earned degree as follows:

190 (i) an earned master's degree in social work resulting from completion of an education  
191 program accredited by the Council on Social Work Education; or

192 (ii) an earned doctoral degree in social work that results from successful completion of  
193 a clinical concentration and practicum approved by the division and defined by rule under  
194 Section 58-1-203;

195 (e) have completed a minimum of 4,000 hours of clinical social work training as  
196 defined by division rule under Section 58-1-203 in not less than two years and under the  
197 supervision of a clinical social worker supervisor approved by the division in collaboration  
198 with the board;

199 (f) document successful completion of not less than 1,000 hours of supervised training  
200 in mental health therapy obtained after completion of the education requirement in Subsection  
201 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
202 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
203 obtained under the direct [~~personal face-to-face~~] supervision of a clinical social worker  
204 [~~approved by the division in collaboration with the board~~], as defined by rule;

205 (g) have completed a case work, group work, or family treatment course sequence with  
206 a clinical practicum in content as defined by rule under Section 58-1-203; and

207 (h) pass the examination requirement established by rule under Section 58-1-203.

208 (2) An applicant for licensure as a certified social worker shall:

209 (a) submit an application on a form provided by the division;

210 (b) pay a fee determined by the department under Section 63J-1-504;

211 (c) be of good moral character;

212 (d) produce certified transcripts from an accredited institution of higher education  
213 recognized by the division in collaboration with the Social Worker Licensing Board verifying

214 satisfactory completion of an education and an earned degree as follows:

215 (i) a social work education program accredited by the Council on Social Work  
216 Education and an earned master's degree resulting from completion of that program; or

217 (ii) an education program that contains approved clinical social work concentration and  
218 practicum in content as defined by rule under Section 58-1-203 and an earned doctorate  
219 resulting from completion of that program; and

220 (e) pass the examination requirement established by rule under Section 58-1-203.

221 (3) (a) An applicant for certification as a certified social worker intern shall meet the  
222 requirements of Subsections (2)(a), (b), (c), and (d).

223 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the  
224 examination required under Subsection (2)(e) or six months, whichever occurs first.

225 (c) A certified social worker intern may provide mental health therapy under the  
226 general supervision of a clinical social worker.

227 (4) An applicant for licensure as a social service worker shall:

228 (a) submit an application on a form provided by the division;

229 (b) pay a fee determined by the department under Section 63J-1-504;

230 (c) be of good moral character;

231 (d) produce certified transcripts from an accredited institution of higher education  
232 recognized by the division in collaboration with the Social Worker Licensing Board verifying  
233 satisfactory completion of an earned degree resulting from education as follows:

234 (i) a bachelor's degree in a social work program accredited by the Council on Social  
235 Work Education;

236 (ii) a master's degree in a field approved by the division in collaboration with the social  
237 worker board;

238 (iii) a bachelor's degree in any field if the applicant:

239 (A) except as provided in Subsection 58-60-205.2(2), has completed at least three  
240 semester hours, or the equivalent, in each of the following areas:

241 (I) social welfare policy;

242 (II) human growth and development; and

243 (III) social work practice methods, as defined by rule; and

244 (B) provides documentation that the applicant has completed at least 2,000 hours of



245 qualifying experience under the supervision of a mental health therapist, which experience is  
246 approved by the division in collaboration with the Social Worker Licensing Board, and which  
247 is performed after completion of the requirements to obtain the bachelor's degree required  
248 under this Subsection (4); or

249 (iv) successful completion of the first academic year of a Council on Social Work  
250 Education approved master's of social work curriculum and practicum; and

251 (e) pass the examination requirement established by rule under Section 58-1-203.

252 (5) The division shall ensure that the rules for an examination described under  
253 Subsections (1)(h), (2)(e), and (4)(e) allow additional time to complete the examination if  
254 requested by an applicant who is:

255 (a) a foreign born legal resident of the United States for whom English is a second  
256 language; or

257 (b) an enrolled member of a federally recognized Native American tribe.

258 Section 4. Section **58-60-305** is amended to read:

259 **58-60-305. Qualifications for licensure.**

260 (1) All applicants for licensure as marriage and family therapists shall:

261 (a) submit an application on a form provided by the division;

262 (b) pay a fee determined by the department under Section 63J-1-504;

263 (c) be of good moral character;

264 (d) produce certified transcripts evidencing completion of a masters or doctorate degree  
265 in marriage and family therapy from:

266 (i) a program accredited by the Commission on Accreditation for Marriage and Family  
267 Therapy Education; or

268 (ii) an accredited institution meeting criteria for approval established by rule under  
269 Section 58-1-203;

270 (e) have completed a minimum of 4,000 hours of marriage and family therapy training  
271 as defined by division rule under Section 58-1-203, in not less than two years, under the  
272 supervision of a marriage and family therapist supervisor who meets the requirements of  
273 Section 58-60-307, and obtained after completion of the education requirement in Subsection  
274 (1)(d);

275 (f) document successful completion of not less than 1,000 hours of supervised training

276 in mental health therapy obtained after completion of the education requirement described in  
277 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of  
278 training described in Subsection (1)(e), and of which documented evidence demonstrates not  
279 less than 100 of the supervised hours were obtained during direct, personal~~[, face-to-face]~~  
280 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307,  
281 as defined by rule; and

282 (g) pass the examination requirement established by division rule under Section  
283 58-1-203.

284 (2) (a) All applicants for licensure as an associate marriage and family therapist shall  
285 comply with the provisions of Subsections (1)(a), (b), (c), and (d).

286 (b) An individual's license as an associate marriage and family therapist is limited to  
287 the period of time necessary to complete clinical training as described in Subsections (1)(e) and  
288 (f) and extends not more than one year from the date the minimum requirement for training is  
289 completed, unless the individual presents satisfactory evidence to the division and the  
290 appropriate board that the individual is making reasonable progress toward passing of the  
291 qualifying examination for that profession or is otherwise on a course reasonably expected to  
292 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
293 past the date the minimum supervised clinical training requirement has been completed.

294 Section 5. Section **58-60-405** is amended to read:

295 **58-60-405. Qualifications for licensure.**

296 (1) An applicant for licensure as a clinical mental health counselor shall:

297 (a) submit an application on a form provided by the division;

298 (b) pay a fee determined by the department under Section 63J-1-504;

299 (c) be of good moral character;

300 (d) produce certified transcripts from an accredited institution of higher education  
301 recognized by the division in collaboration with the board verifying satisfactory completion of:

302 (i) an education and degree in an education program in counseling with a core  
303 curriculum defined by division rule under Section 58-1-203 preparing one to competently  
304 engage in mental health therapy; and

305 (ii) an earned doctoral or master's degree resulting from that education program;

306 (e) have completed a minimum of 4,000 hours of clinical mental health counselor

307 training as defined by division rule under Section 58-1-203, in not less than two years, under  
308 the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social  
309 worker, registered psychiatric mental health nurse specialist, or marriage and family therapist  
310 supervisor approved by the division in collaboration with the board, and obtained after  
311 completion of the education requirement in Subsection (1)(d);

312 (f) document successful completion of not less than 1,000 hours of supervised training  
313 in mental health therapy obtained after completion of the education requirement in Subsection  
314 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
315 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
316 obtained under the direct [~~personal face to face~~] supervision of a mental health therapist  
317 [~~approved by the division in collaboration with the board~~], as defined by rule; and

318 (g) pass the examination requirement established by division rule under Section  
319 58-1-203.

320 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall  
321 comply with the provisions of Subsections (1)(a), (b), (c), and (d).

322 (b) Except as provided under Subsection (2)(c), an individual's licensure as an  
323 associate clinical mental health counselor is limited to the period of time necessary to complete  
324 clinical training as described in Subsections (1)(e) and (f) and extends not more than one year  
325 from the date the minimum requirement for training is completed.

326 (c) The time period under Subsection (2)(b) may be extended to a maximum of two  
327 years past the date the minimum supervised clinical training requirement has been completed,  
328 if the applicant presents satisfactory evidence to the division and the appropriate board that the  
329 individual is:

330 (i) making reasonable progress toward passing of the qualifying examination for that  
331 profession; or

332 (ii) otherwise on a course reasonably expected to lead to licensure.

333 Section 6. Section **58-60-502** is amended to read:

334 **58-60-502. Definitions.**

335 In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

336 (1) "Board" means the Substance Use Disorder Counselor Licensing Board created in  
337 Section 58-60-503.

338 (2) (a) "Counseling" means a collaborative process that facilitates the client's progress  
339 toward mutually determined treatment goals and objectives.

340 (b) "Counseling" includes:

341 (i) methods that are sensitive to an individual client's characteristics, to the influence of  
342 significant others, and to the client's cultural and social context; and

343 (ii) an understanding, appreciation, and ability to appropriately use the contributions of  
344 various addiction counseling models as the counseling models apply to modalities of care for  
345 individuals, groups, families, couples, and significant others.

346 (3) "Direct supervision" means:

347 (a) a minimum of one hour of supervision by a supervisor of the substance use disorder  
348 counselor for every 40 hours of client care provided by the substance use disorder counselor,  
349 which supervision may include group supervision;

350 (b) the supervision is conducted in a face-to-face manner, unless otherwise approved  
351 on a case-by-case basis by the division in collaboration with the board; and

352 (c) a supervisor is available for consultation with the counselor at all times.

353 (4) "General supervision" shall be defined by division rule.

354 (5) "Group supervision" means more than one counselor licensed under this part meets  
355 with the supervisor at the same time.

356 (6) "Individual supervision" means only one counselor licensed under this part meets  
357 with the supervisor at a given time.

358 (7) "Practice as a certified advanced substance use disorder counselor" and "practice as  
359 a certified advanced substance use disorder counselor intern" means providing services  
360 described in Subsection (9) under the direct supervision of a mental health therapist or licensed  
361 advanced substance use disorder counselor.

362 (8) "Practice as a certified substance use disorder counselor" and "practice as a certified  
363 substance use disorder counselor intern" means providing the services described in Subsections  
364 (10)(a) and (b) under the direct supervision of a mental health therapist or licensed advanced  
365 substance use disorder counselor.

366 (9) "Practice as a licensed advanced substance use disorder counselor" means:

367 (a) providing the services described in Subsections (10)(a) and (b);

368 (b) screening and assessing of individuals, including identifying substance use disorder

369 symptoms and behaviors and co-occurring mental health issues; and

370 (c) treatment planning for substance use disorders, including initial planning, ongoing  
371 intervention, continuity of care, discharge planning, planning for relapse prevention, and long  
372 term recovery support.

373 (10) (a) "Practice as a substance use disorder counselor" means providing services as  
374 an employee of a substance use disorder agency under the general supervision of a licensed  
375 mental health therapist to individuals or groups of persons, whether in person or remotely, for  
376 conditions of substance use disorders consistent with the education and training of a substance  
377 use disorder counselor required under this part, and the standards and ethics of the profession  
378 as approved by the division in collaboration with the board.

379 (b) "Practice as a substance use disorder counselor" includes:

380 (i) administering the screening process by which a client is determined to need  
381 substance use disorder services, which may include screening, brief intervention, and treatment  
382 referral;

383 (ii) conducting the administrative intake procedures for admission to a program;

384 (iii) conducting orientation of a client, including:

385 (A) describing the general nature and goals of the program;

386 (B) explaining rules governing client conduct and infractions that can lead to  
387 disciplinary action or discharge from the program;

388 (C) explaining hours during which services are available in a nonresidential program;

389 (D) treatment costs to be borne by the client, if any; and

390 (E) describing the client's rights as a program participant;

391 (iv) conducting assessment procedures by which a substance use disorder counselor  
392 gathers information related to an individual's strengths, weaknesses, needs, and substance use  
393 disorder symptoms for the development of the treatment plan;

394 (v) participating in the process of treatment planning, including recommending specific  
395 interventions to support existing treatment goals and objectives developed by the substance use  
396 disorder counselor, the mental health therapist, and the client to:

397 (A) identify and rank problems needing resolution;

398 (B) establish agreed upon immediate and long term goals; and

399 (C) decide on a treatment process and the resources to be utilized;

- 400 (vi) monitoring compliance with treatment plan progress;
- 401 (vii) providing substance use disorder counseling services to alcohol and drug use  
402 disorder clients and significant people in the client's life as part of a comprehensive treatment  
403 plan, including:
- 404 (A) leading specific task-oriented groups, didactic groups, and group discussions;
- 405 (B) cofacilitating group therapy with a licensed mental health therapist; and
- 406 (C) engaging in one-on-one interventions and interactions coordinated by a mental  
407 health therapist;
- 408 (viii) performing case management activities that bring services, agencies, resources, or  
409 people together within a planned framework of action toward the achievement of established  
410 goals, including, when appropriate, liaison activities and collateral contacts;
- 411 (ix) providing substance use disorder crisis intervention services;
- 412 (x) providing client education to individuals and groups concerning alcohol and other  
413 substance use disorders, including identification and description of available treatment services  
414 and resources;
- 415 (xi) identifying the needs of the client that cannot be met by the substance use disorder  
416 counselor or substance use disorder agency and referring the client to appropriate services and  
417 community resources;
- 418 (xii) developing and providing effective reporting and recordkeeping procedures and  
419 services, which include charting the results of the assessment and treatment plan, writing  
420 reports, progress notes, discharge summaries, and other client-related data; and
- 421 (xiii) consulting with other professionals in regard to client treatment and services to  
422 assure comprehensive quality care for the client.
- 423 (c) "Practice as a substance use disorder counselor" does not include:
- 424 (i) the diagnosing of mental illness, including substance use disorders, as defined in  
425 Section 58-60-102;
- 426 (ii) engaging in the practice of mental health therapy as defined in Section 58-60-102;
- 427 or
- 428 (iii) the performance of a substance use disorder diagnosis, other mental illness  
429 diagnosis, or psychological testing.
- 430 (11) "Program" means a substance use disorder agency that provides substance use

431 disorder services, including recovery support services.

432 (12) "Recovery support services" means services provided to an individual who is  
433 identified as having need of substance use disorder preventive or treatment services, either  
434 before, during, or after an episode of care that meets the level of care standards established by  
435 division rule.

436 (13) "Substance use disorder agency" means a public or private agency, health care  
437 facility, or health care practice that:

438 (a) provides substance use disorder services, recovery support services, primary health  
439 care services, or substance use disorder preventive services; and

440 (b) employs qualified mental health therapists in sufficient number to:

441 (i) evaluate the condition of clients being treated by each counselor licensed under this  
442 part and employed by the substance use disorder agency; and

443 (ii) ensure that appropriate substance use disorder services are being given.

444 (14) "Substance use disorder education program" means a formal program of substance  
445 use disorder education offered by an accredited institution of higher education that meets  
446 standards established by division rule.

447 Section 7. Section **58-61-102** is amended to read:

448 **58-61-102. Definitions.**

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

450 (1) "Board" means the Psychologist Licensing Board created in Section 58-61-201.

451 (2) "Client" or "patient" means an individual who consults or is examined or  
452 interviewed by a psychologist acting in his professional capacity.

453 (3) "Confidential communication" means information, including information obtained  
454 by the psychologist's examination of the client or patient, which is:

455 (a) (i) transmitted between the client or patient and a psychologist in the course of that  
456 relationship; or

457 (ii) transmitted among the client or patient, the psychologist, and individuals who are  
458 participating in the diagnosis or treatment under the direction of the psychologist, including  
459 members of the client's or patient's family; and

460 (b) made in confidence, for the diagnosis or treatment of the client or patient by the  
461 psychologist, and by a means not intended to be disclosed to third persons other than those

462 individuals:

463 (i) present to further the interest of the client or patient in the consultation,  
464 examination, or interview;

465 (ii) reasonably necessary for the transmission of the communications; or

466 (iii) participating in the diagnosis and treatment of the client or patient under the  
467 direction of the psychologist.

468 (4) "Hypnosis" means, regarding individuals exempted from licensure under this  
469 chapter, a process by which one individual induces or assists another individual into a hypnotic  
470 state without the use of drugs or other substances and for the purpose of increasing motivation  
471 or to assist the individual to alter lifestyles or habits.

472 (5) "Individual" means a natural person.

473 (6) "Mental health therapist" means an individual licensed under this title as a:

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

476 (b) registered psychiatric mental health nurse specialist;

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

478 (d) clinical social worker;

479 (e) certified social worker;

480 (f) marriage and family therapist; or

481 (g) professional counselor.

482 (7) "Mental illness" means a mental or emotional condition defined in an approved  
483 diagnostic and statistical manual for mental disorders generally recognized in the professions of  
484 mental health therapy listed under Subsection (6).

485 (8) "Practice of mental health therapy" means the treatment or prevention of mental  
486 illness, whether in person or remotely, including:

487 (a) conducting a professional evaluation of an individual's condition of mental health,  
488 mental illness, or emotional disorder;

489 (b) establishing a diagnosis in accordance with established written standards generally  
490 recognized in the professions of mental health therapy listed under Subsection (6);

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



493 (d) engaging in the conduct of professional intervention, including psychotherapy by  
494 the application of established methods and procedures generally recognized in the professions  
495 of mental health therapy listed under Subsection (6).

496 (9) (a) "Practice of psychology" includes:

497 (i) the practice of mental health therapy by means of observation, description,  
498 evaluation, interpretation, intervention, and treatment to effect modification of human behavior  
499 by the application of generally recognized professional psychological principles, methods, and  
500 procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or  
501 dysfunction, the symptoms of any of these, or maladaptive behavior;

502 (ii) the observation, description, evaluation, interpretation, or modification of human  
503 behavior by the application of generally recognized professional principles, methods, or  
504 procedures requiring the education, training, and clinical experience of a psychologist, for the  
505 purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or  
506 undesired behavior and of enhancing interpersonal relationships, work and life adjustment,  
507 personal effectiveness, behavioral health, and mental health;

508 (iii) psychological testing and the evaluation or assessment of personal characteristics  
509 such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological  
510 functioning;

511 (iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis,  
512 and behavior analysis and therapy;

513 (v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism  
514 and substance abuse, disorders of habit or conduct, and the psychological aspects of physical  
515 illness, accident, injury, or disability; and

516 (vi) psychoeducational evaluation, therapy, remediation, and consultation.

517 (b) An individual practicing psychology may provide services to individuals, couples,  
518 families, groups of individuals, members of the public, and individuals or groups within  
519 organizations or institutions.

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

523 [~~10~~] (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-61-501.

524            [(H)] (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
525 58-61-502, and may be further defined by division rule.

526            Section 8. Section **58-61-304** is amended to read:

527            **58-61-304. Qualifications for licensure by examination or endorsement.**

528            (1) An applicant for licensure as a psychologist based upon education, clinical training,  
529 and examination shall:

530            (a) submit an application on a form provided by the division;

531            (b) pay a fee determined by the department under Section 63J-1-504;

532            (c) be of good moral character;

533            (d) produce certified transcripts of credit verifying satisfactory completion of a doctoral  
534 degree in psychology that includes specific core course work established by division rule under  
535 Section 58-1-203, from an institution of higher education whose doctoral program, at the time  
536 the applicant received the doctoral degree, met approval criteria established by division rule  
537 made in consultation with the board;

538            (e) have completed a minimum of 4,000 hours of psychology training as defined by  
539 division rule under Section 58-1-203 in not less than two years and under the supervision of a  
540 psychologist supervisor approved by the division in collaboration with the board;

541            (f) to be qualified to engage in mental health therapy, document successful completion  
542 of not less than 1,000 hours of supervised training in mental health therapy obtained after  
543 completion of a master's level of education in psychology, which training may be included as  
544 part of the 4,000 hours of training required in Subsection (1)(e), and for which documented  
545 evidence demonstrates not less than one hour of supervision for each 40 hours of supervised  
546 training was obtained under the direct [~~personal face to face~~] supervision of a psychologist  
547 [~~approved by the division in collaboration with the board~~], as defined by rule;

548            (g) pass the examination requirement established by division rule under Section  
549 58-1-203; and

550            (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
551 applicant's qualifications for licensure.

552            (2) An applicant for licensure as a psychologist by endorsement based upon licensure  
553 in another jurisdiction shall:

554            (a) submit an application on a form provided by the division;

- 555 (b) pay a fee determined by the department under Section 63J-1-504;
- 556 (c) be of good moral character and professional standing, and not have any disciplinary  
557 action pending or in effect against the applicant's psychologist license in any jurisdiction;
- 558 (d) have passed the Utah Psychologist Law and Ethics Examination established by  
559 division rule;
- 560 (e) provide satisfactory evidence the applicant is currently licensed in another state,  
561 district, or territory of the United States, or in any other jurisdiction approved by the division in  
562 collaboration with the board;
- 563 (f) provide satisfactory evidence the applicant has actively practiced psychology in that  
564 jurisdiction for not less than 2,000 hours or one year, whichever is greater;
- 565 (g) provide satisfactory evidence that:
  - 566 (i) the education, supervised experience, examination, and all other requirements for  
567 licensure in that jurisdiction at the time the applicant obtained licensure were substantially  
568 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant  
569 obtained licensure in the other jurisdiction; or
  - 570 (ii) the applicant is:
    - 571 (A) a current holder of diplomate status in good standing from the American Board of  
572 Professional Psychology;
    - 573 (B) currently credentialed as a health service provider in psychology by the National  
574 Register of Health Service Providers in Psychology; or
    - 575 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the  
576 Association of State and Provincial Psychology Boards; and
  - 577 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
578 applicant's qualifications for licensure.
- 579 (3) (a) An applicant for certification as a psychology resident shall comply with the  
580 provisions of Subsections (1)(a), (b), (c), (d), and (h).
  - 581 (b) (i) An individual's certification as a psychology resident is limited to the period of  
582 time necessary to complete clinical training as described in Subsections (1)(e) and (f) and  
583 extends not more than one year from the date the minimum requirement for training is  
584 completed, unless the individual presents satisfactory evidence to the division and the  
585 Psychologist Licensing Board that the individual is making reasonable progress toward passing

586 the qualifying examination or is otherwise on a course reasonably expected to lead to licensure  
587 as a psychologist.

588 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the  
589 date the minimum supervised clinical training requirement has been completed.

590 Section 9. Section **58-61-307** is amended to read:

591 **58-61-307. Exemptions from licensure.**

592 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section  
593 58-1-307 apply to this chapter.

594 (2) In addition to the exemptions from licensure in Section 58-1-307, the following  
595 when practicing within the scope of the license held, may engage in acts included within the  
596 definition of practice as a psychologist, subject to the stated circumstances and limitations,  
597 without being licensed under this chapter:

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

600 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,  
601 Nurse Practice Act;

602 (c) a recognized member of the clergy while functioning in his ministerial capacity as  
603 long as he does not represent himself as or use the title of psychologist;

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

608 (e) an individual engaged in performing hypnosis who is not licensed under this title in  
609 a profession which includes hypnosis in its scope of practice, and who:

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

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

613 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and  
614 what the client will experience;

615 (D) tests clients to determine degrees of suggestibility;

616 (E) applies hypnotic techniques based on interpretation of consultation results and

617 analysis of client's motivation and behavior patterns; and  
618 (F) trains clients in self-hypnosis conditioning;  
619 (ii) may not:  
620 (A) engage in the practice of mental health therapy;  
621 (B) represent himself using the title of a license classification in Subsection  
622 58-60-102(5); or  
623 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in  
624 generally recognized diagnostic and statistical manuals of medical, psychological, or dental  
625 disorders;  
626 (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b)  
627 terminates when the student's training is no longer supervised by qualified faculty or staff and  
628 the activities are no longer a defined part of the degree program;  
629 (g) an individual holding an earned doctoral degree in psychology who is employed by  
630 an accredited institution of higher education and who conducts research and teaches in that  
631 individual's professional field, but only if the individual does not engage in providing delivery  
632 or supervision of professional services regulated under this chapter to individuals or groups  
633 regardless of whether there is compensation for the services;  
634 (h) any individual who was employed as a psychologist by a state, county, or municipal  
635 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently  
636 has maintained employment as a psychologist in the same state, county, or municipal agency or  
637 other political subdivision while engaged in the performance of his official duties for that  
638 agency or political subdivision;  
639 (i) an individual licensed as a school psychologist under Section 53A-6-104:  
640 (i) may represent himself as and use the terms "school psychologist" or "licensed  
641 school psychologist"; and  
642 (ii) is restricted in his practice to employment within settings authorized by the State  
643 Board of Education; ~~and~~  
644 (j) an individual providing advice or counsel to another individual in a setting of their  
645 association as friends or relatives and in a nonprofessional and noncommercial relationship, if  
646 there is no compensation paid for the advice or counsel[-]; and  
647 (k) an individual who is licensed, in good standing, to practice mental health therapy in

648 a state or territory of the United States outside of Utah may provide short term transitional  
649 mental health therapy remotely to a client in Utah only if:  
650 (i) the individual is present in the state or territory where the individual is licensed to  
651 practice mental health therapy;  
652 (ii) the client relocates to Utah;  
653 (iii) the client is a client of the individual immediately before the client relocates to  
654 Utah;  
655 (iv) the individual provides the short term transitional mental health therapy to the  
656 client only during the 45 day period beginning on the day on which the client relocates to Utah;  
657 (v) within 10 days after the day on which the client relocates to Utah, the individual  
658 provides written notice to the division of the individual's intent to provide short term  
659 transitional mental health therapy remotely to the client; and  
660 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

---

---

**Legislative Review Note**  
**as of 11-14-12 12:39 PM**

**Office of Legislative Research and General Counsel**