

HB0166S02 compared with HB0166

~~text~~ shows text that was in HB0166 but was deleted in HB0166S02.

text shows text that was not in HB0166 but was inserted into HB0166S02.

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Representative Stephanie Gricius proposes the following substitute bill:

MENTAL HEALTH PROFESSIONAL LICENSING

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: ~~_____~~ Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions of the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- ▶ removes restrictions on the provision of remote mental health therapy and ~~remote~~ substance use disorder counseling, with certain conditions;
- ▶ modifies requirements related to the training hours required for licensure as a:
 - clinical social worker;
 - marriage and family therapist; or
 - clinical mental health counselor;

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- ▶ requires an applicant for licensure as a clinical social worker, marriage and family therapist, or clinical mental health counselor to enter into a supervision agreement after completing supervised training hours; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-107, as last amended by Laws of Utah 2021, Chapter 313

58-60-205, as last amended by Laws of Utah 2022, Chapters 345, 466

58-60-207, as last amended by Laws of Utah 2020, Chapter 339

58-60-305, as last amended by Laws of Utah 2022, Chapters 345, 416 and 466

58-60-405, as last amended by Laws of Utah 2022, Chapters 345, 416 and 466

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

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

58-60-107. Exemptions from licensure.

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

(2) In addition to the exemptions from licensure in Section 58-1-307, and as provided in Subsection (3), 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:

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

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

(ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act;

(iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act; and

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(iv) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act, and specializing in mental health care under Section 58-70a-501.1;

(b) a recognized member of the clergy while functioning in a ministerial capacity as long as the member of the clergy does not represent that the member of the clergy is, or use the title of, a license classification in Subsection 58-60-102(5);

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

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

(i) (A) 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;

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

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

(D) tests clients to determine degrees of suggestibility;

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

(F) trains clients in self-hypnosis conditioning;

(ii) may not:

(A) engage in the practice of mental health therapy;

(B) use the title of a license classification in Subsection 58-60-102(5); or

(C) 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;

(e) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;

(f) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or clinical mental health counseling, who is employed by an

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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;

(g) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;

(h) an individual providing general education in the subjects of alcohol, drug use, or substance use disorders, including prevention;

(i) 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; and

(j) an individual who is licensed, in good standing, as a physician and surgeon or as an osteopathic physician and surgeon to practice ~~mental health therapy or substance use disorder counseling~~ medicine in a state or territory of the United States outside of Utah, and is engaged in the practice of mental health therapy, may provide ~~short term transitional~~ mental health therapy remotely ~~or short term transitional~~ substance use disorder counseling remotely to a client in Utah ~~only~~ if:

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

~~ii~~ (ii) the client relocates to Utah; ~~iii~~

~~iii~~ (iii) the client is a client of the individual immediately before the client relocates to Utah; ~~iv~~

~~iv~~ (iv) the individual provides the short term transitional mental health therapy ~~or short term transitional substance use disorder counseling~~ remotely to the client only during the ~~45~~ 90 day period beginning on the day on which the client relocates to Utah; ~~v~~

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

~~vi~~ (vi) ~~ii~~ the individual does not engage in unlawful conduct or unprofessional

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conduct.

(3) (a) As used in this Subsection (3):

(i) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(ii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(b) Except as provided in Subsection (2)(j) for a physician and surgeon or an osteopathic physician and surgeon, an individual who is not licensed in Utah and who provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah:

(i) may not prescribe a prescription drug for a client in Utah unless the individual is licensed in Utah to prescribe the prescription drug;

(ii) shall, before providing mental health therapy remotely or substance use disorder counseling remotely to a client in Utah, be aware of:

(A) how to access emergency services and resources in Utah; and

(B) all applicable laws and rules regarding the required or permitted reporting or disclosing of confidential client communications;

(iii) shall, within one day after the day on which the individual first provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah, submit to the division a signed notice, in the form required by the division, notifying the division that the individual is providing therapy or counseling under the exemption in Subsection (2)(j); and

(iv) shall obtain a Utah license:

(A) within nine months after the day on which the individual first provides mental health therapy remotely or substance use disorder counseling remotely to a client in Utah; or

(B) if at any time the individual provides mental health therapy remotely or substance use disorder counseling remotely to more than one client in Utah.

(4) The division shall report to the Health and Human Services Interim Committee at or before the committee's October 2026 meeting regarding the exemption described in Subsection (2)(j), including information about any complaints the division has received concerning individuals who have provided therapy or counseling under that exemption.

Section 2. Section **58-60-205** is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker,

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certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

- (a) submit an application on a form provided by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) produce certified transcripts from an accredited institution of higher education

recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

~~[(i) in not less than two years;]~~

~~[(ii)]~~ (i) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

- (A) clinical mental health counselor;
- (B) psychiatrist;
- (C) psychologist;
- (D) registered psychiatric mental health nurse practitioner;
- (E) marriage and family therapist; or
- (F) clinical social worker; and

~~[(iii)]~~ (ii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than ~~[100]~~ 75 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(d)(ii)]~~ (1)(d)(i);

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

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

(h) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

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

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a)[, (b), and] through ~~(b)~~ (c).

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

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection ~~[(1)(d)(ii)]~~ (1)(d)(i).

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

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

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

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

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an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

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

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

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

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

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

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

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

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

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

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

(6) (a) An applicant for licensure as a clinical social worker shall, after completing the hours described in Subsections (1)(d) and (e), enter into a supervision agreement with a supervisor described in Subsection (1)(d)(i).

(b) A supervision agreement shall be for a term of at least six months.

(c) An applicant for licensure as a clinical social worker may be licensed during the term of a supervision agreement if the individual meets the requirements for licensure.

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Section 3. Section **58-60-207** is amended to read:

58-60-207. Scope of practice -- Limitations.

(1) (a) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection [~~58-60-205(1)(d)(ii)~~] 58-60-205(1)(d)(i) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

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

58-60-305. Qualifications for licensure.

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

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

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

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

(i) a program accredited by the Commission on Accreditation for Marriage and Family

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Therapy Education; or

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

(d) have completed a minimum of 3,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

~~[(i) in not less than two years;]~~

~~[(iii)]~~ (i) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

~~[(iii)]~~ (ii) obtained after completion of the education requirement in Subsection (1)(c); and

~~[(iv)]~~ (iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection ~~[(1)(c)(i) or (1)(c)(ii)]~~ (1)(c), which training may be included as part of the 3,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than ~~[+00]~~ 75 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;

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

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a) ~~[(b), and]~~ through (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two years from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the

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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 the period of time under this Subsection (2)(b) may not exceed four years past the date the minimum supervised clinical training requirement has been completed.

(3) (a) An applicant for licensure as a marriage and family therapist shall, after completing the hours described in Subsections (1)(d) and (e), enter into a supervision agreement with a supervisor qualified under Section 58-60-307.

(b) A supervision agreement shall be for a term of at least six months.

(c) An applicant for licensure as a marriage and family therapist may be licensed during the term of a supervision agreement if the individual meets the requirements for licensure.

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

58-60-405. Qualifications for licensure.

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

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

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

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i);

(d) have completed a minimum of 3,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

~~[(i) in not less than two years;]~~

~~[(ii)]~~ (i) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or

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marriage and family therapist supervisor approved by the division in collaboration with the board;

~~[(iii)]~~ (ii) obtained after completion of the education requirement in Subsection (1)(c); and

~~[(iv)]~~ (iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than ~~[+00]~~ 75 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule;

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

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a)~~[-(b), and]~~ through (c).

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

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

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

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

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement

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described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score that is valid and in good standing on:

(i) the National Counselor Examination; and

(ii) the National Clinical Mental Health Counseling Examination.

(4) (a) An applicant for licensure as a clinical mental health counselor shall, after completing the hours described in Subsections (1)(d) and (e), enter into a supervision agreement with a mental health therapist supervisor.

(b) A supervision agreement shall be for a term of at least six months.

(c) An applicant for licensure as a clinical mental health counselor may be licensed during the term of a supervision agreement if the individual meets the requirements for licensure.