



Board of Behavioral Sciences

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To: Committee Members **Date:** December 28, 2020
From: Rosanne Helms, Legislative Manager **Telephone:** (916) 574-7897
Subject: **Comparison of Other State Agencies' Laws Regarding Practice Across State Lines**

The Board of Behavioral Sciences (Board) requires a therapist to hold a valid and current California license if they are engaging in therapy via telehealth with a client who is physically located in California. (California Code of Regulations (CCR) Title 16, §1815.5(a))

Many states have a similar requirement. However, there are some that deviate from this to allow additional flexibility so that clients who are travelling or who are transitioning to living in a new state may obtain temporary services from an out-of-state licensee. Below are some notable examples¹:

Arizona (Attachment A)

Arizona provides an exemption from licensure for a therapist who is not a resident there, if the person performs behavioral health services in Arizona for no more than 90 days in one calendar year, is authorized to perform the services by the state or country where they reside, and if they inform the client of the limited nature of the services and that they are not licensed in Arizona (Arizona Revised Statutes 32-3271).

An Arizona licensee who provides therapy via telepractice to a client outside Arizona must comply with both Arizona laws and the laws of the jurisdiction where the client is located (Arizona Administrative Code R4-6-1106).

Colorado (Attachment B)

Colorado permits therapists licensed in other states to practice there if the services provided are within the scope of the person's license, do not exceed 20 days per year, are otherwise in compliance with Colorado law, and if they disclose that they are not licensed in Colorado (Colorado Revised Statutes 12-245-217(2)(e)).

¹ Overview of state-by-state information provided by the California Association of Marriage and Family Therapists (CAMFT), "The Practice of Marriage and Family Therapy Across State Lines," The Therapist, Volume 28, Issue 5 (September/October 2016), pgs. 65-76.

District of Columbia (Attachment C)

The District of Columbia (D.C.) provides a licensure exemption to practitioners of health occupations if treatment is provided or advice is provided in any case of emergency. It also provides an exemption to a health occupation licensee in another state who is providing care for a limited time or who is called on to provide professional consultation by or on behalf of a specific patient, to treat that specific patient, provided it is done in affiliation with a comparable state licensee. Its laws also contain a practice allowance for licensees of adjoining states under certain conditions (Code of the District of Columbia §3-1205.02).

Florida (Attachment D)

Florida provides a licensure exemption to nonresident therapists if services are performed for no more than 15 days in any calendar year, and if the person is licensed or certified to practice those services by either a U.S. state or territory, or a foreign country or province (Florida Statute 494-014(4)(d)).

New Jersey (Attachment E)

Allows a license exemption if the therapist is certified or licensed in another state under licensing requirements their board considers equivalent. Such a practitioner may practice for a period not to exceed 10 consecutive business days or 15 business days in any 90-day period. The practitioner must also reside outside of, and their major practice must be outside of, the state of New Jersey, and they must give the board a summary of qualifications and a minimum of 10 days' written notice of intention to practice in the state of New Jersey (New Jersey Statutes 45:8B-6).

Utah (Attachment F)

Provides an allowance to engage in acts within the definition of a mental health therapist practice without a Utah license for an individual who is licensed, in good standing, to practice mental health therapy in a state or territory of the United States outside of Utah. Such a person may provide short term transitional mental health therapy remotely to a client in Utah only if (Utah Code 58-60-107):

- (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;
- (ii) the client relocates to Utah;
- (iii) the client is a client of the individual immediately before the client relocates to Utah;
- (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-day period beginning on the day on which the client relocates to Utah;

- (v) within 10 days after the day on which the client relocates to 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) the individual does not engage in unlawful conduct or unprofessional conduct.

Wyoming (Attachment G)

Wyoming provides a licensure exemption to a nonresident rendering services in Wyoming for no more than 30 calendar days per year, if the person is authorized to perform the activities and services under the laws of the state or country of the person's residency (Wyoming Statutes 33-38-103(a)(iv)).

Wyoming also permits unlicensed persons to provide nonclinical case management services to assist a client. The law defines "case management services" to include advocacy, crisis intervention, linkage, monitoring and follow-up and referral. Each of those terms is then defined. For example, "crisis intervention" is defined as intervention and stabilization provided in situations requiring immediate action or resolution for a specific client. The case manager may provide the initial intervention in a crisis situation and assist the client in gaining access to other needed clinical crisis intervention. (Wyoming Statutes 33-38-103(d)).

California Board of Psychology (Reference H)

Licensees of California's Board of Psychology who perform services via telehealth are subject to Business and Professions Code (BPC) §2290.5, just as this Board's licensees are. The Board of Psychology is in the process of establishing telehealth regulations. The proposed regulations are provided as [Reference H](#).

In addition, the Board of Psychology permits a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada to offer psychological services in California for a period not to exceed 30 days in any calendar year (BPC §2912).

U.S. Department of Veterans Affairs (References I and J)

In May 2018, the U.S. Department of Veterans Affairs (VA) announced a new rule that allows VA health care providers to provide care to via telehealth veterans anywhere in the U.S., regardless of where the provider or patient is located. The rule overrides state licensing restrictions and telehealth laws. This new law clarified that VA providers can provide services to veterans across state lines and also when the veteran being treated is not physically located at a VA facility.

The VA's announcement of the rule is provided as [Reference I](#). The text of the Federal rule (Code of Federal Regulations §17.417) is provided as [Reference J](#).

Recommendation

The material presented above is intended to provide examples of how some other states handle practice across state lines and telehealth. The Committee may wish to conduct an open discussion of the above out-of-state practice requirements of other jurisdictions, and/or consider using this material as a resource in future Committee discussions.

Attachments/References

Attachment A: State of Arizona

Attachment B: State of Colorado

Attachment C: District of Columbia

Attachment D: State of Florida

Attachment E: State of New Jersey

Attachment F: State of Utah

Attachment G: State of Wyoming

Reference H: [California Board of Psychology Proposed Telehealth Regulations](#)

Reference I: [Department of Veteran's Affairs Announcement of Telehealth Across State Lines](#)

Reference J: [Department of Veteran's Affairs Telehealth Regulation Text \(Code of Federal Regulations §17.417\)](#)

ATTACHMENT A: STATE OF ARIZONA

Arizona Revised Statutes (*excerpts from Title 32, Chapter 33 related to telepractice*)

32-3251. Definitions

In this chapter, unless the context otherwise requires:

15. "Telepractice" means providing behavioral health services through interactive audio, video or electronic communication that occurs between the behavioral health professional and the client, including any electronic communication for evaluation, diagnosis and treatment, including distance counseling, in a secure platform, and that meets the requirements of telemedicine pursuant to section 36-3602.

32-3271. Exceptions to licensure; jurisdiction

A. This chapter does not apply to:

1. A person who is currently licensed, certified or regulated pursuant to another chapter of this title and who provides services within the person's scope of practice if the person does not claim to be licensed pursuant to this chapter.
2. A person who is not a resident of this state if the person:
 - (a) Performs behavioral health services in this state for not more than ninety days in any one calendar year as prescribed by board rule.
 - (b) Is authorized to perform these services pursuant to the laws of the state or country in which the person resides or pursuant to the laws of a federally recognized tribe.
 - (c) Informs the client of the limited nature of these services and that the person is not licensed in this state.

32-3286. Unlawful practice; unlawful use of title; violation; classification; civil penalty; exception

- A. Except as prescribed in section 32-3271, a person not licensed pursuant to this chapter shall not engage in the practice of behavioral health.

Arizona Administrative Code (*excerpts related to telepractice from Title 4, Chapter 6*)

R4-6-101. Definitions

- A. The definitions at A.R.S. § 32-3251 apply to this Chapter. Additionally, the following definitions apply to this Chapter, unless otherwise specified:
28. "Electronic signature" means an electronic sound, symbol, or process that is attached to or logically associated with a record and that is executed or adopted by an individual with the intent to sign the record.
- B. For the purposes of this Chapter, notifications or communications required to be "written" or "in writing" may be transmitted or received by mail, electronic transmission, facsimile transmission or hand delivery and may not be transmitted or received orally. Documents requiring a signature may include a written signature or electronic signature as defined in subsection (A)(28).

R4-6-1106. Telepractice

- A. Except as otherwise provided by statute, an individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located in Arizona shall be licensed by the Board.
- B. Except as otherwise provided by statute, a licensee who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 33, and this Chapter but also the laws and rules of the jurisdiction in which the client is located.
- C. An individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice shall:
1. In addition to complying with the requirements in R4-6-1101, document the limitations and risks associated with telepractice, including but not limited to the following;

- a. Inherent confidentiality risks of electronic communication,
 - b. Potential for technology failure,
 - c. Emergency procedures when the licensee is unavailable, and
 - d. Manner of identifying the client when using electronic communication that does not involve video;
2. In addition to complying with the requirements in R4-6-1103, include the following in the progress note required under R4-6-1103(H):
 - a. Mode of session, whether interactive audio, video, or electronic communication; and
 - b. Physical location of the client during the session.

Please review the Board's statutes and rules in their entirety for the most up to date, accurate information.

Attachment B State of Colorado

Colorado Revised Statutes (CRS) 2020

CRS 12-245-217. Scope of article - exemptions. (1) Any person engaged in the practice of religious ministry shall not be required to comply with the provisions of this article 245; except that the person shall not hold himself or herself out to the public by any title incorporating the terms "psychologist", "social worker", "licensed social worker", "LSW", "licensed clinical social worker", "clinical social worker", "LCSW", "licensed marriage and family therapist", "LMFT", "licensed professional counselor", "LPC", "addiction counselor", "licensed addiction counselor", "LAC", "certified addiction counselor", or "CAC" unless that person has been licensed or certified pursuant to this article 245.

(2) The provisions of this article 245 shall not apply to:

(a) The practice of employment or rehabilitation counseling as performed in the private and public sectors; except that the provisions of this article 245 shall apply to employment or rehabilitation counselors practicing psychotherapy in the field of mental health;

(b) Employees of the state department of human services, employees of county departments of human or social services, or personnel under the direct supervision and control of the state department of human services or any county department of human or social services for work undertaken as part of their employment;

(c) Persons who are licensed pursuant to section 22-60.5-210 and who are not licensed under this article 245 for work undertaken as part of their employment by, or contractual agreement with, the public schools;

(d) Mediators resolving judicial disputes pursuant to part 3 of article 22 of title 13;

(e) A person who resides in another state and who is currently licensed or certified as a psychologist, marriage and family therapist, clinical social worker, professional counselor, or addiction counselor in that state to the extent that the licensed or certified person performs activities or services in this state, if the activities and services are:

(I) Performed within the scope of the person's license or certification;

(II) Do not exceed twenty days per year in this state;

(III) Are not otherwise in violation of this article 245; and

(IV) Disclosed to the public that the person is not licensed or certified in this state;

(f) A professional coach, including a life coach, executive coach, personal coach, or business coach, who has had coach-specific training and who serves clients exclusively as a

coach, as long as the professional coach does not engage in the practice of psychology, social work, marriage and family therapy, licensed professional counseling, psychotherapy, or addiction counseling, as those practices are defined in this article 245.

(g) Students who are enrolled in a school program and are practicing as part of a school practicum or clinical program; or

(h) A professional practicing auricular acudetox in accordance with section 12-245-233.

(3) Nothing in this section limits the applicability of section 18-3-405.5, which applies to any person while practicing psychotherapy as defined in this article 245.

(4) The provisions of section 12-245-703 do not apply to employees of community mental health centers or clinics as those centers or clinics are defined by section 27-66-101, but persons practicing outside the scope of employment as employees of a facility defined by section 27-66-101 are subject to the provisions of section 12-245-703.

Source: L. 2019: Entire title R&RE with relocations, (HB 19-1172), ch. 136, p. 1235, § 1, effective October 1. L. 2020: (2)(e)(IV) amended and (2)(g) and (2)(h) added, (HB 20-1206), ch. 304, p. 1528, § 11, effective July 14. Editor's note: This section is similar to former § 12-43-215 as it existed prior to 2019.

Attachment C District of Columbia

Code of the District of Columbia

§ 3–1205.02. Exemptions.

(a) The provisions of this chapter prohibiting the practice of a health occupation without a District of Columbia license, registration, or certification shall not apply:

(1) To an individual who administers treatment or provides advice in any case of emergency;

(2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;

(2A) To an individual engaged in the practice of pharmaceutical detailing for less than 30 consecutive days per calendar year;

(3) To an individual, licensed, registered, or certified to practice a health occupation in a state, who is providing care to an individual, an animal, or group for a limited period of time, or who is called from a state in professional consultation by or on behalf of a specific patient, animal, or client to visit, examine, treat, or provide advice regarding the specific patient, animal, or client in the District, or to give a demonstration of a procedure or clinic in the District; provided, that the individual engages in the provision of care, consultation, demonstration, or clinic in affiliation with a comparable health professional licensed, registered, or certified pursuant to this chapter;

(3A) To an individual retained to testify as an expert witness in any court or administrative proceeding, hearing, or trial;

(4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:

(A) The health professional does not have an office or other regularly appointed place in the District to meet patients;

(B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and

(C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this section.

(b) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of subsection (a)(4) of this section, a health professional practicing in the District pursuant to subsection (a)(4) of this section shall not see patients, animals, or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter.

(Mar. 25, 1986, D.C. Law 6-99, § 502, 33 DCR 729; Mar. 25, 2009, D.C. Law 17-353, § 188(b), 56 DCR 1117; July 18, 2009, D.C. Law 18-26, § 2(e)(3), 56 DCR 4043; Mar. 26, 2014, D.C. Law 20-96, § 102(l), 61 DCR 1184; Oct. 22, 2015, D.C. Law 21-36, § 5032(a), 62 DCR 10905.)

Attachment D Florida Law

Florida Statute 491.014 Exemptions.—

(1) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459, or psychologists licensed pursuant to chapter 490, so long as they do not unlawfully hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a professional title protected by this chapter.

(2) No provision of this chapter shall be construed to limit the practice of nursing, school psychology, or psychology, or to prevent qualified members of other professions from doing work of a nature consistent with their training and licensure, so long as they do not hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a title protected by this chapter.

(3) No provision of this chapter shall be construed to limit the performance of activities of a rabbi, priest, minister, or member of the clergy of any religious denomination or sect, or use of the terms “Christian counselor” or “Christian clinical counselor” when the activities are within the scope of the performance of his or her regular or specialized ministerial duties and no compensation is received by him or her, or when such activities are performed, with or without compensation, by a person for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; a developmental disability facility or program; a mental health, alcohol, or drug abuse facility operating under chapter 393, chapter 394, or chapter 397; the statewide child care resource and referral network operating under s. [1002.92](#); a child-placing or child-caring agency licensed pursuant to chapter 409; a domestic violence center certified pursuant to chapter 39; an accredited academic institution; or a research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist.

(c) Is a student providing services regulated under this chapter who is pursuing a course of study which leads to a degree in a profession regulated by this chapter, is providing services in a training setting, provided such services and associated activities constitute part of a supervised course of study, and is designated by the title “student intern.”

(d) Is not a resident of this state but offers services in this state, provided:

1. Such services are performed for no more than 15 days in any calendar year; and
2. Such nonresident is licensed or certified to practice the services provided by a state or territory of the United States or by a foreign country or province.

(5) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

(6) Nothing in subsections (2)-(4) shall exempt any person from the provisions of s. [491.012](#)(1)(a)-(c), (l), and (m).

(7) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

(8) Nothing in this section shall be construed to exempt a person from meeting the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the person is not qualified by training or experience.

History.—ss. 15, 19, ch. 87-252; ss. 12, 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 120, ch. 92-149; s. 34, ch. 93-39; s. 15, ch. 95-279; s. 512, ch. 97-103; s. 18, ch. 97-198; s. 210, ch. 97-264; s. 157, ch. 98-403; s. 171, ch. 99-397; s. 128, ch. 2001-277; s. 63, ch. 2006-227; s. 25, ch. 2010-210; s. 27, ch. 2013-252.

Attachment E State of New Jersey

New Jersey Statutes: State Board of Marriage and Family Therapy Examiners Law 45:8B-6. Unlicensed persons, certain activities permitted.

An individual who is not a licensed practicing marriage and family therapist or a licensed associate marriage and family therapist shall not be limited in his activities:

(a) As part of his duties as an employee of:

(1) an accredited academic institution, a federal, State, county or local governmental institution or agency, or a research facility while performing those duties for which he was employed by the institution, agency or facility;

(2) an organization which is nonprofit and which is, in the opinion of the board, a bona fide community agency, while performing those duties for which he was employed by the agency;

(3) a proprietary organization while performing those duties for which he was employed by the organization, provided his marriage and family therapy duties are under the direct supervision of a licensed practicing marriage and family therapist.

(b) As a student of marriage and family therapy, marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility recognized by the board, provided he is designated by such titles as "marriage and family therapy intern," or others, clearly indicating the training status.

(c) As a practicing marriage and family therapist for a period not to exceed 10 consecutive business days or 15 business days in any 90-day period, if he resides outside and his major practice is outside of the State of New Jersey, and gives the board a summary of his qualifications and a minimum of 10 days' written notice of his intention to practice in the State of New Jersey under this subsection, provided he (1) is certified or licensed in another state under requirements the board considers to be the equivalent of requirements for licensing as a marriage and family therapist under this act, or (2) resides in a state which does not certify or license marriage and family therapists and the board considers his professional qualifications to be the equivalent of requirements for licensing under this act; and is not adjudged and notified by the board that he is ineligible for licensing under this act.

(d) (Deleted by amendment, P.L.2005, c.49.)

(e) (Deleted by amendment, P.L.2017, c.350)

L.1968, c.401, s.6; amended 1995, c.366, s.5; 2005, c.49, s.1; 2017, c.350, s.3.

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ATTACHMENT F: STATE OF UTAH**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, 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; and
 - (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;
 - (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 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, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah 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;
 - (ii) the client relocates to Utah;
 - (iii) the client is a client of the individual immediately before the client relocates to Utah;
 - (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 day period beginning on the day on which the client relocates to Utah;
 - (v) within 10 days after the day on which the client relocates to 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) the individual does not engage in unlawful conduct or unprofessional conduct.

Amended by Chapter 16, 2013 General Session

Attachment G State of Wyoming

Wyoming Statutes

TITLE 33 - PROFESSIONS AND OCCUPATIONS

CHAPTER 38 - PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, SOCIAL WORKERS AND CHEMICAL DEPENDENCY SPECIALISTS 33-38-103. Exemptions.

(a) Nothing in this act shall be construed to apply to the activities and services of:

(i) Qualified members of other legally recognized professions who are otherwise licensed or certified by this state, such as physicians, psychologists or registered nurses, from performing services consistent with the laws of this state, their training and the code of ethics of their professions, provided they do not represent themselves to be practicing the professions regulated under this act and do not represent themselves to be professional counselors, clinical social workers, marriage and family therapists or addiction therapists, or certified social workers, certified addictions practitioners or certified mental health workers;

(ii) Repealed By Laws 1997, ch. 153, 2.

(iii) A student pursuing a course of study in these professions in an accredited institution of higher education if these activities are performed under clinical supervision and constitute a part of the supervised course of study, provided that such a person be designated a "student";

(iv) Nonresidents who render services in this state for not more than thirty (30) days during any calendar year, provided that the persons are duly authorized to perform the activities and services under the laws of the state or county of the person's residency;

(v) A rabbi, priest, minister, clergy or any person acting as a lay religious counselor of any religious denomination or sect provided the activities and services are within the scope of the performance of regular or specialized ministerial duties, the counseling is clearly identified as being based on religious principles and there is no fee for services regulated under this act. This paragraph does not preclude acceptance of donations of any kind;

(vi) Persons offering unpaid volunteer services for organizations or charities provided that these persons are approved by the organizations or agencies for whom the services are rendered;

(vii) School social workers and school counselors certified under the professional teaching standards board when employed by local school districts.

(b) Repealed by Laws 1993, ch. 181, 3.

(c) Nothing in this act shall prevent a qualified person exempted by this section from being licensed or certified under this act.

(d) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing nonclinical case management services to assist the client. Case management services include advocacy, crisis intervention, linkage, monitoring and followup and referral. For purposes of this subsection:

(i) "Advocacy" means advocacy on behalf of a specific client for the purpose of accessing needed services;

(ii) "Crisis intervention" means intervention and stabilization provided in situations requiring immediate action or resolution for a specific client. The case manager may provide the initial intervention in a crisis situation and assist the client in gaining access to other needed clinical crisis intervention;

(iii) "Linkage" means working with clients or service providers to secure access to services. Activities include making telephone calls to agencies to arrange appointments or services following the initial referral process and preparing clients for appointments;

(iv) "Monitoring and followup" means contacting the client or others to ensure that a client is following a prescribed service plan and monitoring the progress and impact of that plan;

(v) "Referral" means arranging initial appointments with service providers or informing clients of services available and addresses and telephone numbers of agencies providing services.

(e) Nothing in this act shall prevent persons who are not licensed or certified under this act from advising or directing an individual regarding the conduct and behavior required as a participant of a program or system.

(f) Nothing in this act shall prevent persons who are not licensed or certified under this act from providing facilitation, leadership or instruction in educational programs addressing behaviors or life skills. This subsection shall not apply to persons providing facilitation, leadership or instruction to persons in the custody of the department of corrections unless the persons in custody have been subjected to mental health screening.