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**To:** Committee Members **Date:** June 8, 2022  
**From:** Rosanne Helms, Legislative Manager  
**Subject:** Discussion of Temporary Practice Allowance

The Board of Behavioral Sciences (Board) requires a therapist to hold a valid and current California license or registration if the individual is engaging in therapy via telehealth with a client who is physically located in California (California Code of Regulations Title 16, §1815.5(a)). There are currently no exceptions to this.

As was discussed at a previous Telehealth Committee meeting, many states have a similar requirement, though some states allow for flexibility so that clients who are travelling or who are transitioning to living in a new state may obtain temporary services for continuity of care purposes from an out-of-state licensee.

**Attachment B** contains a comparison chart summarizing the temporary practice allowances for several other jurisdictions. **Attachments C** through **J** show the text of the law for those jurisdictions.

Board staff examined the features of these laws, and drafted potential language for California based on this. The draft language is shown in **Attachment A**.

Some features to note regarding this proposal are as follows:

1. It only permits one temporary practice allowance per year. If a second temporary practice allowance is needed, staff suggests that the person should utilize the Board's license portability pathway to licensure.
2. The applicant for temporary practice would self-attest to meeting the qualifications online. The person would provide the date they are to begin the temporary practice, and the Breeze system would generate a receipt which would contain the expiration date of their temporary practice allowance.
3. The current proposal only allows the temporary practice allowance for out-of-state licensees, not registrants.
4. The current proposal only addresses temporary practice for individuals with an equivalent license in another state at the highest level of independent clinical

practice. It does not address temporary practice for mental health license holders in another state whose license is not equivalent to one that the Board issues.

### **Previous Committee Discussion**

The Telehealth Committee discussed this issue and the proposed language at its June 3, 2022 meeting. The Committee directed staff to bring the proposed language to the Policy and Advocacy Committee for consideration as a legislative proposal.

The Policy and Advocacy Committee discussed this topic at its July 29, 2022 meeting. At that meeting, two main concerns were expressed. First, there were concerns that the way the proposal was drafted having out-of-state licensees self-attest could lead to abuse. The second concern was that telehealth platforms could potentially exploit the system.

Based on these concerns, staff suggests the following:

- A sunset date was added to the proposal, so the Board can determine how it is working (a sunset date of January 1, 2026 would align with the Board's next sunset review.)
- A requirement was added for the out-of-state licensee to provide the Board with their social security number or individual taxpayer identification number, and their current government issued photo I.D. upon application. Providing this information will allow Board staff to more easily track whether or not someone is abusing the system by requesting multiple practice allowances per year.
- As part of the fiscal impact for this bill, consider asking for 1 full time Office Technician position in order to monitor the applicants requesting the allowances, contact any suspicious entries, and send any issues to enforcement. The Office Technician could also be available to answer licensee questions about the practice allowance.
- If the Committee still has concerns after the above safeguards, consider reducing the allowed temporary practice allowance from 60 to 30 days per calendar year.

### **Recommendation**

Conduct an open discussion of the requirements of other jurisdictions as well as the language proposed for California shown in **Attachment A**.

### **Attachments**

**Attachment A:** Proposed Language

**Attachment B:** Description of Other State Agency Laws Regarding Telehealth Practice by Out-of-State Practitioners

**Attachment C:** California Board of Psychology Law Text

**Attachment D:** State of Arizona Law Text

**Attachment E:** State of Colorado Law Text

**Attachment F:** District of Columbia Law Text

**Attachment G:** State of Florida Law Text

**Attachment H:** State of New Jersey Law Text

**Attachment I:** State of Utah Law Text

**Attachment J:** State of Wyoming Law Text

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**ATTACHMENT A  
DRAFT LANGUAGE  
TEMPORARY PRACTICE ALLOWANCE**

**LMFT**

**ADD BPC §4980.011**

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a marriage and family therapist at the highest level for independent clinical practice from offering marriage and family therapy services in this state for a period not to exceed 60 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide marriage and family therapy services pursuant to subdivision (a) shall provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, social security number or individual taxpayer identification number, current government-issued photographic identification, and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing marriage and family therapy services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section shall not apply to any person licensed by this board whose license has been suspended or revoked.

(e) This section shall remain in effect only until January 1, 2026.

## LCSW

### ADD BPC §4996.16.1

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a clinical social worker at the highest level for independent clinical practice from offering clinical social work services in this state for a period not to exceed 60 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide clinical social work services pursuant to subdivision (a) must provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, [social security number or individual taxpayer identification number, current government-issued photographic identification](#), and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing clinical social work services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section does not apply to any person licensed by this board whose license has been suspended or revoked.

(e) This section shall remain in effect only until January 1, 2026.

## **LPCC**

### **ADD BPC §4999.23**

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a professional clinical counselor at the highest level for independent clinical practice from offering professional clinical counseling services in this state for a period not to exceed 60 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide professional clinical counseling services pursuant to subdivision (a) must provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, **social security number or individual taxpayer identification number, current government-issued photographic identification,** and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing professional clinical counseling services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section does not apply to any person licensed by this board whose license has been suspended or revoked.

**(e) This section shall remain in effect only until January 1, 2026.**

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**Attachment B**

**COMPARISON OF OTHER STATE AGENCY LAWS RE:  
TELEHEALTH PRACTICE BY OUT-OF-STATE PRACTITIONERS**

<b>State Agency</b>	<b>Limit: Number of Days in Year</b>	<b>Client Disclosure Required</b>	<b>May Only Provide Therapy in Certain Circumstances</b>	<b>Must Reside or Practice Outside the State</b>	<b>Must Notify Board</b>	<b>License Required and Jurisdictions</b>
California Board of Psychology	30 days	No	Not specified	No	No	Licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada.
Arizona (AZ)	90 days	Must inform client not licensed in AZ and of limited nature of services.	Not specified	Yes	No	Must be authorized to perform these services in another state, country or pursuant to the laws of a federally recognized tribe.
Colorado (CO)	20 days	Must inform client not licensed in CO.	Not specified	Yes	No	Currently licensed or certified in another state; services performed only within the scope of that license.

State Agency	Limit: Number of Days in Year	Client Disclosure Required	May Only Provide Therapy in Certain Circumstances	Must Reside or Practice Outside the State	Must Notify Board	License Required and Jurisdictions
District of Columbia (DC)	No limit	No	<p>In an emergency only EXCEPT:</p> <ul style="list-style-type: none"> <li>• If provided for a limited time in affiliation with an in-state licensee; or</li> <li>• If licensed in adjoining state and registers with DC board.</li> </ul>	Yes	<p>Must register if licensed in adjoining state.</p> <p>(Not required if providing emergency services, or if providing time-limited services in affiliation with a DC licensee).</p>	<p>License not required in case of emergency.</p> <p>Otherwise must be licensed, registered or certified as a health professional in another state.</p>
Florida (FL)	15 days	No	Not specified	Yes	No	<p>Licensed or certified to practice by a state or territory of the U.S. or by a foreign country or province.</p>
New Jersey (NJ)	10 consecutive business days or 15 business days in any 90-day period.	No	Not specified	Yes	<p>Must notify within 10 days and provide summary of qualifications</p>	<p>Certified or licensed in another state.</p>

<b>State Agency</b>	<b>Limit: Number of Days in Year</b>	<b>Client Disclosure Required</b>	<b>May Only Provide Therapy in Certain Circumstances</b>	<b>Must Reside or Practice Outside the State</b>	<b>Must Notify Board</b>	<b>License Required and Jurisdictions</b>
Utah (UT)	45 days	No	<ul style="list-style-type: none"> <li>• Person must have been a client immediately before relocating.</li> <li>• Only allows short-term transitional therapy.</li> </ul>	Yes	Must notify within 10 days.	Licensed in a state or territory of the U.S.
Wyoming (WY)	30 days	No	Not specified	Yes	No	Duly authorized to perform the activities and services under the laws of the state or county of the person's residency.

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**ATTACHMENT C**  
**CALIFORNIA BOARD OF PSYCHOLOGY STATUTE**

**Business and Professions Code §2912.**

Nothing in this chapter shall be construed to restrict or prevent a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada from offering psychological services in this state for a period not to exceed 30 days in any calendar year.

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**ATTACHMENT D  
ARIZONA LAW**

**Arizona Revised Statutes**

**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.

3. A rabbi, priest, minister or member of the clergy of any religious denomination or sect if the activities and services that person performs are within the scope of the performance of the regular or specialized ministerial duties of an established and legally recognizable church, denomination or sect and the person performing the services remains accountable to the established authority of the church, denomination or sect.

4. A member run self-help or self-growth group if no member of the group receives direct or indirect financial compensation.

5. A behavioral health technician or behavioral health paraprofessional who is employed by an agency licensed by the department of health services.

6. A person contracting with the supreme court or a person employed by or contracting with an agency under contract with the supreme court who is otherwise ineligible to be licensed or who is in the process of applying to be licensed under this chapter as long as that person is in compliance with the supreme court contract conditions regarding professional counseling services and practices only under supervision.

7. A person who is employed by the department of economic security or the department of child safety and who practices social work, marriage and family therapy, substance

abuse counseling, counseling and case management within the scope of the person's job duties and under direct supervision by the employer department.

8. A student, intern or trainee who is pursuing a course of study in social work, counseling, marriage and family therapy, substance abuse counseling or case management in a regionally accredited institution of higher education or training institution if the person's activities are performed under qualified supervision and are part of the person's supervised course of study.

9. A person who is practicing social work, counseling and case management and who is employed by an agency licensed by the department of economic security or the department of child safety.

10. A paraprofessional employed by the department of economic security or by an agency licensed by the department of economic security.

11. A Christian Science practitioner if all of the following are true:

(a) The person is not providing psychotherapy.

(b) The activities and services the person performs are within the scope of the performance of the regular or specialized duties of a Christian Science practitioner.

(c) The person remains accountable to the established authority of the practitioner's church.

12. A person who is not providing psychotherapy.

B. A person who provides services pursuant to subsection A, paragraph 2 is deemed to have agreed to the jurisdiction of the board and to be bound by the laws of this state.



## Attachment E 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 F 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 G 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 H 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 I  
STATE OF UTAH**

[Index](#) Utah Code

[Title 58](#) Occupations and Professions

[Chapter 60](#) Mental Health Professional Practice Act

[Part 1](#) General Provisions

**Section 107** Exemptions from licensure.  
(Effective 5/5/2021)

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**Effective 5/5/2021**

**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](#);
    - (iii) a psychologist licensed under [Chapter 61, Psychologist Licensing Act](#); and
    - (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 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 [313](#), 2021 General Session

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## Attachment J 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.