

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0365

HOUSE BILL NO. 1062

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the Board of
2 Counselor Examiners and the practice of counseling and marriage and family therapy.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-32-1 be amended to read as follows:

5 36-32-1. Terms as used in this chapter mean:

- 6 (1) "Board," the ~~Board of Counselor Examiners~~ South Dakota Board of Examiners for
7 Counselors and Marriage and Family Therapists established under this chapter;
- 8 (2) "~~Counseling,~~" ~~rendering or offering to render to any person, group, organization, or~~
9 ~~the general public, a counseling service involving the application of clinical~~
10 ~~counseling principles, methods, or procedures to assist any person in achieving more~~
11 ~~effective personal, social, educational, or career development and adjustment~~
12 "Counseling treatment interventions," the application of cognitive, affective,
13 behavioral, and systemic counseling strategies which include principles of
14 development, wellness, and pathology that reflect a pluralistic society implemented
15 in the context of a professional counseling relationship;



1 (3) ~~"Counseling principles, methods, or procedures," an approach to counseling that~~
2 ~~emphasizes the counselor's role in systematically assisting any client through all of~~
3 ~~the following: assessing and analyzing background and current information,~~
4 ~~formulating a conceptual understanding of the problem, exploring possible solutions,~~
5 ~~and developing and providing a treatment plan for mental and emotional adjustment~~
6 ~~or development;~~

7 ~~(4)~~ "Doctorate or master's degree in counseling," completion of study following a
8 bachelor's degree in a clearly identified counseling program which stands as a
9 recognizable organizational entity within an accredited institution of higher learning
10 and which includes participation in a supervised practicum and internship in
11 counseling;

12 ~~(5)~~(4) "Postgraduate," following completion of study for a master's or doctoral degree;

13 (5) "Practice of professional counseling," application of mental health, psychological,
14 and human development principles in order to:

15 (a) Facilitate human development and adjustment throughout the life span;

16 (b) Prevent, diagnose, and treat mental, emotional, or behavioral disorders and
17 associated distresses which interfere with mental health;

18 (c) Conduct assessments and diagnoses for the purpose of establishing treatment
19 goals and objectives; and

20 (d) Plan, implement, and evaluate treatment plans using counseling treatment
21 interventions;

22 (6) "Supervised internship," an actual on-the-job-experience in professional counseling
23 under the supervision of an on-site supervisor who is a licensed professional
24 counselor or related mental health professional or who is eligible to be licensed;

1 (7) "Supervised practicum," the providing of counseling to any bona fide client or group
2 seeking services from a counselor. This supervised practicum shall be under the
3 direction of a qualified graduate faculty member and includes critiquing of
4 counseling, either observed or recorded on audio or video tape.

5 Section 2. That § 36-32-2 be amended to read as follows:

6 36-32-2. There is hereby created the South Dakota Board of ~~Counselor~~ Examiners for
7 Counselors and Marriage and Family Therapists, which ~~shall consist~~ consists of seven members,
8 one of whom shall be a lay member representing consumers of the services regulated by the
9 board, one of whom shall be a counselor educator, one of whom shall be a licensed marriage
10 and family therapist, one of whom shall be a licensed professional counselor--mental health, and
11 two of whom shall be from any of the licensed disciplines governed by this board, all appointed
12 by the Governor. All members with the exception of the lay member and the counselor educator
13 shall be engaged in rendering counseling services.

14 Section 3. That § 36-32-9 be amended to read as follows:

15 36-32-9. It is a Class 2 misdemeanor for any person to engage in the practice, or attempt to
16 practice ~~counseling as a licensed professional counselor without a license, or licensed~~
17 ~~professional counselor--mental health without a certificate, issued pursuant to this chapter~~
18 professional counseling without a license.

19 Section 4. That § 36-32-12 be amended to read as follows:

20 36-32-12. ~~Nothing in this chapter may be construed to prevent anyone from doing work~~
21 ~~within the standards and ethics of the person's respective profession or calling, provided the~~
22 ~~person does not hold himself or herself out to the public as a counselor by using the title~~
23 ~~"licensed professional counselor," "licensed counselor" or "licensed professional counselor--~~
24 ~~mental health" unless the person is licensed or certified under this chapter. This chapter does~~

1 not apply to the activities and services of a person practicing professional counseling as part of
2 that person's duties as a:

3 (1) Professional licensed or certified under this title acting in a manner consistent with
4 state law regarding the scope of practice;

5 (2) Member of the clergy;

6 (3) Person performing volunteer services for a public or private nonprofit organization;

7 (4) Person employed by a school, college, university, or other institution of higher
8 learning;

9 (5) Person who is employed by a federal, state, county, or local governmental institution
10 or agency while performing those duties for which the person was employed by the
11 institution, agency, or facility;

12 (6) Person who is employed by a licensed health care facility, an accredited prevention
13 or treatment facility, an adjustment training center, a nonprofit mental health center,
14 or a licensed or registered child welfare agency; or

15 (7) Person who has an approved plan of supervision on file with the board.

16 Students enrolled in recognized programs of study leading to counseling degrees may practice
17 only under the direct supervision of a counselor educator or counselor licensed under this
18 chapter.

19 Section 5. That § 36-32-39 be amended to read as follows:

20 36-32-39. All moneys coming into the custody of the board, including license fees, renewal
21 fees, ~~reciprocity~~ endorsement fees, penalty fees, and any other payments, shall be deposited by
22 the board to the state treasurer weekly, or as prescribed by the state treasurer. The state treasurer
23 shall credit the moneys to the South Dakota Board of ~~Counselor~~ Examiners for Counselors and
24 Marriage and Family Therapists account in the state treasury, which account is hereby created.

1 The moneys in the South Dakota Board of ~~Counselor~~ Examiners for Counselors and Marriage
 2 and Family Therapists account are hereby continuously appropriated to the board for the purpose
 3 of paying the expense of administering and enforcing the provisions of this chapter. Such
 4 expenditures shall only be paid on warrants drawn by the state auditor and approved by the
 5 board or one of its officers. However, the total expense incurred may not exceed the total
 6 moneys collected by the board under the provisions of this chapter. The board, for the purposes
 7 of this chapter, may accept grants, gifts, or contributions.

8 Section 6. That § 36-33-2 be amended to read as follows:

9 36-33-2. For purposes of this chapter, board means the ~~Board of Counselor Examiners South~~
 10 Dakota Board of Examiners for Counselors and Marriage and Family Therapists as established
 11 in chapter 36-32.

12 Section 7. That § 36-33-4 be amended to read as follows:

13 36-33-4. It is a Class 2 misdemeanor for any person to engage in the practice of, or attempt
 14 to practice, marriage and family therapy as a ~~licensed marriage and family therapist without a~~
 15 ~~license issued pursuant to the provisions of this chapter~~ without a license.

16 Section 8. That § 36-33-7 be repealed.

17 ~~36-33-7. Any of the following persons are exempt from the requirements of this chapter:~~

18 ~~(1) A person practicing marriage and family therapy as part of that person's duties as an~~
 19 ~~employee of:~~

20 ~~(a) A recognized educational institution, or a federal, state, county, or local~~
 21 ~~governmental institution or agency while performing those duties for which~~
 22 ~~the person was employed by such institution, agency, or facility; or~~

23 ~~(b) An organization which is nonprofit and which meets community needs while~~
 24 ~~performing those duties for which the person was employed by such an~~

1 agency;

2 ~~(2) A person who is a marriage and family therapy intern or person preparing for the~~
3 ~~practice of marriage and family therapy under qualified supervision in a training~~
4 ~~institution or facility or supervisory arrangement recognized and approved by the~~
5 ~~board, if the person is designated by a title such as marriage therapy intern, family~~
6 ~~therapy intern, or some other title clearly indicating such training status.~~

7 Section 9. That § 36-33-8 be amended to read as follows:

8 36-33-8. ~~Nothing in this chapter may be construed to prevent any other qualified~~
9 ~~professional, including a clinical social worker, psychiatric nurse, professional counselor,~~
10 ~~clinical and counseling psychologist, physician, attorney-at-law, or member of the clergy, from~~
11 ~~performing or advertising the performance of marriage and family therapy consistent with the~~
12 ~~accepted standards of that person's profession. However, no such person may use a title or~~
13 ~~description stating or implying that the person is licensed to practice marriage and family~~
14 ~~therapy pursuant to this chapter. This chapter does not apply to the activities and services of a~~
15 ~~person practicing marriage and family therapy as part of that person's duties as a:~~

16 (1) Professional licensed or certified under this title acting in a manner consistent with
17 state law regarding the scope of practice;

18 (2) Member of the clergy;

19 (3) Person performing volunteer services for a public or private nonprofit organization;

20 (4) Person employed by a school, college, university, or other institution of higher
21 learning;

22 (5) Person who is employed by a federal, state, county, or local governmental institution
23 or agency while performing those duties for which the person was employed by the
24 institution, agency, or facility;

1 (6) Person who is employed by a licensed health care facility, an accredited prevention
2 or treatment facility, an adjustment training center, a nonprofit mental health center,
3 or a licensed or registered child welfare agency; or

4 (7) Person who is a marriage and family therapy intern or person preparing for the
5 practice of marriage and family therapy under qualified supervision in a training
6 institution or facility or supervisory arrangement recognized and approved by the
7 board, if the person is designated by a title such as marriage therapy intern, family
8 therapy intern, or some other title clearly indicating such training status.

9 A student enrolled in recognized programs of study leading to marriage and family therapy
10 counseling degrees may practice only under the direct supervision of a marriage and family
11 therapy counselor or educator or marriage and family therapy counselor licensed under this
12 chapter.