

House Bill 554

In The House

January 29, 1981	Introduced and referred to Committee on State Administration.
January 31, 1981	Rereferred to Committee on Human Services. Fiscal note requested.
February 5, 1981	Fiscal note returned.
February 19, 1981	Committee recommend bill do pass as amended.
February 20, 1981	Bill printed and placed on members' desks.
February 21, 1981	Second reading do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading passed.

In The Senate

March 2, 1981	Introduced and referred to Committee on State Administration.
March 3, 1981	Rereferred to Committee on Public Health Welfare and Safety.
March 24, 1981	Committee recommend bill not concurred.

In The House

March 25, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 554  
 2 INTRODUCED BY Bergrine Conn Theresa Dussan  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
 5 CERTIFICATION OF MASTERS OF SOCIAL WORK; CREATING A STATE  
 6 BOARD OF SOCIAL WORK EXAMINERS AND PRESCRIBING ITS POWERS  
 7 AND DUTIES; ESTABLISHING GROUNDS AND PROCEDURES FOR  
 8 DISCIPLINARY PROCEEDINGS; CREATING A COMMUNICATIONS  
 9 PRIVILEGE; AND PROVIDING PENALTIES FOR VIOLATIONS."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Board of social work examiners --  
 13 appointment -- term -- removal -- compensation --  
 14 organization. (1) The governor shall appoint a board of  
 15 social work examiners consisting of seven members:

- 16 (a) one member shall be in the private practice of  
 17 social work;
- 18 (b) one member shall be a state social service agency  
 19 representative;
- 20 (c) one member shall be a private mental health agency  
 21 representative;
- 22 (d) one member shall be a social work educator from a  
 23 program approved by the council on social work education or  
 24 shall be a social worker whose duties include the  
 25 responsibilities for education and training of social

- 1 workers;
- 2 (e) one member shall represent consumers of social  
 3 work services; and
- 4 (f) two members shall be neither consumers of social  
 5 work services nor representatives of any profession,  
 6 occupation, agency, or employer mentioned in subsections  
 7 (1)(a) through (1)(e) of this section.
- 8 (2) The board is designated a quasi-judicial board.  
 9 Members shall be appointed, shall serve, and are subject to  
 10 removal in accordance with 2-15-124.
- 11 Section 2. Purpose. The legislature finds and declares  
 12 that for the purpose of providing recognition of achievement  
 13 to professionals in the field of social work, to enable  
 14 professionals in the field of social work to receive payment  
 15 from consumers of their services by reimbursement from  
 16 insurance companies, and to provide for recognition of a  
 17 level of the practice of social work upon which consumers of  
 18 social work services may rely, it is necessary and desirable  
 19 to establish a level of social work regulated by state law.  
 20 To these ends, [sections 2 through 13] establish a program  
 21 of voluntary certification for those persons in the field of  
 22 social work desiring to practice as certified masters of  
 23 social work. Nothing in [sections 1 through 13] is intended  
 24 to apply to persons working in the field of social work who  
 25 do not seek certification as a certified masters of social

1 work.

2 Section 3. Definitions. As used in [sections 2 through  
3 13]:

4 (1) "Board" means the board of social work examiners  
5 established under [section 1].

6 (2) "Department" means the department of professional  
7 and occupational licensing.

8 (3) "Psychotherapy" means the use of psychosocial  
9 methods within a professional relationship to assist a  
10 person to achieve a better psychosocial adaptation and to  
11 modify internal and external conditions that affect  
12 individuals, groups, or families in respect to behavior,  
13 emotions, and thinking concerning their intrapersonal and  
14 interpersonal processes.

15 (4) "Registrant" means a person certified under  
16 [sections 2 through 13].

17 (5) "Social work" means the professional practice  
18 directed toward helping people achieve more adequate,  
19 satisfying, and productive social adjustments. The practice  
20 of social work involves special knowledge of social  
21 resources, human capabilities and the role that individual  
22 motivation and social influences plays in determining  
23 behavior, and involves the application of social work  
24 techniques, including but not limited to:

25 (a) counseling and using psychotherapy with

1 individuals, families, or groups;

2 (b) providing information and referral services;

3 (c) providing, arranging, or supervising the provision  
4 of social services;

5 (d) explaining and interpreting the psychosocial  
6 aspects in the situations of individuals, families, or  
7 groups;

8 (e) helping communities to organize to provide or  
9 improve social and health services; and

10 (f) doing research or teaching related to social work.

11 Section 4. Representation to public as certified  
12 masters of social work -- limitations on use of titles. No  
13 person may represent himself to be a certified masters of  
14 social work by adding the letters "CMSW" after his name or  
15 by any other means unless certified under [sections 2  
16 through 13].

17 Section 5. General duties of the board -- rulemaking  
18 powers. The board shall:

19 (1) recommend amendments to [sections 2 through 13] to  
20 the governor or the legislature, or both;

21 (2) recommend prosecutions for violations of [sections  
22 2 through 13] to the attorney general or the appropriate  
23 county attorneys, or both;

24 (3) annually publish a list of the names and addresses  
25 of all persons who are certified masters of social work

1 under [sections 2 through 13];

2 (4) establish requirements for continuing education

3 that shall be a condition of certificate renewal;

4 (5) meet at least once every 3 months to conduct the

5 duties described in this section. The board may, once a year

6 by a consensus of its members, determine that there is no

7 necessity for a board meeting;

8 (6) distribute a copy of the ethical standards to the

9 certified masters of social work; and

10 (7) adopt rules:

11 (a) governing its internal operating procedures and

12 rules governing proceedings before the board under

13 2-4-201(2);

14 (b) that set professional, practice, and ethical

15 standards for certified masters of social work; and

16 (c) such other rules as may be reasonably necessary

17 for the administration of [sections 2 through 13].

18 Section 6. Examination requirements -- issuance of

19 certification. (1) An applicant for certification as a

20 certified masters of social work shall satisfactorily

21 complete a written examination prepared by the board.

22 Before an applicant may take the examination, he must

23 demonstrate to the board that he:

24 (a) has a doctorate or masters degree in social work

25 from a program in social work education accredited by the

1 council on social work education or approved by the board of

2 social work examiners;

3 (b) has accumulated 3,000 hours of practice in social

4 work within the past 5 years;

5 (c) has satisfied the board that he abides by the

6 social work code of ethics; and

7 (d) has presented three satisfactory letters of

8 reference from social workers or members of an allied

9 profession who have a knowledge of the applicant's

10 professional performance.

11 (2) An applicant who has failed the examination can

12 reapply upon payment of a fee of \$10 and is then eligible to

13 take the examination when it is offered again.

14 Section 7. Exemption from examination requirements. An

15 applicant is exempt from the requirement of any examination

16 if:

17 (1) he is a member of the academy of certified social

18 workers and has passed certification requirements similar to

19 those imposed by the board under [section 6];

20 (2) he satisfies the board that he is licensed,

21 certified, or registered under the laws of a state or

22 territory of the United States that imposes substantially

23 the same requirements as [sections 2 through 13]; and

24 (3) he has passed an examination similar to that

25 required by the board under [section 6].

1 Section 8. Fees. (1) Each applicant for a certificate  
2 shall, upon submitting his application to the board, pay an  
3 application fee in an amount to be set by the board equal to  
4 the cost of processing the application.

5 (2) Each applicant for a certificate required to take  
6 the examination provided for in [section 6] shall, prior to  
7 commencement of the examination, pay an examination fee to  
8 the board in an amount to be set by the board equal to any  
9 costs of the board or department in administering the  
10 examination.

11 (3) Each applicant shall, prior to receipt of a  
12 certificate or renewal certificate, pay a certification fee  
13 to the board equal to any costs of the board or department  
14 in issuing a certificate. The amount of the fee shall be set  
15 by the board.

16 (4) Money paid for application, examination, and  
17 certification and renewal fees under this section shall be  
18 deposited in an earmarked revenue fund for the use of the  
19 board, subject to 37-1-101(6).

20 Section 9. Issuance and display of certificate. (1)  
21 Upon successful completion of the examination required by  
22 [section 6] or upon demonstration by a person exempt from  
23 examination that he is exempt but has otherwise fulfilled  
24 the requirements of subsections (1)(a) through (1)(d) of  
25 [section 6], the applicant shall be issued a certificate by

1 the department attesting to the date and fact of  
2 certification.

3 (2) The certificate must be displayed in the  
4 registrant's place of business or employment.

5 Section 10. Effective date of certification -- renewal  
6 -- application for renewal. (1) Certification is effective  
7 on the date of issuance by the department and expires on the  
8 second anniversary of certification.

9 (2) If an application for renewal of an existing  
10 certification is made before expiration or within 60 days  
11 from the date of expiration of the certificate, the  
12 application for renewal is considered timely and the rights  
13 and privileges of the registrant during that period remain  
14 in effect and the use of such privileges are not considered  
15 a violation of [sections 2 through 13].

16 (3) Application for renewal must be made upon a form  
17 provided by the department. A renewal certificate must be  
18 issued upon payment of a renewal fee in an amount set by the  
19 board and upon submitting proof of completion of continuing  
20 education requirements.

21 Section 11. Revocation, suspension, or refusal to  
22 renew certificate -- grounds -- procedure -- reinstatement.  
23 (1) Under the procedure provided in subsection (2), the  
24 board may reprimand or revoke, suspend, or refuse to renew  
25 the certificate of a registrant found guilty of:

- 1 (a) fraud or deceit in obtaining a certificate of
- 2 registration;
- 3 (b) gross negligence, incompetency, or misconduct in
- 4 the practice of social work as a certified masters of social
- 5 work;
- 6 (c) a felony;
- 7 (d) violation of the rules for certified masters of
- 8 social work adopted by the board;
- 9 (e) any of the acts constituting a misdemeanor under
- 10 [section 13]; or
- 11 (f) any of the following unprofessional acts on the
- 12 part of the registrant:
- 13 (i) misrepresentation of the type or status of a
- 14 registrant's own certificate;
- 15 (ii) intentionally or recklessly causing physical or
- 16 emotional harm to a client;
- 17 (iii) misrepresentation of his professional
- 18 qualifications, affiliations, or purposes;
- 19 (iv) sexual relations with a client, solicitation of
- 20 sexual relations with a client, commission of an act of
- 21 sexual abuse, commission of an act of sexual misconduct, or
- 22 commission of an act punishable as a sexually related crime
- 23 if such act or solicitation is substantially related to
- 24 the qualifications, functions, or duties of a registrant;
- 25 (v) performance of or representation of his ability to

- 1 perform professional services beyond his field or fields of
- 2 competence, as established by his education, training, and
- 3 experience;
- 4 (vi) failure to maintain the confidentiality, except as
- 5 otherwise required or permitted by law, of all information
- 6 that has been received from a client during the course of
- 7 treatment and all information about the client obtained from
- 8 tests or other means;
- 9 (vii) prior to the commencement of treatment, failure
- 10 to disclose to the client or prospective client the fee to
- 11 be charged for professional services or the basis upon which
- 12 such fee will be computed; or
- 13 (viii) advertising in a manner which is false or
- 14 misleading.
- 15 (2) Any member of the board or another person may make
- 16 charges of those grounds for board action provided in
- 17 subsection (1) against a registrant. The charges shall be
- 18 made by affidavit and subscribed and sworn to by the person
- 19 making them and filed with the department. The charges shall
- 20 be investigated by the board, and unless the board dismisses
- 21 the charges, after investigation, as unfounded or trivial,
- 22 it shall act on the charges within 6 months after the date
- 23 on which the charges were made. The board is considered to
- 24 have acted on the charges if it has given notice by mail to
- 25 the registrant of its intent to reprimand or revoke,

1 suspend, or refuse to renew his certificate and the notice  
2 contains those matters required by 2-4-601.

3 (3) Any hearing on the charges must be held before  
4 five members of the board and must be prosecuted in  
5 accordance with 37-1-102(1). The hearing must be conducted  
6 under the Montana Administrative Procedure Act.

7 Section 12. Privileged communication -- confidential  
8 information -- exceptions. No person certified under  
9 [sections 2 through 13] may disclose any information he may  
10 have acquired from clients consulting him in his  
11 professional capacity, except:

12 (1) with the written consent of the client, or in the  
13 case of the client's death or mental incapacity, with the  
14 consent of the client's personal representative or guardian;

15 (2) that a registrant may not be required to treat as  
16 confidential a communication otherwise confidential that  
17 reveals the contemplation of a crime by the client or any  
18 other person;

19 (3) that if the client is a minor and information  
20 acquired by the registrant indicates that the client was the  
21 victim of a crime, the registrant may be required to testify  
22 fully in relation thereto in any investigation, trial, or  
23 other proceeding in which the commission of such crime is  
24 the subject of inquiry;

25 (4) that if the client or his personal representative

1 or guardian brings an action against a registrant for a  
2 claim arising out of the social worker-client relationship,  
3 the client is considered to have waived any privilege;

4 (5) to the extent that the privilege is otherwise  
5 waived by the client; and

6 (6) as may otherwise be required by law.

7 Section 13. Violations -- penalties. (1) It is a  
8 misdemeanor for any person to:

9 (a) represent himself as being a certified masters of  
10 social work without being certified under the provisions of  
11 [sections 2 through 13];

12 (b) obtain or attempt to obtain a certificate or  
13 renewal thereof by bribery or fraudulent representation; or

14 (c) knowingly make a false statement on any form used  
15 by the board to implement [sections 2 through 13] or the  
16 rules adopted under [them].

17 (2) Upon conviction any person found guilty of a  
18 misdemeanor under this section shall be punishable by  
19 imprisonment in the county jail for a period not exceeding 6  
20 months or by a fine not exceeding \$500 or by both such fine  
21 and imprisonment. Any person convicted a second time for any  
22 violation of [sections 2 through 13] shall be punished by  
23 both such fine and imprisonment.

24 Section 14. Codification instruction. Section 1 is  
25 intended to be codified as an integral part of Title 2,

LC 1099/01

1 chapter 15, part 16, and the provisions of Title 2, chapter  
2 15, apply to section 1.

3 Section 15. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-



STATE OF MONTANA

REQUEST NO. 275-81

FISCAL NOTE

Form BD 15

In compliance with a written request received February 2, 19 81, there is hereby submitted a Fiscal Note for House Bill 554 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to create a Board of Social Work Examiners for the state of Montana. The board will be a quasi-judicial board as defined by Executive Reorganization Act of 1971. It will have authority to prescribe rules, act on applications, give examinations, and provide certification as social workers to qualified individuals. It may discipline licensees as provided by law.

Assumptions

- 1. That the Board of Social Work Examiners will be appointed shortly after July 1, 1981.
2. The board will be composed of 7 members, meeting two times per year.
3. The board will establish fees equal to costs for applications, exams, certification and renewal fees.
4. Renewal fees will be due two years after original certification.
5. A potential of 150 individuals exist for certification the first year and 10% additional each year thereafter.
6. Examination will be furnished by the Professional Examination Service at \$10 per exam and 90% of original applicants will require examination.
7. Will require the secretarial help of a .10 FTE, Grade 10 and benefits.
8. Five out of the seven board members will be eligible for compensation.
9. Board members will reside in Great Falls, Butte, Helena, Bozeman, and Missoula.
10. Examination costs will be \$1,350 the first year and drop to \$150 the second year.
11. Balance of operating costs will be legal assistance, printed material, communications, postage, travel, supplies, and transfer costs to department (37,1,101 (1), MCA).

Table with 3 columns: Fiscal Impact, FY 1982, FY 1983. Rows include Revenue Collected, Balance Forward, Expenditure, and Balance.

This involves the earmarked funds only.

Handwritten signature of David M. Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-5-81

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 554

3 House Human Services Committee  
4

5 HB 554 requires a statement of intent because it  
6 requires the adoption of rules in section 6. It is the  
7 intent of the Legislature that the rules adopted cover the  
8 following subjects:

9 (1) details of continuing education requirements  
10 mentioned in section 5 of the bill;

11 (2) sufficient detail of internal operating procedures  
12 and rules governing proceedings before the board that a  
13 person required or desiring to deal with the board is on  
14 notice of what is expected of him, what the course of events  
15 will be, and what options are open to the applicant in  
16 dealing with the board;

17 (3) the criteria for the setting of professional,  
18 practice, and ethical standards for certified social workers  
19 and the means of determining and dealing with violations of  
20 those standards; and

21 (4) subjects reasonably related to the obvious intent  
22 of this bill or related to one of the above subjects, that  
23 are reasonably necessary rules which do not clearly exceed  
24 the authority of the bill or this statement of intent.

Approved by Comm. On Human Services

1 HOUSE BILL NO. 554  
2 INTRODUCED BY BERGENE, CONN, HOLLIDAY, DUSSAULT  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 CERTIFICATION OF ~~MASTERS-OF~~ SOCIAL WORK WORKERS; CREATING A  
6 STATE BOARD OF SOCIAL WORK EXAMINERS AND PRESCRIBING ITS  
7 POWERS AND DUTIES; ESTABLISHING GROUNDS AND PROCEDURES FOR  
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9 PRIVILEGE; AND PROVIDING PENALTIES FOR VIOLATIONS."  
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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13 appointment -- term -- removal -- compensation --  
14 organization. (1) The governor shall appoint a board of  
15 social work examiners consisting of seven members:  
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17 social work;  
18 (b) one member shall be a state social service agency  
19 representative;  
20 (c) one member shall be a private mental health agency  
21 representative;  
22 (d) one member shall be a social work educator from a  
23 program approved by the council on social work education or  
24 shall be a social worker whose duties include the  
25 responsibilities for education and training of social

1 workers;  
2 (e) one member shall represent consumers of social  
3 work services; and  
4 (f) two members shall be neither consumers of social  
5 work services nor representatives of any profession,  
6 occupation, agency, or employer mentioned in subsections  
7 (1)(a) through (1)(e) of this section.  
8 (2) The board is designated a quasi-judicial board.  
9 Members shall be appointed, shall serve, and are subject to  
10 removal in accordance with 2-15-124.  
11 Section 2. Purpose. The legislature finds and declares  
12 that for the purpose of providing recognition of achievement  
13 to professionals in the field of social work, to enable  
14 professionals in the field of social work to receive payment  
15 from consumers of their services by reimbursement from  
16 insurance companies, and to provide for recognition of a  
17 level of the practice of social work upon which consumers of  
18 social work services may rely, it is necessary and desirable  
19 to establish a level of social work regulated by state law.  
20 To these ends, [sections 2 through 13] establish a program  
21 of voluntary certification for those persons in the field of  
22 social work desiring to practice as certified ~~masters-of~~  
23 social work WORKERS. Nothing in [sections 1 through 13] is  
24 intended to apply to persons working in the field of social  
25 work who do not seek certification as a certified ~~masters-of~~

1 social work WORKERS.

2 Section 3. Definitions. As used in [sections 2 through  
3 13]:

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5 established under [section 1].

6 (2) "Department" means the department of professional  
7 and occupational licensing.

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9 methods within a professional relationship to assist a  
10 person to achieve a better psychosocial adaptation and to  
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12 individuals, groups, or families in respect to behavior,  
13 emotions, and thinking concerning their intrapersonal and  
14 interpersonal processes.

15 (4) "Registrant" means a person certified under  
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17 (5) "Social work" means the professional practice  
18 directed toward helping people achieve more adequate,  
19 satisfying, and productive social adjustments. The practice  
20 of social work involves special knowledge of social  
21 resources, human capabilities and the role that individual  
22 motivation and social influences plays in determining  
23 behavior, and involves the application of social work  
24 techniques, including but not limited to:

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4 of social services;

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6 aspects in the situations of individuals, families, or  
7 groups;

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9 improve social and health services; and

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11 Section 4. Representation to public as certified  
12 masters-of social work WORKER -- limitations on use of  
13 titles. No person may represent himself to be a certified  
14 masters-of social work WORKER by adding the letters "MSW"  
15 "CSW" after his name or by any other means unless certified  
16 under [sections 2 through 13].

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18 powers. The board shall:

19 (1) recommend amendments to [sections 2 through 13] to  
20 the governor or the legislature, or both;

21 (2) recommend prosecutions for violations of [sections  
22 2 through 13] to the attorney general or the appropriate  
23 county attorneys, or both;

24 (3) annually publish a list of the names and addresses  
25 of all persons who are certified masters--of social work

1 WORKERS under [sections 2 through 13];

2 (4) establish requirements for continuing education

3 that shall be a condition of certificate renewal;

4 (5) meet at least once every 3 months to conduct the

5 duties described in this section. The board may, once a year

6 by a consensus of its members, determine that there is no

7 necessity for a board meeting;

8 (6) distribute a copy of the ethical standards to the

9 certified ~~masters-of social work~~ WORKERS; and

10 (7) adopt rules:

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12 rules governing proceedings before the board under

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15 standards for certified ~~masters-of social work~~ WORKERS; and

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17 for the administration of [sections 2 through 13].

18 Section 6. Examination requirements -- issuance of

19 certification. (1) An applicant for certification as a

20 certified ~~masters-of social work~~ WORKER shall satisfactorily

21 complete a written examination prepared by the board.

22 Before an applicant may take the examination, he must

23 demonstrate to the board that he:

24 (a) has a doctorate or masters degree in social work

25 from a program in social work education accredited by the

1 council on social work education or approved by the board of

2 social work examiners;

3 (b) has accumulated 3,000 hours of practice in social

4 work within the past 5 years;

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8 reference from social workers or members of an allied

9 profession who have a knowledge of the applicant's

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22 territory of the United States that imposes substantially

23 the same requirements as [sections 2 through 13]; and

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25 required by the board under [section 6].

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2 shall, upon submitting his application to the board, pay an  
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9 costs of the board or department in administering the  
10 examination.

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12 application for renewal is considered timely and the rights  
13 and privileges of the registrant during that period remain  
14 in effect and the use of such privileges are not considered  
15 a violation of [sections 2 through 13].

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19 (iv) sexual relations with a client, solicitation of  
20 sexual relations with a client, commission of an act of  
21 sexual abuse, commission of an act of sexual misconduct, or  
22 commission of an act punishable as a sexually related crime  
23 if such act or solicitation is substantively related to  
24 the qualifications, functions, or duties of a registrant;

25 (v) performance of or representation of his ability to

1 perform professional services beyond his field or fields of  
2 competence, as established by his education, training, and  
3 experience;

4 (vi) failure to maintain the confidentiality, except as  
5 otherwise required or permitted by law, of all information  
6 that has been received from a client during the course of  
7 treatment and all information about the client obtained from  
8 tests or other means;

9 (vii) prior to the commencement of treatment, failure  
10 to disclose to the client or prospective client the fee to  
11 be charged for professional services or the basis upon which  
12 such fee will be computed; or

13 (viii) advertising in a manner which is false or  
14 misleading.

15 (2) Any member of the board or another person may make  
16 charges of those grounds for board action provided in  
17 subsection (1) against a registrant. The charges shall be  
18 made by affidavit and subscribed and sworn to by the person  
19 making them and filed with the department. The charges shall  
20 be investigated by the board, and unless the board dismisses  
21 the charges, after investigation, as unfounded or trivial,  
22 it shall act on the charges within 6 months after the date  
23 on which the charges were made. The board is considered to  
24 have acted on the charges if it has given notice by mail to  
25 the registrant of its intent to reprimand or revoke,

1 suspend, or refuse to renew his certificate and the notice  
2 contains those matters required by 2-4-601.

3 (3) Any hearing on the charges must be held before  
4 five members of the board and must be prosecuted in  
5 accordance with 37-1-102(1). The hearing must be conducted  
6 under the Montana Administrative Procedure Act.

7 Section 12. Privileged communication -- confidential  
8 information -- exceptions. No person certified under  
9 [sections 2 through 13] may disclose any information he may  
10 have acquired from clients consulting him in his  
11 professional capacity, except:

12 (1) with the written consent of the client, or in the  
13 case of the client's death or mental incapacity, with the  
14 consent of the client's personal representative or guardian;

15 (2) that a registrant may not be required to treat as  
16 confidential a communication otherwise confidential that  
17 reveals the contemplation of a crime by the client or any  
18 other person;

19 (3) that if the client is a minor and information  
20 acquired by the registrant indicates that the client was the  
21 victim of a crime, the registrant may be required to testify  
22 fully in relation thereto in any investigation, trial, or  
23 other proceeding in which the commission of such crime is  
24 the subject of inquiry;

25 (4) that if the client or his personal representative

1 or guardian brings an action against a registrant for a  
2 claim arising out of the social worker-client relationship,  
3 the client is considered to have waived any privilege;

4 (5) to the extent that the privilege is otherwise  
5 waived by the client; and

6 (6) as may otherwise be required by law.

7 Section 13. Violations -- penalties. (1) It is a  
8 misdemeanor for any person to:

9 (a) represent himself as being a certified ~~masters~~ of  
10 social work WORKER without being certified under the  
11 provisions of [sections 2 through 13];

12 (b) obtain or attempt to obtain a certificate or  
13 renewal thereof by bribery or fraudulent representation; or

14 (c) knowingly make a false statement on any form used  
15 by the board to implement [sections 2 through 13] or the  
16 rules adopted under [them].

17 (2) Upon conviction any person found guilty of a  
18 misdemeanor under this section shall be punishable by  
19 imprisonment in the county jail for a period not exceeding 6  
20 months or by a fine not exceeding \$500 or by both such fine  
21 and imprisonment. Any person convicted a second time for any  
22 violation of [sections 2 through 13] shall be punished by  
23 both such fine and imprisonment.

24 Section 14. Codification instruction. Section 1 is  
25 intended to be codified as an integral part of Title 2,



1 chapter 15, part 16, and the provisions of Title 2, chapter  
2 15, apply to section 1.

3 Section 15. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 554

## 3 House Human Services Committee

4

5 HB 554 requires a statement of intent because it  
6 requires the adoption of rules in section 6. It is the  
7 intent of the Legislature that the rules adopted cover the  
8 following subjects:

9 (1) details of continuing education requirements  
10 mentioned in section 5 of the bill;

11 (2) sufficient detail of internal operating procedures  
12 and rules governing proceedings before the board that a  
13 person required or desiring to deal with the board is on  
14 notice of what is expected of him, what the course of events  
15 will be, and what options are open to the applicant in  
16 dealing with the board;

17 (3) the criteria for the setting of professional,  
18 practice, and ethical standards for certified social workers  
19 and the means of determining and dealing with violations of  
20 those standards; and

21 (4) subjects reasonably related to the obvious intent  
22 of this bill or related to one of the above subjects, that  
23 are reasonably necessary rules which do not clearly exceed  
24 the authority of the bill or this statement of intent.

## 1 HOUSE BILL NO. 554

2 INTRODUCED BY BERGENE, CONN, HOLLIDAY, DUSSAULT

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 CERTIFICATION OF ~~MASTERS-OF~~ SOCIAL WORK WORKERS; CREATING A  
6 STATE BOARD OF SOCIAL WORK EXAMINERS AND PRESCRIBING ITS  
7 POWERS AND DUTIES; ESTABLISHING GROUNDS AND PROCEDURES FOR  
8 DISCIPLINARY PROCEEDINGS; CREATING A COMMUNICATIONS  
9 PRIVILEGE; AND PROVIDING PENALTIES FOR VIOLATIONS."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Board of social work examiners --  
13 appointment -- term -- removal -- compensation --  
14 organization. (1) The governor shall appoint a board of  
15 social work examiners consisting of seven members:

16 (a) one member shall be in the private practice of  
17 social work;

18 (b) one member shall be a state social service agency  
19 representative;

20 (c) one member shall be a private mental health agency  
21 representative;

22 (d) one member shall be a social work educator from a  
23 program approved by the council on social work education or  
24 shall be a social worker whose duties include the  
25 responsibilities for education and training of social

1 workers;

2 (e) one member shall represent consumers of social  
3 work services; and

4 (f) two members shall be neither consumers of social  
5 work services nor representatives of any profession,  
6 occupation, agency, or employer mentioned in subsections  
7 (1)(a) through (1)(e) of this section.

8 (2) The board is designated a quasi-judicial board.  
9 Members shall be appointed, shall serve, and are subject to  
10 removal in accordance with 2-15-124.

11 Section 2. Purpose. The legislature finds and declares  
12 that for the purpose of providing recognition of achievement  
13 to professionals in the field of social work, to enable  
14 professionals in the field of social work to receive payment  
15 from consumers of their services by reimbursement from  
16 insurance companies, and to provide for recognition of a  
17 level of the practice of social work upon which consumers of  
18 social work services may rely, it is necessary and desirable  
19 to establish a level of social work regulated by state law.  
20 To these ends, [sections 2 through 13] establish a program  
21 of voluntary certification for those persons in the field of  
22 social work desiring to practice as certified ~~masters-of~~  
23 social work WORKERS. Nothing in [sections 1 through 13] is  
24 intended to apply to persons working in the field of social  
25 work who do not seek certification as a certified ~~masters-of~~

1 social work WORKERS.

2 Section 3. Definitions. As used in [sections 2 through  
3 13]:

4 (1) "Board" means the board of social work examiners  
5 established under [section 1].

6 (2) "Department" means the department of professional  
7 and occupational licensing.

8 (3) "Psychotherapy" means the use of psychosocial  
9 methods within a professional relationship to assist a  
10 person to achieve a better psychosocial adaptation and to  
11 modify internal and external conditions that affect  
12 individuals, groups, or families in respect to behavior,  
13 emotions, and thinking concerning their intrapersonal and  
14 interpersonal processes.

15 (4) "Registrant" means a person certified under  
16 [sections 2 through 13].

17 (5) "Social work" means the professional practice  
18 directed toward helping people achieve more adequate,  
19 satisfying, and productive social adjustments. The practice  
20 of social work involves special knowledge of social  
21 resources, human capabilities and the role that individual  
22 motivation and social influences plays in determining  
23 behavior, and involves the application of social work  
24 techniques, including but not limited to:

25 (a) counseling and using psychotherapy with

1 individuals, families, or groups;

2 (b) providing information and referral services;

3 (c) providing, arranging, or supervising the provision  
4 of social services;

5 (d) explaining and interpreting the psychosocial  
6 aspects in the situations of individuals, families, or  
7 groups;

8 (e) helping communities to organize to provide or  
9 improve social and health services; and

10 (f) doing research or teaching related to social work.

11 Section 4. Representation to public as certified  
12 ~~masters-of~~ social work WORKER -- limitations on use of  
13 titles. No person may represent himself to be a certified  
14 ~~masters-of~~ social work WORKER by adding the letters "EMSW"  
15 "CSW" after his name or by any other means unless certified  
16 under [sections 2 through 13].

17 Section 5. General duties of the board -- rulemaking  
18 powers. The board shall:

19 (1) recommend amendments to [sections 2 through 13] to  
20 the governor or the legislature, or both;

21 (2) recommend prosecutions for violations of [sections  
22 2 through 13] to the attorney general or the appropriate  
23 county attorneys, or both;

24 (3) annually publish a list of the names and addresses  
25 of all persons who are certified ~~masters-of~~ social work

1 WORKERS under [sections 2 through 13];

2 (4) establish requirements for continuing education

3 that shall be a condition of certificate renewal;

4 (5) meet at least once every 3 months to conduct the

5 duties described in this section. The board may, once a year

6 by a consensus of its members, determine that there is no

7 necessity for a board meeting;

8 (6) distribute a copy of the ethical standards to the

9 certified ~~masters-of~~ social work WORKERS; and

10 (7) adopt rules:

11 (a) governing its internal operating procedures and

12 rules governing proceedings before the board under

13 2-4-201(2);

14 (b) that set professional, practice, and ethical

15 standards for certified ~~masters-of~~ social work WORKERS; and

16 (c) such other rules as may be reasonably necessary

17 for the administration of [sections 2 through 13].

18 Section 6. Examination requirements -- issuance of

19 certification. (1) An applicant for certification as a

20 certified ~~masters-of~~ social work WORKER shall satisfactorily

21 complete a written examination prepared by the board.

22 Before an applicant may take the examination, he must

23 demonstrate to the board that he:

24 (a) has a doctorate or masters degree in social work

25 from a program in social work education accredited by the

1 council on social work education or approved by the board of

2 social work examiners;

3 (b) has accumulated 3,000 hours of practice in social

4 work within the past 5 years;

5 (c) has satisfied the board that he abides by the

6 social work code of ethics; and

7 (d) has presented three satisfactory letters of

8 reference from social workers or members of an allied

9 profession who have a knowledge of the applicant's

10 professional performance.

11 (2) An applicant who has failed the examination can

12 reapply upon payment of a fee of \$10 and is then eligible to

13 take the examination when it is offered again.

14 Section 7. Exemption from examination requirements. An

15 applicant is exempt from the requirement of any examination

16 if:

17 (1) he is a member of the academy of certified social

18 workers and has passed certification requirements similar to

19 those imposed by the board under [section 6];

20 (2) he satisfies the board that he is licensed,

21 certified, or registered under the laws of a state or

22 territory of the United States that imposes substantially

23 the same requirements as [sections 2 through 13]; and

24 (3) he has passed an examination similar to that

25 required by the board under [section 6].

1 Section 8. Fees. (1) Each applicant for a certificate  
 2 shall, upon submitting his application to the board, pay an  
 3 application fee in an amount to be set by the board equal to  
 4 the cost of processing the application.

5 (2) Each applicant for a certificate required to take  
 6 the examination provided for in [section 6] shall, prior to  
 7 commencement of the examination, pay an examination fee to  
 8 the board in an amount to be set by the board equal to any  
 9 costs of the board or department in administering the  
 10 examination.

11 (3) Each applicant shall, prior to receipt of a  
 12 certificate or renewal certificate, pay a certification fee  
 13 to the board equal to any costs of the board or department  
 14 in issuing a certificate. The amount of the fee shall be set  
 15 by the board.

16 (4) Money paid for application, examination, and  
 17 certification and renewal fees under this section shall be  
 18 deposited in an earmarked revenue fund for the use of the  
 19 board, subject to 37-1-101(6).

20 Section 9. Issuance and display of certificate. (1)  
 21 Upon successful completion of the examination required by  
 22 [section 6] or upon demonstration by a person exempt from  
 23 examination that he is exempt but has otherwise fulfilled  
 24 the requirements of subsections (1)(a) through (1)(d) of  
 25 [section 6], the applicant shall be issued a certificate by

1 the department attesting to the date and fact of  
 2 certification.

3 (2) The certificate must be displayed in the  
 4 registrant's place of business or employment.

5 Section 10. Effective date of certification -- renewal  
 6 -- application for renewal. (1) Certification is effective  
 7 on the date of issuance by the department and expires on the  
 8 second anniversary of certification.

9 (2) If an application for renewal of an existing  
 10 certification is made before expiration or within 60 days  
 11 from the date of expiration of the certificate, the  
 12 application for renewal is considered timely and the rights  
 13 and privileges of the registrant during that period remain  
 14 in effect and the use of such privileges are not considered  
 15 a violation of [sections 2 through 13].

16 (3) Application for renewal must be made upon a form  
 17 provided by the department. A renewal certificate must be  
 18 issued upon payment of a renewal fee in an amount set by the  
 19 board and upon submitting proof of completion of continuing  
 20 education requirements.

21 Section 11. Revocation, suspension, or refusal to  
 22 renew certificate -- grounds -- procedure -- reinstatement.  
 23 (1) Under the procedure provided in subsection (2), the  
 24 board may reprimand or revoke, suspend, or refuse to renew  
 25 the certificate of a registrant found guilty of:

1 (a) fraud or deceit in obtaining a certificate of  
2 registration;

3 (b) gross negligence, incompetency, or misconduct in  
4 the practice of social work as a certified masters-of social  
5 work WORKER;

6 (c) a felony;

7 (d) violation of the rules for certified masters-of  
8 social work WORKERS adopted by the board;

9 (e) any of the acts constituting a misdemeanor under  
10 [section 13]; or

11 (f) any of the following unprofessional acts on the  
12 part of the registrant:

13 (i) misrepresentation of the type or status of a  
14 registrant's own certificate;

15 (ii) intentionally or recklessly causing physical or  
16 emotional harm to a client;

17 (iii) misrepresentation of his professional  
18 qualifications, affiliations, or purposes;

19 (iv) sexual relations with a client, solicitation of  
20 sexual relations with a client, commission of an act of  
21 sexual abuse, commission of an act of sexual misconduct, or  
22 commission of an act punishable as a sexually related crime  
23 if such act or solicitation is substantially related to  
24 the qualifications, functions, or duties of a registrant;

25 (v) performance of or representation of his ability to

1 perform professional services beyond his field or fields of  
2 competence, as established by his education, training, and  
3 experience;

4 (vi) failure to maintain the confidentiality, except as  
5 otherwise required or permitted by law, of all information  
6 that has been received from a client during the course of  
7 treatment and all information about the client obtained from  
8 tests or other means;

9 (vii) prior to the commencement of treatment, failure  
10 to disclose to the client or prospective client the fee to  
11 be charged for professional services or the basis upon which  
12 such fee will be computed; or

13 (viii) advertising in a manner which is false or  
14 misleading.

15 (2) Any member of the board or another person may make  
16 charges of those grounds for board action provided in  
17 subsection (1) against a registrant. The charges shall be  
18 made by affidavit and subscribed and sworn to by the person  
19 making them and filed with the department. The charges shall  
20 be investigated by the board, and unless the board dismisses  
21 the charges, after investigation, as unfounded or trivial,  
22 it shall act on the charges within 6 months after the date  
23 on which the charges were made. The board is considered to  
24 have acted on the charges if it has given notice by mail to  
25 the registrant of its intent to reprimand or revoke,

1 suspend, or refuse to renew his certificate and the notice  
2 contains those matters required by 2-4-601.

3 (3) Any hearing on the charges must be held before  
4 five members of the board and must be prosecuted in  
5 accordance with 37-1-102(1). The hearing must be conducted  
6 under the Montana Administrative Procedure Act.

7 Section 12. Privileged communication -- confidential  
8 information -- exceptions. No person certified under  
9 [sections 2 through 13] may disclose any information he may  
10 have acquired from clients consulting him in his  
11 professional capacity, except:

12 (1) with the written consent of the client, or in the  
13 case of the client's death or mental incapacity, with the  
14 consent of the client's personal representative or guardian;

15 (2) that a registrant may not be required to treat as  
16 confidential a communication otherwise confidential that  
17 reveals the contemplation of a crime by the client or any  
18 other person;

19 (3) that if the client is a minor and information  
20 acquired by the registrant indicates that the client was the  
21 victim of a crime, the registrant may be required to testify  
22 fully in relation thereto in any investigation, trial, or  
23 other proceeding in which the commission of such crime is  
24 the subject of inquiry;

25 (4) that if the client or his personal representative

1 or guardian brings an action against a registrant for a  
2 claim arising out of the social worker-client relationship,  
3 the client is considered to have waived any privilege;

4 (5) to the extent that the privilege is otherwise  
5 waived by the client; and

6 (6) as may otherwise be required by law.

7 Section 13. Violations -- penalties. (1) It is a  
8 misdemeanor for any person to:

9 (a) represent himself as being a certified masters--of  
10 social work WORKER without being certified under the  
11 provisions of [sections 2 through 13];

12 (b) obtain or attempt to obtain a certificate or  
13 renewal thereof by bribery or fraudulent representations; or

14 (c) knowingly make a false statement on any form used  
15 by the board to implement [sections 2 through 13] or the  
16 rules adopted under [them].

17 (2) Upon conviction any person found guilty of a  
18 misdemeanor under this section shall be punishable by  
19 imprisonment in the county jail for a period not exceeding 6  
20 months or by a fine not exceeding \$500 or by both such fine  
21 and imprisonment. Any person convicted a second time for any  
22 violation of [sections 2 through 13] shall be punished by  
23 both such fine and imprisonment.

24 Section 14. Codification instruction. Section 1 is  
25 intended to be codified as an integral part of Title 2,



1 chapter 15, part 16, and the provisions of Title 2, chapter  
2 15, apply to section 1.

3 Section 15. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-