

HOUSE BILL NO. 284

INTRODUCED BY WINSLOW, BERGENE, LORY, ADDY, KITSELMAN,
DOZIER, VINCENT, MARKS, J. BROWN, SAUNDERS, J. JENSEN,
ECK, KOLSTAD, TOWE, OCHSNER, JACOBSON, HAFHEY,
BOYLAN, MARBUT, WILLIAMS

HOUSE HUMAN SERVICES COMMITTEE

IN THE HOUSE

January 18, 1983	Introduced and referred to Committee on Human Services.
January 19, 1983	On motion by Chief Sponsor Representatives Williams and Addy added as sponsors to the bill.
February 1, 1983	On motion by Chief Sponsor Senators Kolstad, Towe, et al added as sponsors to the bill.
February 14, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 15, 1983	Bill printed and placed on members' desks.
February 16, 1983	Second reading, do pass.
February 19, 1983	Considered correctly engrossed.
February 21, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Rules.
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March 3, 1983	Rereferred to Committee on Public Health, Welfare and Safety.
March 24, 1983	On motion ordered printed and placed on second reading.
March 25, 1983	Second reading, concurred in as amended.
March 26, 1983	On motion standing committee amendments remain on HB 284.
March 28, 1983	Third reading, concurred in. Ayes, 28; Noes, 21.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 1, 1983	Second reading, pass consideration.
April 4, 1983	Second reading, amendments concurred in.
April 6, 1983	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

1 *House* BILL NO. *284*
 2 INTRODUCED BY *Winifred Bergene Long*
 3 *DO3 Vincent Muth J. Brown Saunders*
 4 *J. Jensen & Co*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 6 MANDATORY LICENSING AND REGULATION OF MASTERS OF SOCIAL
 7 WORK; CREATING A STATE BOARD OF MASTERS OF SOCIAL WORK;
 8 CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING FOR
 9 VIOLATIONS AND PENALTIES; AND ALLOWING DISABILITY AND HEALTH
 10 INSURANCE COVERAGE FOR WORK DONE BY LICENSED MASTERS OF
 11 SOCIAL WORK; AMENDING SECTIONS 33-22-111 AND 33-30-101,
 12 MCA."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Board of masters of social
 15 work. (1) The governor shall appoint a board of masters of
 16 social work consisting of five members. Each member must
 17 have a master of social work degree, and:

18 (a) one member must be in the private practice of
 19 social work;

20 (b) one member must be employed by a state social
 21 service agency;

22 (c) one member must be in the private practice of
 23 mental health;

24 (d) one member must be an educator in the field of
 25 social work; and

1 (e) one member must be appointed from and represent
 2 the general public and may not be engaged in social work.

3 (2) The board is allocated to the department for
 4 administrative purposes only as prescribed in 2-15-121.

5 (3) The board is designated a quasi-judicial board.
 6 Members are appointed, serve, and are subject to removal in
 7 accordance with 2-15-124.

8 NEW SECTION. Section 2. Purpose. The legislature
 9 finds and declares that because the profession of social
 10 work profoundly affect the lives of people of this state it
 11 is the purpose of [sections 2 through 13] to provide for the
 12 common good by insuring ethical, qualified, and professional
 13 practice of social work. [Sections 2 through 13] and the
 14 rules promulgated under [section 4] set standards of
 15 qualification, education, training, and experience and will
 16 establish professional ethics for those who seek to engage
 17 in the practice of social work as masters of social work.

18 NEW SECTION. Section 3. Definitions. As used in
 19 [sections 2 through 13]:

20 (1) "Board" means the board of masters of social work
 21 established under [section 1].

22 (2) "Department" means the department of commerce.

23 (3) "Licensee" means a person licensed under [sections
 24 2 through 13].

25 (4) "Psychotherapy" means the use of psychosocial

1 methods within a professional relationship to assist a
 2 person to achieve a better psychosocial adaptation and to
 3 modify internal and external conditions that affect
 4 individuals, groups, or families in respect to behavior,
 5 emotions, and thinking concerning their interpersonal
 6 processes.

7 (5) "Social work" means the professional practice
 8 directed toward helping people achieve more adequate,
 9 satisfying, and productive social adjustments. The practice
 10 of social work involves special knowledge of social
 11 resources, human capabilities, and the roles that individual
 12 motivation and social influences play in determining
 13 behavior and involves the application of social work
 14 techniques, including but not limited to:

15 (a) counseling and using psychotherapy with
 16 individuals, families, or groups;

17 (b) providing information and referral services;

18 (c) providing, arranging, or supervising the provision
 19 of social services;

20 (d) explaining and interpreting the psychosocial
 21 aspects in the situations of individuals, families, or
 22 groups;

23 (e) helping communities to organize to provide or
 24 improve social and health services; and

25 (f) research or teaching related to social work.

1 NEW SECTION. Section 4. Duties of board. The board
 2 shall:

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

5 (2) recommend prosecutions for violations of [section
 6 13] to the attorney general or the appropriate county
 7 attorneys, or both;

8 (3) annually publish a list of the names and addresses
 9 of all persons who are licensed masters of social work;

10 (4) establish requirements for continuing education
 11 that are a condition of license renewal;

12 (5) meet at least once every 3 months to perform the
 13 duties described in this section. The board may, once a
 14 year by a consensus of its members, determine that there is
 15 no necessity for a board meeting.

16 (6) distribute a copy of the ethical standards to the
 17 certified masters of social work; and

18 (7) adopt rules that set professional, practice, and
 19 ethical standards for licensed masters of social work and
 20 such other rules as may be reasonably necessary for the
 21 administration of [sections 2 through 13].

22 NEW SECTION. Section 5. Representation to public as
 23 licensed master of social work — limitations on use of
 24 title. (1) No person may represent himself to be a licensed
 25 master of social work by adding the letters "LMSW" after his

name or by any other means unless licensed under [sections 2 through 13].

(2) Subsection (1) does not prohibit:

(a) qualified members of other professions such as physicians, psychologists, lawyers, pastoral counselors, or educators from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "social work" or "social worker";

(b) activities, services, and use of an official title by a person in the employ of a federal, state, county, or municipal agency or an educational, research, or charitable institution which are a part of the duties of the office or position;

(c) activities and services of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services of a person who is not a resident of this state, which services are rendered for a period that does not exceed, in the aggregate, 60 days

during a calendar year if the person is authorized under the law of the state or country of residence to perform such activities and services. However, such persons shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform such activities and services in the state of his former residence.

NEW SECTION. Section 6. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination prepared and administered by the board, except that during the 365-day period following the effective date of [sections 2 through 13] a license must be granted without examination if the requirements of subsection (2) are met.

(2) Before an applicant may take the examination, he shall present three letters of reference from social workers or members of an allied profession who have knowledge of the applicant's professional performance and demonstrate to the board that he:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work

1 education or approved by the board of masters of social
2 work;

3 (b) has accumulated 3,000 hours of practice in social
4 work within the past 5 years; and

5 (c) abides by the social work ethical standards
6 adopted under [section 4].

7 (3) An applicant who has failed the examination may
8 reapply to take the examination.

9 (4) An applicant is exempt from the examination
10 requirement if he satisfies the board that he is licensed,
11 certified, or registered under the laws of a state or
12 territory of the United States that imposes substantially
13 the same requirements as [sections 2 through 13] and that he
14 has passed an examination similar to that required by the
15 board.

16 NEW SECTION. Section 7. Fees. (1) Each applicant for
17 a license shall, upon submitting his application to the
18 board, pay an application fee set by the board equal to the
19 cost of processing the application.

20 (2) Each applicant for a license required to take an
21 examination shall, prior to commencement of the examination,
22 pay an examination fee set by the board equal to the cost of
23 administering the examination.

24 (3) Each applicant shall, prior to receipt of a
25 license or license renewal, pay a fee set by the board equal

1 to the cost of issuing a license.

2 (4) Subject to 37-1-101(6), money paid for
3 application, examination, license, and license renewal fees
4 must be deposited in an earmarked revenue fund for the use
5 of the board.

6 NEW SECTION. Section 8. Issuance, effective date, and
7 display of license. (1) Upon successful completion of the
8 examination required by [section 6] or upon demonstration by
9 a person that he is exempt from examination and has
10 otherwise fulfilled the requirements of [section 6], the
11 applicant must be issued a license attesting to the date and
12 fact of licensure. The license is effective on the date of
13 issuance and expires 2 years after that date.

14 (2) The license must be displayed in the registrant's
15 place of business or employment.

16 NEW SECTION. Section 9. Renewal of license. (1) An
17 application for renewal of an existing license made within
18 60 days after the expiration of the license is timely, and
19 the rights and privileges of the applicant during that
20 period remain in effect.

21 (2) Application for renewal must be made upon a form
22 provided by the department. A renewal license must be
23 issued upon payment of a renewal fee set by the board and
24 upon submitting proof of completion of continuing education
25 requirements.

1 **NEW SECTION.** Section 10. Grounds for revocation,
2 suspension, or refusal to renew license. The board may
3 reprimand a licensee or revoke, suspend, or refuse to renew
4 the license of a licensee found to have committed:

5 (1) fraud or deceit in obtaining a license or license
6 renewal;

7 (2) gross negligence, incompetency, or misconduct in
8 the practice of social work as a licensed master of social
9 work;

10 (3) a felony;

11 (4) a violation of the rules for licensed masters of
12 social work adopted by the board;

13 (5) a misdemeanor under [section 13]; or

14 (6) any of the following unprofessional acts:

15 (a) misrepresentation of the type or status of his
16 license;

17 (b) intentionally or recklessly causing physical or
18 emotional harm to a client;

19 (c) misrepresentation of his professional
20 qualifications, affiliations, or purposes;

21 (d) sexual relations with a client, solicitation of
22 sexual relations with a client, sexual misconduct, or a sex
23 offense if such act, offense, or solicitation is
24 substantially related to the qualifications, functions, or
25 duties of the licensee;

1 (e) performance of or representation of his ability to
2 perform professional services beyond his field or fields of
3 competence, as established by his education, training, and
4 experience;

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

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

14 (h) advertising in a manner that is false or
15 misleading.

16 **NEW SECTION.** Section 11. Procedure for charging
17 violation. (1) Any member of the board or other person may
18 charge a licensee with a violation of [section 10]. The
19 charge must be made by affidavit and subscribed and sworn to
20 by the person making it and filed with the department. The
21 charge must be investigated by the board and, unless the
22 board dismisses the charge after investigation as unfounded
23 or trivial, the board must act on the charge within 6 months
24 after the date on which the charge was filed. The board is
25 considered to have acted on a charge if it has given notice

1 by mail to the licensee of its intent to reprimand him or
2 revoke, suspend, or refuse to renew his license and the
3 notice contains those matters required by 2-4-601.

4 (2) Any hearing on the charge must be held before all
5 five members of the board and must be conducted in
6 accordance with 37-1-121(1) and the Montana Administrative
7 Procedure Act.

8 NEW SECTION. Section 12. Privileged communications --
9 exceptions. A licensee may not disclose any information he
10 acquires from clients consulting him in his professional
11 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 written consent of the client's personal representative or
15 guardian;

16 (2) that he need not treat as confidential a
17 communication otherwise confidential that reveals the
18 contemplation of a crime by the client or any other person
19 or that in his professional opinion reveals a threat of
20 imminent harm to the client or others;

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

1 is the subject of inquiry;

2 (4) that if the client or his personal representative
3 or guardian brings an action against a licensee for a claim
4 arising out of the social worker-client relationship, the
5 client is considered to have waived any privilege;

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

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

9 NEW SECTION. Section 13. Violations -- penalties. (1)
10 It is a misdemeanor for a person to:

11 (a) represent himself as a licensed master of social
12 work without being licensed under [sections 2 through 13];

13 (b) obtain or attempt to obtain a license or license
14 renewal by bribery or fraudulent representation; or

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

18 (2) A person convicted under this section shall be
19 imprisoned in the county jail for a period not exceeding 6
20 months or fined not more than \$500, or both. A person
21 convicted of a second offense under this section shall be
22 punished by both such fine and imprisonment.

23 Section 14. Section 33-22-111, MCA, is amended to
24 read:

25 "33-22-111. Policies to provide for freedom of choice

1 of practitioners — professional practice not enlarged. (1)
 2 All policies of disability insurance, including individual,
 3 group, and blanket policies and all policies insuring the
 4 payment of compensation under the Workers' Compensation Act
 5 shall provide the insured shall have full freedom of choice
 6 in the selection of any duly licensed physician, dentist,
 7 osteopath, chiropractor, optometrist, chiropodist, or
 8 psychologist, or master of social work for treatment of any
 9 illness or injury within the scope and limitations of his
 10 practice. Whenever such policies insure against the expense
 11 of drugs, the insured shall have full freedom of choice in
 12 the selection of any duly licensed and registered
 13 pharmacist.

14 (2) Nothing in this section shall be construed as
 15 enlarging the scope and limitations of practice of any of
 16 the licensed professions enumerated in subsection (1); nor
 17 shall this section be construed as amending, altering, or
 18 repealing any statutes relating to the licensing or use of
 19 hospitals."

20 Section 15. Section 33-30-101, MCA, is amended to
 21 read:

22 "33-30-101. Definitions. As used in this chapter, the
 23 following definitions apply:

24 (1) "Health service corporation" means a nonprofit
 25 corporation organized or operating for the purposes of

1 establishing and operating a nonprofit plan or plans under
 2 which prepaid hospital care, medical-surgical care, and
 3 other health care and services, or reimbursement therefor,
 4 may be furnished to a member or beneficiary.

5 (2) "Health services" means the health care and
 6 services provided by hospitals or other health care
 7 institutions, organizations, associations, or groups and by
 8 doctors of medicine, osteopathy, dentistry, chiropractic,
 9 optometry, and podiatry; nursing services; licensed masters
 10 of social work; medical appliances, equipment, and supplies;
 11 drugs, medicines, ambulance services, and other therapeutic
 12 services and supplies.

13 (3) "Membership contract" means any agreement,
 14 contract, or certificate by which a health service
 15 corporation describes the health services or benefits
 16 provided to its members or beneficiaries."

17 NEW SECTION. Section 16. Codification instruction.
 18 Section 1 is intended to be codified as an integral part of
 19 Title 2, chapter 15, part 18, and the provisions of Title 2,
 20 chapter 15, apply to section 1.

21 NEW SECTION. Section 17. Severability. If a part of
 22 this act is invalid, all valid parts that are severable from
 23 the invalid part remain in effect. If a part of this act is
 24 invalid in one or more of its applications, the part remains
 25 in effect in all valid applications that are severable from

1 the invalid applications.

-End-

STATE OF MONTANA

152-83

REQUEST NO. _____

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 284 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:

House Bill 284 provides for the mandatory licensing and regulation of Masters of Social Work; creates a State Board of Masters of Social Work; creates a communications privilege; provides for violations and penalties; allows disability and health insurance coverage for work done by licensed masters of Social Work; and amends Sections 33-22-111 and 33-30-101, MCA.

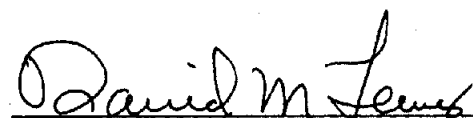
ASSUMPTIONS:

- 1) Assume 5 members attend 4 meetings per year at a rate of \$25 compensation per day for a total of 35 meeting days per year, plus mileage and per diem.
- 2) Assume 23 pages of rules with notices at \$13.50 per page for total of \$31.50.
- 3) Assume .10 FTE (Grade 10, step 2) for administrative assistance.
- 4) Assume use of professional exam service at cost of \$35 per exam (1983 cost).
- 5) Assume 200 licensees first year, 10-20 new applicants per year thereafter.
- 6) Assume license costs commensurate with costs of operating expenses.
- 7) Biennial renewals in odd-numbered years will reflect increased revenues in even-numbered fiscal years and decreased revenues in odd-numbered fiscal years.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Revenue:	\$24,000	\$3,300
Expenditures:	<u>(9,700)</u>	<u>(9,250)</u>
Total Impact to Earmarked Revenue	<u>\$14,300</u>	<u>\$(5,950)</u>

FISCAL NOTE 6:H/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-25-83

1 STATEMENT OF INTENT

2 HOUSE BILL 284

3 House Human Services Committee

4
5 Section 4 requires the Board of Social Work Examiners
6 to adopt rules setting professional, practice, and ethical
7 standards for licensed social workers, establishing
8 continuing education requirements, and adopting such other
9 rules as are necessary for the regulation of licensed social
10 workers. The Legislature perceives a need to regulate
11 persons holding themselves out as having a master's degree
12 in social work or using the title of master of social work.
13 Consumers of social worker's services are entitled to
14 adequate regulation of those services in the public
15 interest. It is contemplated that the Board may promulgate
16 rules that:

17 (1) protect the public from abuse of the trust placed
18 in social workers;

19 (2) regulate the day-to-day practices of licensed
20 social workers;

21 (3) ensure a professional attitude and professional
22 work in a professional atmosphere;

23 (4) regulate fees charged for services;

24 (5) regulate testing devices and methods used by
25 licensed social workers;

1 (6) regulate counseling techniques;

2 (7) determine the type, amount, and quality of
3 continuing education of licensed social workers; and

4 (8) are otherwise necessary to the regulation of the
5 profession.

SECOND READING

Approved by Comm. on Human Services

HOUSE BILL NO. 284

INTRODUCED BY WINSLOW, BERGENE, LORY, ADDY,

KITSELMAN, DOZIER, VINCENT, MARKS,

J. BROWN, SAUNDERS, J. JENSEN, ECK,

KOLSTAD, TONE, OCHSNER, JACOBSON,

HAFFEY, BOYLAN, MARBUT, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE MANDATORY LICENSING AND REGULATION OF MASTERS-OF SOCIAL WORKERS WORK; CREATING A STATE BOARD OF MASTERS--OF SOCIAL WORK EXAMINERS ; CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING FOR VIOLATIONS AND PENALTIES; AND ALLOWING DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK DONE BY LICENSED MASTERS-OF SOCIAL WORK WORKERS; AMENDING SECTIONS 33-22-111 AND 33-30-101, MCA."

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

NEW_SECTION. Section 1. Board of ~~masters--of~~ social work EXAMINERS. (1) The governor shall appoint a board of ~~masters-of~~ social work EXAMINERS consisting of five members. Each--member ~~FOUR MEMBERS~~ must have-a-master-of-social-work degree **BE LICENSED SOCIAL WORKERS**, and:

(a) one member must be in the private practice of social work;

(b) one member must be employed by a state social

service agency;

(c) one member must be in the private--practice--of mental-health **MEDICAL OR SOCIAL WELFARE FIELD; AND**

(d) one member must be an educator in the field of social work--and.

~~(2)(21)~~ one **ONE** member must be appointed from and represent the general public and may not be engaged in social work.

~~(2)(11)~~ The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

~~(3)(14)~~ The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124.

NEW_SECTION. Section 2. Purpose. The legislature finds and declares that because the profession of social work profoundly affect the lives of people of this state it is the purpose of [sections 2 through 13] to provide for the common good by insuring ethical, qualified, and professional practice of social work. [Sections 2 through 13] and the rules promulgated under [section 4] set standards of qualification, education, training, and experience and will establish professional ethics for those who seek to engage in the practice of social work as ~~masters-of~~ **LICENSED** social work **WORKERS**.

NEW_SECTION. Section 3. Definitions. As used in

1 [sections 2 through 13]:

2 (1) "Board" means the board of ~~masters-of~~ social work
3 ~~EXAMINERS~~ established under [section 1].

4 (2) "Department" means the department of commerce.

5 (3) "Licensee" means a person licensed under [sections
6 2 through 13].

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

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

22 (a) counseling and using psychotherapy with
23 individuals, families, or groups;

24 (b) providing information and referral services;

25 (c) providing, arranging, or supervising the provision

1 of social services;

2 (d) explaining and interpreting the psychosocial
3 aspects in the situations of individuals, families, or
4 groups;

5 (e) helping communities to organize to provide or
6 improve social and health services; and

7 (f) research or teaching related to social work.

8 NEW SECTION. Section 4. Duties of board. The board
9 shall:

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

12 (2) recommend prosecutions for violations of [section
13 13] to the attorney general or the appropriate county
14 attorneys ~~ATTORNEY~~, or both;

15 (3) annually publish a list of the names and addresses
16 of all persons who are licensed ~~masters-of~~ social work
17 ~~WORKERS~~;

18 (4) establish requirements for continuing education
19 that are a condition of license renewal;

20 (5) meet at least once every 3 months to perform the
21 duties described in this section. The board may, once a
22 year by a consensus of its members, determine that there is
23 no necessity for a board meeting.

24 (6) distribute a copy of the ethical standards to the
25 certified masters of social work; and

(7) adopt rules that set professional, practice, and ethical standards for licensed masters of social work and such other rules as may be reasonably necessary for the administration of [sections 2 through 13].

~~NEW SECTION.~~ Section 5. Representation to public as licensed master-of social work ~~WORKER~~ — limitations on use of title. (1) No person may represent himself to be a licensed master-of social work ~~WORKER~~ by adding the letters "LMSW LSW" after his name or by any other means unless licensed under [sections 2 through 13].

(2) Subsection (1) does not prohibit:

(a) qualified members of other professions such as physicians, psychologists, lawyers, pastoral counselors, or educators, ~~OR THE GENERAL PUBLIC ENGAGED IN SOCIAL WORK LIKE~~ ~~ACTIVITIES~~ from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "LICENSED social work" or "LICENSED social worker";

(b) activities, services, and use of an official title by a person in the employ of a federal, state, county, or municipal agency or an educational, research, or charitable institution which are a part of the duties of the office or position;

(c) ~~activities--and--services--of an employee--of--a business--establishment~~ ~~EMPLOYER FROM PERFORMING SOCIAL WORK~~

~~LIKE ACTIVITIES~~ performed solely for the benefit of the establishment's ~~HIS~~ employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services of a person who is not a resident of this state, which services are rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law of the state or country of residence to perform such activities and services. However, such persons shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform such activities and services in the state of his former residence.

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5 shall present three letters of reference from social workers
6 or members of an allied profession who have knowledge of the
7 applicant's professional performance and demonstrate to the
8 board that he:

9 (a) has a doctorate or master's degree in social work
10 from a program accredited by the council on social work
11 education or approved by the board of--masters--of--social
12 work;

13 (b) has accumulated 3,000 hours of practice in social
14 work ~~PSYCHOTHERAPY~~ within the past 5 years; and

15 (c) abides by the social work ethical standards
16 adopted under [section 4].

17 (3) An applicant who has failed the examination may
18 reapply to take the examination.

19 (4) An applicant is exempt from the examination
20 requirement if he satisfies the board that he is licensed,
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22 territory of the United States that imposes substantially
23 the same requirements as [sections 2 through 13] and that he
24 has passed an examination similar to that required by the
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1 ~~NEW SECTION.~~ Section 7. Fees. (1) Each applicant for
2 a license shall, upon submitting his application to the
3 board, pay an application fee set by the board equal to the
4 cost of processing the application.

5 (2) Each applicant for a license required to take an
6 examination shall, prior to commencement of the examination,
7 pay an examination fee set by the board equal to the cost of
8 administering the examination.

9 (3) Each applicant shall, prior to receipt of a
10 license or license renewal, pay a fee set by the board equal
11 to the cost of issuing a license.

12 (4) Subject to 37-1-101(6), money paid for
13 application, examination, license, and license renewal fees
14 must be deposited in an earmarked revenue fund for the use
15 of the board.

16 ~~NEW SECTION.~~ Section 8. Issuance, effective date, and
17 display of license. (1) Upon successful completion of the
18 examination required by [section 6] or upon demonstration by
19 a person that he is exempt from examination and has
20 otherwise fulfilled the requirements of [section 6], the
21 applicant must be issued a license attesting to the date and
22 fact of licensure. The license is effective on the date of
23 issuance and expires 2 years after that date.

24 (2) The license must be displayed in the registrant's
25 place of business or employment.

1 NEW SECTION. Section 9. Renewal of license. (1) An
2 application for renewal of an existing license made within
3 60 days after the expiration of the license is timely, and
4 the rights and privileges of the applicant during that
5 period remain in effect.

6 (2) Application for renewal must be made upon a form
7 provided by the department. A renewal license must be
8 issued upon payment of a renewal fee set by the board and
9 upon submitting proof of completion of continuing education
10 requirements.

11 NEW SECTION. Section 10. Grounds for revocation,
12 suspension, or refusal to renew license. The board may
13 reprimand a licensee or revoke, suspend, or refuse to renew
14 the license of a licensee found to have committed:

15 (1) fraud or deceit in obtaining a license or license
16 renewal;

17 (2) gross negligence, incompetency, or misconduct in
18 the practice of social work as a licensed master-of social
19 work ~~WORKER~~;

20 (3) a felony;

21 (4) a violation of the rules for licensed masters--of
22 social work ~~WORKERS~~ adopted by the board;

23 (5) a misdemeanor under [section 13]; or

24 (6) any of the following unprofessional acts:

25 (a) misrepresentation of the type or status of his

1 license;

2 (b) intentionally or recklessly causing physical or
3 emotional harm to a client;

4 (c) misrepresentation of his professional
5 qualifications, affiliations, or purposes;

6 (d) sexual relations with a client, solicitation of
7 sexual relations with a client, sexual misconduct, or a sex
8 offense if such act, offense, or solicitation is
9 substantially related to the qualifications, functions, or
10 duties of the licensee;

11 (e) performance of or representation of his ability to
12 perform professional services beyond his field or fields of
13 competence, as established by his education, training, and
14 experience;

15 (f) failure to maintain the confidentiality, except as
16 otherwise required or permitted by law, of all information
17 received from a client during the course of treatment and
18 all information about the client obtained from tests or
19 other means;

20 (g) prior to the commencement of treatment, failure to
21 disclose to a client or prospective client the fee to be
22 charged for professional services or the basis upon which
23 such fee will be computed; or

24 (h) advertising in a manner that is false or
25 misleading.

1 **NEW_SECTION.** Section 11. Procedure for charging
 2 violation. (1) Any member of the board or other person may
 3 charge a licensee with a violation of [section 10]. The
 4 charge must be made by affidavit and subscribed and sworn to
 5 by the person making it and filed with the department. The
 6 charge must be investigated by the board and, unless the
 7 board dismisses the charge after investigation as unfounded
 8 or trivial, the board must act on the charge within 6 months
 9 after the date on which the charge was filed. The board is
 10 considered to have acted on a charge if it has given notice
 11 by mail to the licensee of its intent to reprimand him or
 12 revoke, suspend, or refuse to renew his license and the
 13 notice contains those matters required by 2-4-601.

14 (2) Any hearing on the charge must be held before all
 15 five members of the board and must be conducted in
 16 accordance with 37-1-121(1) and the Montana Administrative
 17 Procedure Act.

18 **NEW_SECTION.** Section 12. Privileged communications --
 19 exceptions. A licensee may not disclose any information he
 20 acquires from clients consulting him in his professional
 21 capacity except:

22 (1) with the written consent of the client or, in the
 23 case of the client's death or mental incapacity, with the
 24 written consent of the client's personal representative or
 25 guardian;

1 (2) that he need not treat as confidential a
 2 communication otherwise confidential that reveals the
 3 contemplation of a crime by the client or any other person
 4 or that in his professional opinion reveals a threat of
 5 imminent harm to the client or others;

6 (3) that if the client is a minor and information
 7 acquired by the licensee indicates that the client was the
 8 victim of a crime, the licensee may be required to testify
 9 fully in relation thereto in any investigation, trial, or
 10 other legal proceeding in which the commission of such crime
 11 is the subject of inquiry;

12 (4) that if the client or his personal representative
 13 or guardian brings an action against a licensee for a claim
 14 arising out of the social worker-client relationship, the
 15 client is considered to have waived any privilege;

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

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

19 **NEW_SECTION.** Section 13. Violations -- penalties. (1)
 20 It is a misdemeanor for a person to:

21 (a) represent himself as a licensed ~~master~~ of social
 22 work ~~WORKER~~ without being licensed under [sections 2 through
 23 13];

24 (b) obtain or attempt to obtain a license or license
 25 renewal by bribery or fraudulent representation; or

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

4 (2) A person convicted under this section shall be
5 imprisoned in the county jail for a period not exceeding 6
6 months or fined not more than \$500, or both. A person
7 convicted of a second offense under this section shall be
8 punished by both such fine and imprisonment.

9 Section 14. Section 33-22-111, MCA, is amended to
10 read:

11 "33-22-111. Policies to provide for freedom of choice
12 of practitioners -- professional practice not enlarged. (1)
13 All policies of disability insurance, including individual,
14 group, and blanket policies and all policies insuring the
15 payment of compensation under the Workers' Compensation Act
16 shall provide the insured shall have full freedom of choice
17 in the selection of any duly licensed physician, dentist,
18 osteopath, chiropractor, optometrist, chiropodist, or
19 psychologist, ~~or master of~~ LICENSED social work WORKER for
20 treatment of any illness or injury within the scope and
21 limitations of his practice. Whenever such policies insure
22 against the expense of drugs, the insured shall have full
23 freedom of choice in the selection of any duly licensed and
24 registered pharmacist.

25 (2) Nothing in this section shall be construed as

1 enlarging the scope and limitations of practice of any of
2 the licensed professions enumerated in subsection (1); nor
3 shall this section be construed as amending, altering, or
4 repealing any statutes relating to the licensing or use of
5 hospitals."

6 Section 15. Section 33-30-101, MCA, is amended to
7 read:

8 "33-30-101. Definitions. As used in this chapter, the
9 following definitions apply:

10 (1) "Health service corporation" means a nonprofit
11 corporation organized or operating for the purposes of
12 establishing and operating a nonprofit plan or plans under
13 which prepaid hospital care, medical-surgical care, and
14 other health care and services, or reimbursement therefor,
15 may be furnished to a member or beneficiary.

16 (2) "Health services" means the health care and
17 services provided by hospitals or other health care
18 institutions, organizations, associations, or groups and by
19 doctors of medicine, osteopathy, dentistry, chiropractic,
20 optometry, and podiatry; nursing services; licensed ~~masters~~
21 ~~of social work WORKER OR PSYCHOLOGIST~~; medical appliances,
22 equipment, and supplies; drugs, medicines, ambulance
23 services, and other therapeutic services and supplies.

24 (3) "Membership contract" means any agreement,
25 contract, or certificate by which a health service

1 corporation describes the health services or benefits
2 provided to its members or beneficiaries."

3 NEW SECTION. Section 16. Codification instruction.
4 Section 1 is intended to be codified as an integral part of
5 Title 2, chapter 15, part 18, and the provisions of Title 2,
6 chapter 15, apply to section 1.

7 NEW SECTION. Section 17. Severability. If a part of
8 this act is invalid, all valid parts that are severable from
9 the invalid part remain in effect. If a part of this act is
10 invalid in one or more of its applications, the part remains
11 in effect in all valid applications that are severable from
12 the invalid applications.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 284

3 House Human Services Committee

4
5 Section 4 requires the Board of Social Work Examiners
6 to adopt rules setting professional, practice, and ethical
7 standards for licensed social workers, establishing
8 continuing education requirements, and adopting such other
9 rules as are necessary for the regulation of licensed social
10 workers. The Legislature perceives a need to regulate
11 persons holding themselves out as having a master's degree
12 in social work or using the title of master of social work.
13 Consumers of social worker's services are entitled to
14 adequate regulation of those services in the public
15 interest. It is contemplated that the Board may promulgate
16 rules that:

17 (1) protect the public from abuse of the trust placed
18 in social workers;

19 (2) regulate the day-to-day practices of licensed
20 social workers;

21 (3) ensure a professional attitude and professional
22 work in a professional atmosphere;

23 (4) regulate fees charged for services;

24 (5) regulate testing devices and methods used by
25 licensed social workers;

1 (6) regulate counseling techniques;

2 (7) determine the type, amount, and quality of
3 continuing education of licensed social workers; and

4 (8) are otherwise necessary to the regulation of the
5 profession.

Approved by Comm. on Human Services

HOUSE BILL NO. 284

INTRODUCED BY WINSLOW, BERGENE, LORV, ADDY,

KITSELMAN, DOZIER, VINCENT, MARKS,

J. BROWN, SAUNDERS, J. JENSEN, ECK,

KOLSTAD, TOWE, OCHSNER, JACOBSON,

HAFFEY, BOYLAN, MARBUT, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE MANDATORY LICENSING AND REGULATION OF MASTERS-OF SOCIAL WORKERS WORK; CREATING A STATE BOARD OF MASTERS--OF SOCIAL WORK EXAMINERS ; CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING FOR VIOLATIONS AND PENALTIES; AND ALLOWING DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK DONE BY LICENSED MASTERS-OF SOCIAL WORK WORKERS; AMENDING SECTIONS 33-22-111 AND 33-30-101, MCA."

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

NEW SECTION. Section 1. Board of masters--of social work EXAMINERS. (1) The governor shall appoint a board of masters-of social work EXAMINERS consisting of five members. Each--member FOUR MEMBERS must have a master-of-social-work degree BE LICENSED SOCIAL WORKERS, and:

(a) one member must be in the private practice of social work;

(b) one member must be employed by a state social

service agency;

(c) one member must be in the private--practice--of mental-health MEDICAL OR SOCIAL WELFARE FIELD; AND

(d) one member must be an educator in the field of social work--and,

~~(e)~~ (2) one ONE member must be appointed from and represent the general public and may not be engaged in social work.

~~(2)~~ (3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

~~(3)~~ (4) The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124.

NEW SECTION. Section 2. Purpose. The legislature finds and declares that because the profession of social work profoundly affect the lives of people of this state it is the purpose of [sections 2 through 13] to provide for the common good by insuring ethical, qualified, and professional practice of social work. [Sections 2 through 13] and the rules promulgated under [section 4] set standards of qualification, education, training, and experience and will establish professional ethics for those who seek to engage in the practice of social work as masters-of LICENSED social work WORKERS.

NEW SECTION. Section 3. Definitions. As used in

[sections 2 through 13]:

(1) "Board" means the board of masters of social work EXAMINERS established under [section 1].

(2) "Department" means the department of commerce.

(3) "Licensee" means a person licensed under [sections 2 through 13].

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

(5) "Social work" means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves the application of social work techniques, including but not limited to:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision

of social services;

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

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

(f) research or teaching related to social work.

NEW SECTION. Section 4. Duties of board. The board shall:

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

(2) recommend prosecutions for violations of [section 13] to the attorney general or the appropriate county attorneys ATTORNEY, or both;

(3) annually publish a list of the names and addresses of all persons who are licensed masters of social work WORKERS;

(4) establish requirements for continuing education that are a condition of license renewal;

(5) meet at least once every 3 months to perform the duties described in this section. The board may, once a year by a consensus of its members, determine that there is no necessity for a board meeting.

(6) distribute a copy of the ethical standards to the certified masters of social work; and

(7) adopt rules that set professional, practice, and ethical standards for licensed masters of social work and such other rules as may be reasonably necessary for the administration of [sections 2 through 13].

~~NEW SECTION.~~ Section 5. Representation to public as licensed master-of social work ~~WORKER~~ — limitations on use of title. (1) No person may represent himself to be a licensed master-of social work ~~WORKER~~ by adding the letters "MSW LS" after his name or by any other means unless licensed under [sections 2 through 13].

(2) Subsection (1) does not prohibit:

(a) qualified members of other professions such as physicians, psychologists, lawyers, pastoral counselors, or educators, ~~OR THE GENERAL PUBLIC ENGAGED IN SOCIAL WORK LIKE ACTIVITIES~~ from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "LICENSED social work" or "LICENSED social worker";

(b) activities, services, and use of an official title by a person in the employ of a federal, state, county, or municipal agency or an educational, research, or charitable institution which are a part of the duties of the office or position;

(c) ~~activities--and--services--of an employee--of--a business--establishment~~ ~~EMPLOYER FROM PERFORMING SOCIAL WORK~~

~~LIKE ACTIVITIES~~ performed solely for the benefit of the establishment's ~~HIS~~ employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services of a person who is not a resident of this state, which services are rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law of the state or country of residence to perform such activities and services. However, such persons shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform such activities and services in the state of his former residence.

~~NEW SECTION.~~ Section 6. License requirements — exemptions. (1) A license applicant shall satisfactorily complete an examination prepared and administered by the board, except that during the 365-day period following the

2

1 effective date of [sections 2 through 13] a license must be
2 granted without examination if the requirements of
3 subsection (2) are met.

4 (2) Before an applicant may take the examination, he
5 shall present three letters of reference from social workers
6 or members of an allied profession who have knowledge of the
7 applicant's professional performance and demonstrate to the
8 board that he:

9 (a) has a doctorate or master's degree in social work
10 from a program accredited by the council on social work
11 education or approved by the board of ~~social workers~~ of ~~social~~
12 ~~work~~;

13 (b) has accumulated 3,000 hours of practice in ~~social~~
14 ~~work~~ PSYCHOTHERAPY within the past 5 years; and

15 (c) abides by the social work ethical standards
16 adopted under [section 4].

17 (3) An applicant who has failed the examination may
18 reapply to take the examination.

19 (4) An applicant is exempt from the examination
20 requirement if 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 that he
24 has passed an examination similar to that required by the
25 board.

1 NEW SECTION. Section 7. Fees. (1) Each applicant for
2 a license shall, upon submitting his application to the
3 board, pay an application fee set by the board equal to the
4 cost of processing the application.

5 (2) Each applicant for a license required to take an
6 examination shall, prior to commencement of the examination,
7 pay an examination fee set by the board equal to the cost of
8 administering the examination.

9 (3) Each applicant shall, prior to receipt of a
10 license or license renewal, pay a fee set by the board equal
11 to the cost of issuing a license.

12 (4) Subject to 37-1-101(6), money paid for
13 application, examination, license, and license renewal fees
14 must be deposited in an earmarked revenue fund for the use
15 of the board.

16 NEW SECTION. Section 8. Issuance, effective date, and
17 display of license. (1) Upon successful completion of the
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19 a person that he is exempt from examination and has
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23 issuance and expires 2 years after that date.

24 (2) The license must be displayed in the registrant's
25 place of business or employment.

1 **NEW SECTION.** Section 9. Renewal of license. (1) An
2 application for renewal of an existing license made within
3 60 days after the expiration of the license is timely, and
4 the rights and privileges of the applicant during that
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6 (2) Application for renewal must be made upon a form
7 provided by the department. A renewal license must be
8 issued upon payment of a renewal fee set by the board and
9 upon submitting proof of completion of continuing education
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18 the practice of social work as a licensed master of social
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3 emotional harm to a client;

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7 sexual relations with a client, sexual misconduct, or a sex
8 offense if such act, offense, or solicitation is
9 substantially related to the qualifications, functions, or
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12 perform professional services beyond his field or fields of
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15 (f) failure to maintain the confidentiality, except as
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17 received from a client during the course of treatment and
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21 disclose to a client or prospective client the fee to be
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 2 communication otherwise confidential that reveals the
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 13 or guardian brings an action against a licensee for a claim
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 20 It is a misdemeanor for a person to:

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24 (b) obtain or attempt to obtain a license or license
 25 renewal by bribery or fraudulent representation; or

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

(2) A person convicted under this section shall be imprisoned in the county jail for a period not exceeding 6 months or fined not more than \$500, or both. A person convicted of a second offense under this section shall be punished by both such fine and imprisonment.

Section 14. Section 33-22-111, MCA, is amended to read:

"33-22-111. Policies to provide for freedom of choice of practitioners -- professional practice not enlarged. (1) All policies of disability insurance, including individual, group, and blanket policies and all policies insuring the payment of compensation under the Workers' Compensation Act shall provide the insured shall have full freedom of choice in the selection of any duly licensed physician, dentist, osteopathy, chiropractor, optometrist, chiropodist, or psychologist, ~~or master of~~ **LICENSED social work WORKER** for treatment of any illness or injury within the scope and limitations of his practice. Whenever such policies insure against the expense of drugs, the insured shall have full freedom of choice in the selection of any duly licensed and registered pharmacist.

(2) Nothing in this section shall be construed as

enlarging the scope and limitations of practice of any of the licensed professions enumerated in subsection (1); nor shall this section be construed as amending, altering, or repealing any statutes relating to the licensing or use of hospitals."

Section 15. Section 33-30-101, MCA, is amended to read:

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(1) "Health service corporation" means a nonprofit corporation organized or operating for the purposes of establishing and operating a nonprofit plan or plans under which prepaid hospital care, medical-surgical care, and other health care and services, or reimbursement therefor, may be furnished to a member or beneficiary.

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1 corporation describes the health services or benefits
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5 Title 2, chapter 15, part 18, and the provisions of Title 2,
6 chapter 15, apply to section 1.

7 NEW SECTION. Section 17. Severability. If a part of
8 this act is invalid, all valid parts that are severable from
9 the invalid part remain in effect. If a part of this act is
10 invalid in one or more of its applications, the part remains
11 in effect in all valid applications that are severable from
12 the invalid applications.

-End-

March 24, 1983

SENATE STANDING COMMITTEE REPORT
(Public Health, Welfare & Safety)

That House Bill No. 284 be amended as follows:

1. Title, line 14.

Strike: "SECTIONS"

Insert: "SECTION"

2. Title, line 15.

Strike: "33-22-111 AND"

3. Page 3, line 21.

Strike: "but not limited to"

4. Page 4, lines 10 and 11.

Strike: "(1) recommend amendments to [Sections 2 through 13]
to the governor or the legislature, or both;"

Insert: ", subject to 37-1-101, examine qualified applicants,
issue licenses to qualified applicants that meet the require-
ments of [this act], and renew licenses under the provisions
of [this act]."

Renumber: Subsequent subsections

5. Page 7, line 6.

Strike: "or members of an allied profession"

Insert: ", psychiatrists, psychologists, or psychiatric
nurses"

6. Page 13, line 9.

Strike: Section 14 in its entirety

Renumber: Subsequent sections

1 STATEMENT OF INTENT

2 HOUSE BILL 284

3 House Human Services Committee

4
5 Section 4 requires the Board of Social Work Examiners
6 to adopt rules setting professional, practice, and ethical
7 standards for licensed social workers, establishing
8 continuing education requirements, and adopting such other
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11 persons holding themselves out as having a master's degree
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14 adequate regulation of those services in the public
15 interest. It is contemplated that the Board may promulgate
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20 social workers;

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22 work in a professional atmosphere;

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25 licensed social workers;

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3 continuing education of licensed social workers; and

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5 profession.

HOUSE BILL NO. 284

INTRODUCED BY WINSLOW, BERGENE, LORY, ADDY,

KITSELMAN, DOZIER, VINCENT, MARKS,

J. BROWN, SAUNDERS, J. JENSEN, ECK,

KOLSTAD, TOME, OCHSNER, JACOBSON,

HAFFEY, BOYLAN, MARBUT, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 MANDATORY LICENSING AND REGULATION OF MASTERS-OF SOCIAL
 WORKERS WORK; CREATING A STATE BOARD OF MASTERS--OF SOCIAL
 WORK EXAMINERS; CREATING A COMMUNICATIONS PRIVILEGE;
 PROVIDING FOR VIOLATIONS AND PENALTIES; AND ALLOWING
 DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK DONE BY
 LICENSED MASTERS-OF SOCIAL WORK WORKERS; AMENDING SECTIONS
 33-22-111-AND SECTION 33-30-101, MCA."

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

NEW SECTION. Section 1. Board of masters--of social
 work EXAMINERS. (1) The governor shall appoint a board of
 masters-of social work EXAMINERS consisting of five members.
 Each--member FOUR MEMBERS must have-a-master-of-social-work
 degree BE LICENSED SOCIAL WORKERS, and:

(a) one member must be in the private practice of
 social work;

(b) one member must be employed by a state social

service agency;

(c) one member must be in the private--practice--of
 mental-health MEDICAL OR SOCIAL WELFARE FIELD; AND

(d) one member must be an educator in the field of
 social work--and.

~~(2)(1)~~ one ONE member must be appointed from and
 represent the general public and may not be engaged in
 social work.

~~(2)(3)~~ The board is allocated to the department for
 administrative purposes only as prescribed in 2-15-121.

~~(3)(4)~~ The board is designated a quasi-judicial board.
 Members are appointed, serve, and are subject to removal in
 accordance with 2-15-124.

NEW SECTION. Section 2. Purpose. The legislature
 finds and declares that because the profession of social
 work profoundly affect the lives of people of this state it
 is the purpose of [sections 2 through 13] to provide for the
 common good by insuring ethical, qualified, and professional
 practice of social work. [Sections 2 through 13] and the
 rules promulgated under [section 4] set standards of
 qualification, education, training, and experience and will
 establish professional ethics for those who seek to engage
 in the practice of social work as masters-of LICENSED social
 work WORKERS.

NEW SECTION. Section 3. Definitions. As used in

1 [sections 2 through 13]:

2 (1) "Board" means the board of ~~masters-of~~ social work

3 ~~EXAMINERS~~ established under [section 1].

4 (2) "Department" means the department of commerce.

5 (3) "Licensee" means a person licensed under [sections

6 2 through 13].

7 (4) "Psychotherapy" means the use of psychosocial

8 methods within a professional relationship to assist a

9 person to achieve a better psychosocial adaptation and to

10 modify internal and external conditions that affect

11 individuals, groups, or families in respect to behavior,

12 emotions, and thinking concerning their interpersonal

13 processes.

14 (5) "Social work" means the professional practice

15 directed toward helping people achieve more adequate,

16 satisfying, and productive social adjustments. The practice

17 of social work involves special knowledge of social

18 resources, human capabilities, and the roles that individual

19 motivation and social influences play in determining

20 behavior and involves the application of social work

21 techniques, including ~~but-not-limited-to~~:

22 (a) counseling and using psychotherapy with

23 individuals, families, or groups;

24 (b) providing information and referral services;

25 (c) providing, arranging, or supervising the provision

1 of social services;

2 (d) explaining and interpreting the psychosocial

3 aspects in the situations of individuals, families, or

4 groups;

5 (e) helping communities to organize to provide or

6 improve social and health services; and

7 (f) research or teaching related to social work.

8 ~~NEW SECTION.~~ Section 4. Duties of board. The board

9 shall:

10 (1) ~~recommend amendments to [sections 2 through 13] to~~

11 ~~the---governor---or---the---legislature---or---both~~ SUBJECT TO

12 37-1-101, EXAMINE QUALIFIED APPLICANTS, ISSUE LICENSES TO

13 QUALIFIED APPLICANTS THAT MEET THE REQUIREMENTS OF [THIS

14 ACT], AND RENEW LICENSES UNDER THE PROVISIONS OF [THIS ACT].

15 ~~(2)~~ (1) recommend prosecutions for violations of

16 [section 13] to the attorney general or the appropriate

17 county attorneys ~~ATTORNEY~~, or both;

18 ~~(3)~~ (2) annually publish a list of the names and

19 addresses of all persons who are licensed ~~masters-of~~ social

20 work ~~WORKERS~~;

21 ~~(4)~~ (3) establish requirements for continuing education

22 that are a condition of license renewal;

23 ~~(5)~~ (4) meet at least once every 3 months to perform

24 the duties described in this section. The board may, once a

25 year by a consensus of its members, determine that there is

1 no necessity for a board meeting.

2 ~~(6)(5)~~ distribute a copy of the ethical standards to

3 the certified masters of social work; and

4 ~~(7)(6)~~ adopt rules that set professional, practice,

5 and ethical standards for licensed masters of social work

6 and such other rules as may be reasonably necessary for the

7 administration of [sections 2 through 13].

8 ~~NEW SECTION.~~ Section 5. Representation to public as

9 licensed master-of social work ~~WORKER~~ -- limitations on use

10 of title. (1) No person may represent himself to be a

11 licensed master-of social work ~~WORKER~~ by adding the letters

12 "LMSW LSW" after his name or by any other means unless

13 licensed under [sections 2 through 13].

14 (2) Subsection (1) does not prohibit:

15 (a) qualified members of other professions such as

16 physicians, psychologists, lawyers, pastoral counselors, or

17 educators, ~~OR THE GENERAL PUBLIC ENGAGED IN SOCIAL WORK LIKE~~

18 ~~ACTIVITIES~~ from doing social work consistent with their

19 training if they do not hold themselves out to the public by

20 a title or description incorporating the words "LICENSED

21 social work" or "LICENSED social worker";

22 (b) activities, services, and use of an official title

23 by a person in the employ of a federal, state, county, or

24 municipal agency or an educational, research, or charitable

25 institution which are a part of the duties of the office or

1 position;

2 (c) ~~activities--and--services--of an employee--of--a~~

3 ~~business--establishment~~ EMPLOYER FROM PERFORMING SOCIAL WORK

4 LIKE ACTIVITIES performed solely for the benefit of the

5 establishment's ~~HIS~~ employees;

6 (d) activities and services of a student, intern, or

7 resident in social work pursuing a course of study at an

8 accredited university or college or working in a generally

9 recognized training center if the activities and services

10 constitute a part of the supervised course of study;

11 (e) activities and services of a person who is not a

12 resident of this state, which services are rendered for a

13 period that does not exceed, in the aggregate, 60 days

14 during a calendar year if the person is authorized under the

15 law of the state or country of residence to perform such

16 activities and services. However, such persons shall report

17 to the department the nature and extent of the activities

18 and services if they exceed 10 days in a calendar year.

19 (f) pending disposition of the application for a

20 license, activities and services by a person who has

21 recently become a resident of this state, has applied for a

22 license within 90 days of taking up residency in this state,

23 and is licensed to perform such activities and services in

24 the state of his former residence.

25 ~~NEW SECTION.~~ Section 6. License requirements --

1 exemptions. (1) A license applicant shall satisfactorily
2 complete an examination prepared and administered by the
3 board, except that during the 365-day period following the
4 effective date of [sections 2 through 13] a license must be
5 granted without examination if the requirements of
6 subsection (2) are met.

7 (2) Before an applicant may take the examination, he
8 shall present three letters of reference from social workers
9 ~~or---members---of---an---affiliated---profession, PSYCHIATRISTS,~~
10 ~~PSYCHOLOGISTS, OR PSYCHIATRIC NURSES~~ who have knowledge of
11 the applicant's professional performance and demonstrate to
12 the board that he:

13 (a) has a doctorate or master's degree in social work
14 from a program accredited by the council on social work
15 education or approved by the board ~~of---masters---of---social~~
16 ~~work;~~

17 (b) has accumulated 3,000 hours of practice in ~~social~~
18 ~~work~~ PSYCHOTHERAPY within the past 5 years; and

19 (c) abides by the social work ethical standards
20 adopted under [section 4].

21 (3) An applicant who has failed the examination may
22 reapply to take the examination.

23 (4) An applicant is exempt from the examination
24 requirement if he satisfies the board that he is licensed,
25 certified, or registered under the laws of a state or

1 territory of the United States that imposes substantially
2 the same requirements as [sections 2 through 13] and that he
3 has passed an examination similar to that required by the
4 board.

5 ~~NEW SECTION.~~ Section 7. Fees. (1) Each applicant for
6 a license shall, upon submitting his application to the
7 board, pay an application fee set by the board equal to the
8 cost of processing the application.

9 (2) Each applicant for a license required to take an
10 examination shall, prior to commencement of the examination,
11 pay an examination fee set by the board equal to the cost of
12 administering the examination.

13 (3) Each applicant shall, prior to receipt of a
14 license or license renewal, pay a fee set by the board equal
15 to the cost of issuing a license.

16 (4) Subject to 37-1-101(b), money paid for
17 application, examination, license, and license renewal fees
18 must be deposited in an earmarked revenue fund for the use
19 of the board.

20 ~~NEW SECTION.~~ Section 8. Issuance, effective date, and
21 display of license. (1) Upon successful completion of the
22 examination required by [section 6] or upon demonstration by
23 a person that he is exempt from examination and has
24 otherwise fulfilled the requirements of [section 6], the
25 applicant must be issued a license attesting to the date and

1 fact of licensure. The license is effective on the date of
2 issuance and expires 2 years after that date.

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

5 **NEW SECTION.** Section 9. Renewal of license. (1) An
6 application for renewal of an existing license made within
7 60 days after the expiration of the license is timely, and
8 the rights and privileges of the applicant during that
9 period remain in effect.

10 (2) Application for renewal must be made upon a form
11 provided by the department. A renewal license must be
12 issued upon payment of a renewal fee set by the board and
13 upon submitting proof of completion of continuing education
14 requirements.

15 **NEW SECTION.** Section 10. Grounds for revocation,
16 suspension, or refusal to renew license. The board may
17 reprimand a licensee or revoke, suspend, or refuse to renew
18 the license of a licensee found to have committed:

19 (1) fraud or deceit in obtaining a license or license
20 renewal;

21 (2) gross negligence, incompetency, or misconduct in
22 the practice of social work as a licensed master-of social
23 work ~~WORKER~~;

24 (3) a felony;

25 (4) a violation of the rules for licensed masters--of

1 social work ~~WORKERS~~ adopted by the board;

2 (5) a misdemeanor under [section 13]; or

3 (6) any of the following unprofessional acts:

4 (a) misrepresentation of the type or status of his
5 license;

6 (b) intentionally or recklessly causing physical or
7 emotional harm to a client;

8 (c) misrepresentation of his professional
9 qualifications, affiliations, or purposes;

10 (d) sexual relations with a client, solicitation of
11 sexual relations with a client, sexual misconduct, or a sex
12 offense if such act, offense, or solicitation is
13 substantially related to the qualifications, functions, or
14 duties of the licensee;

15 (e) performance of or representation of his ability to
16 perform professional services beyond his field or fields of
17 competence, as established by his education, training, and
18 experience;

19 (f) failure to maintain the confidentiality, except as
20 otherwise required or permitted by law, of all information
21 received from a client during the course of treatment and
22 all information about the client obtained from tests or
23 other means;

24 (g) prior to the commencement of treatment, failure to
25 disclose to a client or prospective client the fee to be

charged for professional services or the basis upon which such fee will be computed; or

(h) advertising in a manner that is false or misleading.

NEW SECTION. Section 11. Procedure for charging violation. (1) Any member of the board or other person may charge a licensee with a violation of [section 10]. The charge must be made by affidavit and subscribed and sworn to by the person making it and filed with the department. The charge must be investigated by the board and, unless the board dismisses the charge after investigation as unfounded or trivial, the board must act on the charge within 6 months after the date on which the charge was filed. The board is considered to have acted on a charge if it has given notice by mail to the licensee of its intent to reprimand him or revoke, suspend, or refuse to renew his license and the notice contains those matters required by 2-4-601.

(2) Any hearing on the charge must be held before all five members of the board and must be conducted in accordance with 37-1-121(1) and the Montana Administrative Procedure Act.

NEW SECTION. Section 12. Privileged communications -- exceptions. A licensee may not disclose any information he acquires from clients consulting him in his professional capacity except:

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

(2) that he need not treat as confidential a communication otherwise confidential that reveals the contemplation of a crime by the client or any other person or that in his professional opinion reveals a threat of imminent harm to the client or others;

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

(4) that if the client or his personal representative or guardian brings an action against a licensee for a claim arising out of the social worker-client relationship, the client is considered to have waived any privilege;

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

(6) as may otherwise be required by law.

NEW SECTION. Section 13. Violations -- penalties. (1) It is a misdemeanor for a person to:

(a) represent himself as a licensed master--of social

1 work WORKER without being licensed under [sections 2 through
2 13];

3 (b) obtain or attempt to obtain a license or license
4 renewal by bribery or fraudulent representation; or

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

8 (2) A person convicted under this section shall be
9 imprisoned in the county jail for a period not exceeding 6
10 months or fined not more than \$500, or both. A person
11 convicted of a second offense under this section shall be
12 punished by both such fine and imprisonment.

13 Section 14. Section 33-22-111, MCA, is amended to
14 read:

15 "33-22-111. Purpose. To provide for freedom of choice
16 of practitioners and professional practice not entangled with
17 all policies of disability insurance, including individual
18 groups, and blanket policies and all policies insuring the
19 payment of compensation under the Workers' Compensation Act
20 shall provide the insured shall have full freedom of choice
21 in the selection of any duly licensed physician, dentist,
22 osteopathy, chiropractor, optometrist, chiropodist, or
23 psychologist or master of LICENSED social work WORKER for
24 treatment of any illness or injury within the scope and
25 limitations of his practice. Whenever such policies insure

1 against the expense of drugs, the insured shall have full
2 freedom of choice in the selection of any duly licensed and
3 registered pharmacist.

4 (2) Nothing in this section shall be construed as
5 enlarging the scope and limitations of practice of any of
6 the licensed professions enumerated in subsection (1) nor
7 shall this section be construed as amending, altering, or
8 repeating any statutes relating to the licensing or use of
9 hospitals.

10 Section 14. Section 33-30-101, MCA, is amended to
11 read:

12 "33-30-101. Definitions. As used in this chapter, the
13 following definitions apply:

14 (1) "Health service corporation" means a nonprofit
15 corporation organized or operating for the purposes of
16 establishing and operating a nonprofit plan or plans under
17 which prepaid hospital care, medical-surgical care, and
18 other health care and services, or reimbursement therefor,
19 may be furnished to a member or beneficiary.

20 (2) "Health services" means the health care and
21 services provided by hospitals or other health care
22 institutions, organizations, associations, or groups and by
23 doctors of medicine, osteopathy, dentistry, chiropractic,
24 optometry, and podiatry; nursing services; licensed masters
25 of social work WORKER, OR PSYCHOLOGISTS; medical appliances,

1 equipment, and supplies; drugs, medicines, ambulance
2 services, and other therapeutic services and supplies.

3 (3) "Membership contract" means any agreement,
4 contract, or certificate by which a health service
5 corporation describes the health services or benefits
6 provided to its members or beneficiaries."

7 NEW SECTION. Section 15. Codification instruction.
8 Section 1 is intended to be codified as an integral part of
9 Title 2, chapter 15, part 18, and the provisions of Title 2,
10 chapter 15, apply to section 1.

11 NEW SECTION. Section 16. Severability. If a part of
12 this act is invalid, all valid parts that are severable from
13 the invalid part remain in effect. If a part of this act is
14 invalid in one or more of its applications, the part remains
15 in effect in all valid applications that are severable from
16 the invalid applications.

-End-