

SENATE BILL NO. 214

INTRODUCED BY E. SMITH, TOWE,
HOLLIDAY, J. BROWN, MAZUREK

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE SENATE

January 19, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 15, 1983	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 16, 1983	Bill printed and placed on members' desks.
February 17, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 46; Noes, 4. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Human Services.
March 23, 1983	Committee recommend bill and Statement of Intent be concurrent in as amended. Report adopted.
March 26, 1983	Second reading, concurred in. Third reading, concurred in.

IN THE SENATE

March 29, 1983

Returned to Senate with
amendments and Statement of
Intent amendments.

April 6, 1983

Second reading, amendments and
Statement of Intent amendments
concurred in.

April 7, 1983

Third reading, amendments and
Statement of Intent amendments
concurred in. Ayes, 50;
Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *214*
 2 INTRODUCED BY *E. Smith Dan Trellery G. Brown*
 3 BY REQUEST *of* THE DEPARTMENT OF INSTITUTIONS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 DEPARTMENT OF INSTITUTIONS AND THE DEPARTMENT OF SOCIAL AND
 7 REHABILITATION SERVICES TO CERTIFY MENTAL HEALTH
 8 PROFESSIONAL PERSONS AND GRANTING THE DEPARTMENTS RULEMAKING
 9 AUTHORITY; AMENDING SECTION 53-21-102, MCA."

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

12 Section 1. Section 53-21-102, MCA, is amended to read:
 13 "53-21-102. Definitions. As used in this part, the
 14 following definitions apply:

15 (1) "Board" or "mental disabilities board of visitors"
 16 means the mental disabilities board of visitors created by
 17 2-15-211.

18 (2) "Court" means any district court of the state of
 19 Montana.

20 (3) "Department" means the department of institutions
 21 provided for in Title 2, chapter 15, part 23.

22 (4) "Emergency situation" means a situation in which
 23 any person is in imminent danger of death or serious bodily
 24 harm from the activity of a person who appears to be
 25 seriously mentally ill.

1 (5) "Mental disorder" means any organic, mental, or
 2 emotional impairment which has substantial adverse effects
 3 on an individual's cognitive or volitional functions.

4 (6) "Mental health facility" or "facility" means a
 5 public hospital or a licensed private hospital which is
 6 equipped and staffed to provide treatment for persons with
 7 mental disorders or a community mental health center or any
 8 mental health clinic or treatment center approved by the
 9 department. No correctional institution or facility or jail
 10 is a mental health facility within the meaning of this part.

11 (7) "Next of kin" shall include but need not be
 12 limited to the spouse, parents, adult children, and adult
 13 brothers and sisters of a person.

14 (8) "Patient" means a person committed by the court
 15 for treatment for any period of time or who is voluntarily
 16 admitted for treatment for any period of time.

17 (9) "Peace officer" means any sheriff, deputy sheriff,
 18 marshal, policeman, or other peace officer.

19 (10) "Professional person" means:

20 (a) a medical doctor; or

21 (b) a person ~~trained in the field of mental health and~~
 22 ~~certified by the department in accordance with standards of~~
 23 ~~professional licensing boards, federal regulations, and the~~
 24 ~~joint commission on accreditation of hospitals who has been~~
 25 ~~certified as provided for in [section 3] by the department~~

-2- INTRODUCED BILL
 SB 214

1 ~~and the department of social and rehabilitation services.~~

2 (11) "Reasonable medical certainty" means reasonable
3 certainty as judged by the standards of a professional
4 person.

5 (12) "Respondent" means a person alleged in a petition
6 filed pursuant to this part to be seriously mentally ill.

7 (13) "Friend of respondent" means any person willing
8 and able to assist a seriously mentally ill person or person
9 alleged to be seriously mentally ill in dealing with legal
10 proceedings, including consultation with legal counsel and
11 others. The friend of respondent may be the next of kin, the
12 person's conservator or legal guardian, if any,
13 representatives of a charitable or religious organization,
14 or any other person appointed by the court to perform the
15 functions of a friend of respondent set out in this part.
16 Only one person may at any one time be the friend of
17 respondent within the meaning of this part. In appointing a
18 friend of respondent, the court shall consider the
19 preference of the respondent. The court may at any time, for
20 good cause shown, change its designation of the friend of
21 respondent.

22 (14) "Seriously mentally ill" means suffering from a
23 mental disorder which has resulted in self-inflicted injury
24 or injury to others or the imminent threat thereof or which
25 has deprived the person afflicted of the ability to protect

1 his life or health. For this purpose, injury means physical
2 injury. No person may be involuntarily committed to a mental
3 health facility or detained for evaluation and treatment
4 because he is an epileptic, mentally deficient, mentally
5 retarded, senile, or suffering from a mental disorder unless
6 the condition causes him to be seriously mentally ill within
7 the meaning of this part.

8 (15) "State hospital" means the Warm Springs state
9 hospital."

10 NEW SECTION. Section 2. Certification of professional
11 persons required. No person may act in a professional
12 capacity as provided for in this part unless he is a
13 professional person as defined in 53-21-102.

14 NEW SECTION. Section 3. Certification of professional
15 persons. (1) The department and the department of social and
16 rehabilitation services shall certify professional persons
17 as defined in 53-21-102(10)(b) for the purpose of this part.

18 (2) The department and the department of social and
19 rehabilitation services, with reference to recognized
20 national standards in the field of mental health, shall
21 adopt standards and rules governing the certification of
22 professional persons as defined in 53-21-102(10)(b).

23 NEW SECTION. Section 4. Codification instruction.
24 Sections 2 and 3 are intended to be codified as an integral
25 part of Title 53, chapter 21, part 1, and the provisions of

LC 0915/01

1 Title 53, chapter 21, part 1, apply to sections 2 and 3.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 214

3

4 The Department of Institutions is requesting
5 legislation that will give it rulemaking authority for the
6 certification of professional persons in the mental health
7 field. The Department of Institutions is requesting that it
8 be given authority to adopt rules imposing requirements on
9 who shall be considered a professional person in the field
10 of mental health. The Department is required to adopt such
11 rules and it is contemplated that they should address the
12 following:

13 a. the types of education that an individual has
14 received, including degrees; and

15 b. the type of experience or training that he has
16 received that may qualify him for a professional person; and

17 c. the type of continuing education or training or
18 instruction that may be necessary to maintain such
19 certification; and

20 d. the standards for waiver of requirements for
21 specific reasons, if any; and

22 e. methods of monitoring compliance and maintaining
23 it; and

24 f. specific due process procedures for the revocation
25 of certification.

SECOND READING

SB 214

Approved by Committee
on Public Health, Welfare
& Safety

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INTRODUCED BY E. SMITH, TOWE,

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means the mental disabilities board of visitors created by
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Montana.

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provided for in Title 2, chapter 15, part 23.

(4) "Emergency situation" means a situation in which
any person is in imminent danger of death or serious bodily
harm from the activity of a person who appears to be

seriously mentally ill.

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(7) "Next of kin" shall include but need not be
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brothers and sisters of a person.

(8) "Patient" means a person committed by the court
for treatment for any period of time or who is voluntarily
admitted for treatment for any period of time.

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(a) a medical doctor; or

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certified by the department in accordance with standards of
professional licensing boards, federal regulations, and the
joint commission on accreditation of hospitals who has been

1 ~~certified as provided for in [section 3] by the department~~
 2 ~~and the department of social and rehabilitation services.~~

3 (11) "Reasonable medical certainty" means reasonable
 4 certainty as judged by the standards of a professional
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 7 filed pursuant to this part to be seriously mentally ill.

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 25 Sections 2 and 3 are intended to be codified as an integral

SB 0214/02

- 1 part of Title 53, chapter 21, part 1, and the provisions of
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2 SENATE BILL 214

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THIRD READING

SB 214

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S8 0214/02

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-End-

HOUSE COMMITTEE ON HUMAN SERVICES

AMENDMENT TO SENATE BILL 214

March 23, 1983

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

1. Page 4, line 23 of SB 214.

Following: "53-21-102(10)(b)."

Insert: "(3) The rules for certification must address, but are not limited to:

- (a) the type of education that an individual has received, including degrees;
- (b) the type of experience or training received by the individual;
- (c) continuing education, training, instruction, and work experience necessary to maintain certification;
- (d) an examination instrument to be used to determine an individual's proficiency and understanding of mental health laws, diagnosis and treatment procedures;
- (e) the procedure for categorical certification qualifying the level of professional authority and responsibility of an individual; and
- (f) specific procedures for certification, recertification, and revocation of certification."

AND AS AMENDED
BE CONCURRED IN

HOUSE COMMITTEE ON HUMAN SERVICES

SENATE BILL 214

March 23, 1983

AMENDMENT TO STATEMENT OF INTENT

BE AMENDED AS FOLLOWS:

1. Statement of Intent

Page 1, lines 11 through 25.

Following: "address" on line 11

Strike: the remainder of line 11 through line 25

Insert: "the provisions of [section 3] of SB 214."

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16 received that may qualify him for a professional person and

17 c--the type of continuing education or training or
18 instruction that may be necessary to maintain such
19 certification and

20 d--the standards for waiver of requirements for
21 specific reasons if any and

22 e--methods of monitoring compliance and maintaining
23 it and

24 f--specific due process procedures for the revocation
25 of certification. THE PROVISIONS OF [SECTION 3] OF SB 214.

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24 (13) THE RULES FOR CERTIFICATION MUST ADDRESS, BUT ARE
 25 NOT LIMITED TO:

1 1A1. THE TYPE OF EDUCATION THAT AN INDIVIDUAL HAS
2 RECEIVED, INCLUDING DEGREES;
3 1B1. THE TYPE OF EXPERIENCE OR TRAINING RECEIVED BY THE
4 INDIVIDUAL;
5 1C1. CONTINUING EDUCATION, TRAINING, INSTRUCTION, AND
6 WORK EXPERIENCE NECESSARY TO MAINTAIN CERTIFICATION;
7 1D). AN EXAMINATION INSTRUMENT TO BE USED TO DETERMINE
8 AN INDIVIDUAL'S PROFICIENCY AND UNDERSTANDING OF MENTAL
9 HEALTH LAWS, DIAGNOSIS, AND TREATMENT PROCEDURES;
10 1E1. THE PROCEDURE FOR CATEGORICAL CERTIFICATION
11 QUALIFYING THE LEVEL OF PROFESSIONAL AUTHORITY AND
12 RESPONSIBILITY OF AN INDIVIDUAL; AND
13 1E1. SPECIFIC PROCEDURES FOR CERTIFICATION,
14 RE-CERTIFICATION, AND REVOCATION OF CERTIFICATION.
15 NEW SECTION. Section 4. Codification instruction.
16 Sections 2 and 3 are intended to be codified as an integral
17 part of Title 53, chapter 21, part 1, and the provisions of
18 Title 53, chapter 21, part 1, apply to sections 2 and 3.

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