

HOUSE BILL NO. 510

1/26 Introduced
1/26 Referred to Human Services & Aging
1/28 Fiscal Note Requested
2/04 Fiscal Note Received
2/15 Hearing
Died in Committee

1 HOUSE BILL NO. 510
2 INTRODUCED BY Edaily

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MARRIAGE AND
5 FAMILY THERAPY STANDARDS COMMITTEE AND A SOCIAL WORK
6 STANDARDS COMMITTEE UNDER THE BOARD OF SOCIAL WORK
7 EXAMINERS; RENAMING THE BOARD OF SOCIAL WORK EXAMINERS;
8 REGULATING THE PRACTICE OF MARRIAGE AND FAMILY THERAPY;
9 PROVIDING STANDARDS AND QUALIFICATIONS FOR LICENSURE;
10 AMENDING SECTIONS 2-15-1854, 37-22-101, AND 37-22-102, MCA."

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

13 Section 1. Section 2-15-1854, MCA, is amended to read:

14 "2-15-1854. Board of social work and marriage and
15 family therapy examiners. (1) The governor shall appoint a
16 board of social work and marriage and family therapy
17 examiners consisting of two standards committees, each
18 consisting of five members.

19 (2) The social work standards committee shall consist
20 of the following five members:

21 (a) Four members must be licensed social workers, and:

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

24 (b)(ii) one member must be employed by a state social
25 service agency;

1 (c)(iii) one member must be in the medical or social
2 welfare field; and

3 (d)(iv) one member must be an educator in the field of
4 social work.

5 (2)(b) One member must be appointed from and represent
6 the general public and may not be engaged in social work.

7 (3) The marriage and family therapy standards
8 committee shall consist of five members. Four members must
9 be licensed marriage and family therapists. One member must
10 be appointed from and represent the general public and may
11 not be engaged in marriage or family therapy.

12 (3)(4) The board is allocated to the department for
13 administrative purposes only as prescribed in 2-15-121.

14 (4)(5) The board is designated a quasi-judicial board.
15 Members are appointed, serve, and are subject to removal in
16 accordance with 2-15-124.

17 (6) The standards committees shall meet jointly as a
18 board at least twice a year."

19 Section 2. Section 37-22-101, MCA, is amended to read:

20 "37-22-101. Purpose. The legislature finds and
21 declares that because the profession of social work
22 profoundly affects the lives of people of this state it is
23 the purpose of parts 1 through 4 of this chapter to provide
24 for the common good by insuring ethical, qualified, and
25 professional practice of social work. This Parts 1 through

1 4 of this chapter and the rules promulgated under 37-22-201
 2 set standards of qualification, education, training, and
 3 experience and will establish professional ethics for those
 4 who seek to engage in the practice of social work as
 5 licensed social workers."

6 Section 3. Section 37-22-102, MCA, is amended to read:

7 "37-22-102. Definitions. (1) As used in this chapter,
 8 the following definitions apply:

9 (1)(a) "Board" means the board of social work and
 10 marriage and family therapy examiners established under
 11 2-15-1854.

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

13 (3)--"bicensee"--means--a--person--licensed--under--this
 14 chapter--

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

22 (2) As used in parts 2 through 4 of this chapter, the
 23 following definitions apply:

24 (5)(a) "Social work" means the professional practice
 25 directed toward helping people achieve more adequate,

1 satisfying, and productive social adjustments. The practice
 2 of social work involves special knowledge of social
 3 resources, human capabilities, and the roles that individual
 4 motivation and social influences play in determining
 5 behavior and involves the application of social work
 6 techniques, including:

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

9 (b)(ii) providing information and referral services;

10 (c)(iii) providing, arranging, or supervising the
 11 provision of social services;

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

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

17 (f)(vi) research or teaching related to social work.

18 (b) "Standards committee" means the social work
 19 standards committee provided for in 2-15-1854(2).

20 (c) "Licensee" means a person licensed under parts 1
 21 through 4."

22 NEW SECTION. Section 4. Purpose. The legislature
 23 finds and declares that because the profession of marriage
 24 and family therapy profoundly affects the lives of people of
 25 this state, it is the purpose of [sections 4 through 15] to

1 provide for the common good by ensuring the ethical,
 2 qualified, and professional practice of marriage and family
 3 therapy. [Sections 4 through 15] and the rules promulgated
 4 under [sections 4 through 15] set standards of
 5 qualification, education, training, and experience and
 6 establish professional ethics for those who seek to engage
 7 in the practice of marriage and family therapy as licensed
 8 marriage and family therapists.

9 NEW SECTION. Section 5. Definitions. As used in
 10 [sections 4 through 15], unless the context requires
 11 otherwise, the following definitions apply:

12 (1) "Client" means an individual, couple, or family,
 13 depending upon the specifics of a particular case.

14 (2) "Committee" means the marriage and family therapy
 15 standards committee provided for in 2-15-1854(3).

16 (3) "Licensee" means a person licensed under [sections
 17 4 through 15].

18 (4) "Marriage and family counseling" is that
 19 specialized part of marriage and family therapy that focuses
 20 on preparation for marriage, marital adjustment, and
 21 parent-child and other family relationships in which there
 22 is no diagnosed nervous or mental disorder.

23 (5) "Marriage and family therapy" means the diagnosis
 24 and treatment of nervous and mental disorders, whether
 25 cognitive, affective, or behavioral, within the context of

1 marriage and family systems. Marriage and family therapy
 2 involves the professional application of psychotherapeutic
 3 and family systems theories and techniques in the delivery
 4 of services to individuals, marital pairs, and families for
 5 the purpose of treating such pairs and diagnosed nervous and
 6 mental disorders.

7 NEW SECTION. Section 6. Duties of committee. The
 8 committee shall:

9 (1) subject to 37-1-101, examine qualified applicants,
 10 issue licenses to qualified applicants that meet the
 11 requirements of [sections 4 through 15], and renew licenses
 12 under the provisions of [section 10];

13 (2) recommend prosecutions for violations of [section
 14 15] to the attorney general or the appropriate county
 15 attorney, or both;

16 (3) annually publish a list of the names and addresses
 17 of all persons who are licensed marriage and family
 18 therapists;

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

21 (5) meet at least twice a year to perform the duties
 22 described in this section;

23 (6) adopt rules that set professional, practice, and
 24 ethical standards for licensed marriage and family
 25 therapists and such other rules as may be reasonably

1 necessary for the administration of [sections 4 through 15];
 2 (7) distribute a copy of the ethical standards to
 3 licensed marriage and family therapists.

4 NEW SECTION. Section 7. License requirements --
 5 exemptions. (1) A license applicant shall satisfactorily
 6 complete an examination prepared and administered by the
 7 committee.

8 (2) Before an applicant may take the examination, he
 9 shall present three letters of reference from marriage and
 10 family therapists who have knowledge of the applicant's
 11 professional performance and demonstrate to the committee
 12 that he:

13 (a) possesses a minimum of a master's degree or the
 14 equivalent from a recognized educational institution in the
 15 field of marital and family therapy or counseling or a
 16 master's degree in an allied mental health field, which
 17 degree is evidenced by the applicant's official transcripts
 18 which establish that he has completed an appropriate course
 19 of study in an allied mental health field. However, an
 20 applicant meets the educational requirements by presenting
 21 satisfactory evidence of post-master's or post-doctoral
 22 training taken in the field of marital and family therapy or
 23 counseling from an educational or training institution or
 24 program recognized by the committee, notwithstanding the
 25 fact that such training was taken at a nondegree-granting

1 institution or in a nondegree program, if such training, by
 2 itself or in combination with any training received as part
 3 of the program leading to a degree from a recognized
 4 educational institution, is the equivalent in content and
 5 quality, as defined in committee rules of a master's or
 6 doctoral degree in marital and family therapy and
 7 counseling.

8 (b) possesses at least 1,500 hours of clinical
 9 experience in the practice of marital and family therapy,
 10 not more than 500 hours of which experience was obtained
 11 while the candidate was a student in a master's degree
 12 program or nondegree institution or program described in
 13 subsection (2)(a) and at least 1,000 of which experience was
 14 obtained subsequent to the granting of such degree or
 15 completion of such education or program in the field of
 16 marital and family therapy or in an allied mental health
 17 field, with ongoing supervision consistent with standards
 18 approved by the committee; and

19 (c) abides by the marriage and family therapy ethical
 20 standards adopted under [section 6].

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 committee that he is
 25 licensed, certified, or registered under the laws of a state

1 or territory of the United States that imposes substantially
2 the same requirements as [sections 4 through 15] and that he
3 has passed an examination similar to that required by the
4 committee.

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

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

16 (4) Subject to 37-1-101(6), money paid for
17 application, examination, license, and license renewal fees
18 must be deposited in the state special revenue fund for the
19 use of the committee and the board.

20 NEW SECTION. Section 9. Issuance, effective date, and
21 display of license. (1) Upon successful completion of the
22 examination required by [section 7] or upon demonstration by
23 a person that he is exempt from examination and has
24 otherwise fulfilled the requirements of [section 7], the
25 applicant must be issued a license attesting to the date and

1 fact of licensure. The license is in effect 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 10. 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 issued
12 upon payment of a renewal fee set by the committee and upon
13 submitting proof of completion of continuing education
14 requirements.

15 NEW SECTION. Section 11. Representation to public as
16 licensed marriage and family therapist -- limitations on use
17 of title. (1) No person may represent himself to be a
18 licensed marriage and family therapist by adding the letters
19 "LMFT" after his name, or by any other means, unless
20 licensed under [sections 4 through 15].

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

22 (a) qualified members of other professions, such as
23 physicians, psychologists, lawyers, pastoral counselors,
24 educators, or the general public, engaged in activities
25 similar to marriage and family therapy, from doing marriage

1 and family therapy consistent with their training if they do
 2 not hold themselves out to the public by a title or
 3 description incorporating the words "licensed marriage and
 4 family therapy" or "licensed marriage and family therapist";

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

10 (c) activities and services of a student, intern, or
 11 resident in marriage and family therapy pursuing a course of
 12 study at an accredited university or college or working in a
 13 generally recognized training center if the activities and
 14 services constitute a part of the supervised course of
 15 study;

16 (d) activities or services in this state of a person
 17 who is not a resident of the state, which activities or
 18 services are performed for a period that does not exceed, in
 19 the aggregate, 60 days during a calendar year, if the person
 20 is authorized under the law of his state or country of
 21 residence to perform such activities or services. However,
 22 such person shall report to the department the nature and
 23 extent of the activities or services if they exceed 10 days
 24 in a calendar year.

25 (e) pending disposition of the application for a

1 license, activities or services by a person who has recently
 2 become a resident of the state, has applied for a license
 3 within 90 days of taking up residency in the state, and is
 4 licensed or certified to perform such activities and
 5 services in the state of his former residence.

6 NEW SECTION. Section 12. Grounds for revocation,
 7 suspension, or refusal to renew license. The committee may
 8 reprimand a licensee or revoke, suspend, or refuse to renew
 9 the license of a licensee found to have committed:

10 (1) fraud or deceit in obtaining a license or license
 11 renewal;

12 (2) gross negligence, incompetency, or misconduct in
 13 the practice of marriage and family therapy as a licensed
 14 marriage and family therapist;

15 (3) a felony, subject to Title 37, chapter 1, part 2;

16 (4) a violation of the rules for licensed marriage and
 17 family therapists adopted by the committee;

18 (5) a misdemeanor under [section 15]; or

19 (6) any of the following unprofessional acts:

20 (a) misrepresentation of the type or status of his
 21 license;

22 (b) intentionally or recklessly causing physical or
 23 emotional harm to a client;

24 (c) misrepresentation of his professional
 25 qualifications, affiliations, or purposes;

1 (d) sexual relations with a client, solicitation of
2 sexual relations with a client, sexual misconduct, or a sex
3 offense if such act, offense, or solicitation is
4 substantially related to the qualifications, functions, or
5 duties of the licensee;

6 (e) performance of or representation of his ability to
7 perform professional services beyond his field or fields of
8 competence, as established by his education, training, and
9 experience;

10 (f) failure to maintain confidentiality as required by
11 [section 14];

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

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

18 NEW SECTION. Section 13. Procedure for charging
19 violation. (1) Any member of the committee or other person
20 may charge a licensee with a violation of [section 12]. The
21 charge must be made by affidavit, subscribed and sworn to by
22 the person making it, and filed with the department. The
23 charge must be investigated by the committee, and unless the
24 committee dismisses the charge after investigation as
25 unfounded or trivial, the committee shall act on the charge

1 within 6 months after the date on which the charge is filed.
2 The committee is considered to have acted on a charge if it
3 has given notice by mail to the licensee of its intent to
4 reprimand him or revoke, suspend, or refuse to renew his
5 license and the notice contains those matters required by
6 2-4-601.

7 (2) Unless the charge is dismissed, a hearing on the
8 charge must be held before all five members of the committee
9 and must be conducted in accordance with 37-1-121(1) and the
10 Montana Administrative Procedure Act.

11 NEW SECTION. Section 14. Privileged communications --
12 exceptions. (1) A licensee may not disclose any information
13 he acquires from a client consulting him in his professional
14 capacity or during the course of treatment, including
15 information about the client obtained from tests or other
16 means, except:

17 (a) with the written consent of the client or, in the
18 case of the client's death or mental incapacity, with the
19 written consent of the client's personal representative or
20 guardian;

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

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

7 (d) that if the client or his personal representative
 8 or guardian brings an action against a licensee for a claim
 9 arising out of the marriage and family therapist-client
 10 relationship, the client is considered to have waived any
 11 privilege;

12 (e) to the extent that the privilege is otherwise
 13 waived by the client;

14 (f) as may otherwise be permitted or required by law.

15 (2) If the client is a couple or family, each person
 16 must separately provide the written consent required by
 17 subsection (1)(a); however, a parent may provide this
 18 consent for a minor.

19 NEW SECTION. Section 15. Violations -- penalties. (1)
 20 It is a misdemeanor for a person to:

21 (a) represent himself as a licensed marriage and
 22 family therapist without being licensed under [sections 4
 23 through 15];

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 committee to implement [sections 4 through 15] or the
 3 rules adopted under [sections 4 through 15].

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 NEW SECTION. Section 16. Grandfather clause.
 10 Notwithstanding the provisions of [section 7] to the
 11 contrary, a license must be granted without examination to
 12 an applicant who applies within 365 days after [the
 13 effective date of this act] and who meets the requirements
 14 of [section 7(2)].

15 NEW SECTION. Section 17. Short form amendment --
 16 name change. Wherever the word "board" appears in Title 37,
 17 chapter 22, parts 2 through 4, it is changed to "committee".

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 263-85

Form BD-15

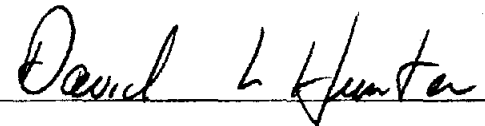
In compliance with a written request received January 28, 19 85, there is hereby submitted a Fiscal Note for House Bill 510 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a marriage and family therapy standards committee and a social work standards committee under the Board of Social Work Examiners; renaming the Board of Social Work Examiners; regulating the practice of marriage and family therapy; providing standards and qualifications for licensure.

ASSUMPTIONS:

1. 2 standards committees = 10 members, 5 to a committee, 2 board meetings, 2 standards committees per year = 60 meeting days.
2. 80 hours legal at \$40 an hour = \$3200.
3. 20 pages rules at \$14 a page = \$280 per year.
4. Use of professional examination service at \$50 per exam X 10 applicants per year = \$500.
5. Assume 75 licensees first year for original license and renewal in FY 87.
6. Assume fees commensurate with costs.
7. Social Work Committee will remain at current level and will drawn down from Special Revenue Fund for the Board.
8. Assume biennial renewals will reflect up and down revenues every other year.
9. Increase FTE from .10 currently to .25 FTE (Grade 11, step 7) plus 18½% benefits.
10. Indirect costs to the department of \$200 per year.
11. Assume automated licensing system, \$400 in FY 86, maintenance program of \$200 in FY 87.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 2, 1985

FISCAL IMPACT: On State Special Revenues

	<u>FY 86</u>	<u>FY 87</u>	<u>Biennium</u>
<u>Expenditures:</u> Current	\$ 9,648	\$ 9,665	
Proposed	41,046	40,696	
Increase	<u>\$31,398</u>	<u>\$31,031</u>	\$62,429
<u>Revenues:</u> Current	\$ 6,600	\$ 6,660	
Proposed	42,000	41,000	
Increase	<u>\$35,400</u>	<u>\$34,400</u>	\$69,800