

HOUSE BILL NO. 571

INTRODUCED BY BERGENE, KEATING, CHRISTIAENS

IN THE HOUSE

January 30, 1985	Introduced and referred to Committee on Business and labor.
January 31, 1985	Fiscal Note requested.
February 1, 1985	Rereferred to Committee on Human Services and Aging.
February 6, 1985	Fiscal Note returned.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass as amended. Correctly engrossed.
February 27, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 6, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 8, 1985	On motion, taken from Public Health, Welfare and Safety and rereferred to Committee on Business and Industry. Motion adopted.

1 HOUSE BILL NO. 571
2 INTRODUCED BY Beegone Keating Chickman
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 MANDATORY LICENSING AND REGULATION OF PROFESSIONAL
6 COUNSELORS; CREATING A STATE BOARD OF PROFESSIONAL
7 COUNSELORS; CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING
8 PENALTIES FOR VIOLATIONS; AND ALLOWING DISABILITY AND HEALTH
9 INSURANCE COVERAGE FOR WORK DONE BY LICENSED PROFESSIONAL
10 COUNSELORS; AMENDING SECTIONS 33-22-111 AND 33-30-101, MCA."
11

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

13 NEW SECTION. Section 1. Board of professional
14 counselors -- appointment -- qualifications -- organization.

15 (1) The governor shall appoint a board of professional
16 counselors consisting of five members.

17 (2) The members must be residents of the state. In
18 addition:

19 (a) three members must be licensed professional
20 counselors engaged primarily in rendering professional
21 counseling services;

22 (b) one member must be a licensed professional
23 counselor engaged primarily in teaching, training, or
24 research in counseling; and

25 (c) one member must be appointed from and represent

1 the general public and may not be engaged in professional
2 counseling.

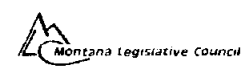
3 (3) A member may not succeed himself as a board member
4 but may be reappointed 3 or more years after completing his
5 most recent term.

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

9 (5) The board is allocated to the department of
10 commerce for administrative purposes only as prescribed in
11 2-15-121.

12 NEW SECTION. Section 2. Purpose. The legislature
13 finds and declares that because the profession of
14 professional counseling profoundly affects the lives of
15 people of this state, it is the purpose of [sections 2
16 through 14] to provide for the common good by ensuring
17 ethical, qualified, and professional practice of
18 professional counseling. [Sections 2 through 14] and the
19 rules promulgated under [section 4] set standards of
20 qualification, education, training, and experience and
21 establish professional ethics for those who seek to engage
22 in the practice of professional counseling as licensed
23 professional counselors.

24 NEW SECTION. Section 3. Definitions. As used in
25 [sections 2 through 14], the following definitions apply:



1 (1) "Board" means the board of professional counselors
2 established under [section 1].

3 (2) "Licensee" means a person licensed under [sections
4 2 through 14].

5 (3) "Professional counseling" means engaging in
6 methods and techniques that include:

7 (a) counseling, which means assisting an individual or
8 a group, through the counseling relationship, to develop
9 understanding of intrapersonal and interpersonal problems,
10 to define goals, to make decisions, to plan a course of
11 action reflecting his or their needs, interests, and
12 abilities, and to use informational and community resources;

13 (b) appraisal, which means selecting, administering,
14 scoring, and interpreting instruments designed to assess an
15 individual's aptitudes, attitudes, abilities, achievement,
16 interests, and personal characteristics and using
17 nonstandardized methods and techniques for understanding
18 human behavior in relation to coping with, adapting to, or
19 changing life situations;

20 (c) technical assistance, which means applying
21 scientific principles and procedures in counseling,
22 guidance, and human development to provide assistance in
23 understanding and solving a current or potential problem
24 that an individual may have in relation to another
25 individual, a group or organization, or other third party;

1 and

2 (d) referral, which means evaluating information to
3 identify needs or problems of an individual and to determine
4 the advisability of referral to other specialists, informing
5 the individual of such judgment, and communicating as
6 requested or considered appropriate with such referral
7 sources.

8 NEW SECTION. Section 4. Powers and duties of board.

9 (1) The board shall:

10 (a) recommend amendments to [sections 2 through 14] to
11 the governor or the legislature, or both;

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

15 (c) annually publish a list of the names and addresses
16 of all persons who are licensed professional counselors;

17 (d) establish requirements for continuing education
18 that are conditions of license renewal;

19 (e) meet at least once every 3 months to perform the
20 duties described in this section unless the board, by a
21 consensus of its members, determines that there is no
22 necessity for a board meeting;

23 (f) adopt rules that set professional and ethical
24 standards for licensed professional counselors and such
25 other rules as may be reasonably necessary for the

1 administration of [sections 2 through 14]; and

2 (g) distribute a copy of the professional and ethical
3 standards to each licensed professional counselor.

4 (2) The board may adopt rules governing the issuance
5 of certificates of special competence in particular areas of
6 practice as a licensed professional counselor. The board
7 shall establish criteria for each particular area for which
8 a certificate is issued.

9 NEW SECTION. Section 5. Representation to public as
10 licensed professional counselor -- limitations on use of
11 title. (1) No person may represent himself to be a licensed
12 professional counselor by adding the letters "LPC" after his
13 name or by any other means unless licensed under [sections 2
14 through 14]; and

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

16 (a) a qualified member of another profession, such as
17 a physician, psychologist, lawyer, pastoral counselor,
18 probation officer, court employee, nurse, social worker,
19 school counselor, or educator, from professional counseling
20 consistent with his training if he does not hold himself out
21 to the public by a title or description incorporating the
22 words "licensed professional counselor", "licensed
23 counselor", or "professional counselor";

24 (b) an activity or service or use of an official title
25 by a person employed by a federal, state, county, or

1 municipal agency or an educational, research, or charitable
2 institution that is a part of the duties of the office or
3 position;

4 (c) an activity or service of an employee of a
5 business establishment performed solely for the benefit of
6 the establishment's employees;

7 (d) an activity or service of a student, intern, or
8 resident in mental health counseling pursuing a course of
9 study at an accredited university or college or working in a
10 generally recognized training center if the activity or
11 service constitutes a part of the supervised course of
12 study;

13 (e) an activity or service of a person who is not a
14 resident of this state, which activity or service is
15 rendered for a period that does not exceed, in the
16 aggregate, 60 days during a calendar year, if the person is
17 authorized under the law of the state or country of
18 residence to perform such activity or service. However, such
19 person shall report to the department of commerce the nature
20 and extent of the activity or service if it exceeds 10 days
21 in a calendar year.

22 (f) pending disposition of the application for a
23 license, the activity or service by a person who has
24 recently become a resident of this state, has applied for a
25 license within 90 days of taking up residency in this state,

1 and is licensed to perform such activity or service in the
2 state of his former residence.

3 NEW SECTION. Section 6. Licensure requirements. (1)
4 To be licensed on or before October 1, 1987, as a
5 professional counselor under [sections 2 through 14], an
6 applicant must have satisfactorily completed:

7 (a) a planned graduate program of study that was
8 primarily counseling in nature which resulted in an advanced
9 degree in a counseling field from an institution accredited
10 to offer such a degree program;

11 (b) 2,000 hours or more of postdegree work experience
12 as a counselor in a hospital, school, agency, or other
13 supervised setting;

14 (c) and passed an examination prepared and
15 administered by the board or a national examination approved
16 by the board; and

17 (d) an application form and process prescribed by the
18 board that includes submission of three letters of
19 nomination from counselors or related professionals, each of
20 whom holds a master's degree or higher and who can attest to
21 the quality of the applicant's work.

22 (2) To be licensed after October 1, 1987, an applicant
23 must have satisfactorily completed:

24 (a) a planned graduate program of 90 quarter hours,
25 primarily counseling in nature, nine quarter hours of which

1 were earned in an advanced counseling practicum, which
2 resulted in a graduate degree from an institution accredited
3 to offer a graduate program in counseling;

4 (b) 2,000 hours of counseling practice supervised by a
5 licensed professional counselor or licensed member of an
6 allied mental health profession, at least half of which was
7 postdegree. The applicant must have each supervisor endorse
8 his application for licensure, attesting to the number of
9 hours supervised.

10 (c) and passed an examination prepared and
11 administered by the board or a national examination approved
12 by the board; and

13 (d) an application form and process prescribed by the
14 board.

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

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

23 (3) Each applicant shall, before receipt of a license
24 or license renewal, pay a fee set by the board equal to the
25 cost of issuing a license.

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

5 NEW SECTION. Section 8. Issuance, effective date, and
6 display of license. (1) If an applicant meets the
7 requirements contained in [section 6] and has paid the
8 appropriate fees, the board shall issue a license to the
9 applicant attesting to the date and fact of licensure. The
10 license is effective on the date of issuance and expires 3
11 years after that date.

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

14 NEW SECTION. Section 9. Reciprocity. Upon payment of
15 the license fee provided for in [section 7], the board may
16 issue a license to a person who, at the time of application,
17 is licensed or certified as a professional counselor by an
18 agency located in another state if the requirements of such
19 licensure or certification are substantially similar to the
20 requirements of [sections 2 through 14].

21 NEW SECTION. Section 10. Renewal of license. (1) An
22 application for renewal of an existing license made within
23 60 days after the expiration of the license is timely, and
24 the rights and privileges of the applicant during that
25 period remain in effect.

1 (2) Application for renewal must be made upon a form
2 provided by the department. A renewal license must be issued
3 upon payment of a renewal fee set by the board and upon
4 submitting proof of completion of continuing education
5 requirements established by the board.

6 NEW SECTION. Section 11. Suspension or revocation of
7 license. (1) The board may suspend or revoke the license of
8 a person found according to the procedure contained in
9 [section 12] to have violated a professional or ethical
10 standard adopted by the board. A person may not practice
11 counseling in this state as a licensed professional
12 counselor during the period for which his license is
13 suspended or revoked.

14 (2) The board may not suspend a license for more than
15 6 months. Upon termination of the suspension period, the
16 person whose license has been suspended must undergo a board
17 review before resuming practice as a licensed professional
18 counselor.

19 (3) The board may not revoke a license for less than 3
20 years. Upon termination of the revocation period, the person
21 whose license has been revoked may apply to the board for
22 reinstatement.

23 NEW SECTION. Section 12. Procedure for charging
24 violation of professional or ethical standard. (1) A member
25 of the board or any other person may charge a licensee with

1 violating a professional or ethical standard adopted by the
 2 board. The charge must be made by affidavit, subscribed and
 3 sworn to by the person making it, and filed with the
 4 department of commerce. The charge must be investigated by
 5 the board, and unless the board dismisses the charge after
 6 investigation as unfounded or trivial, the board must act on
 7 the charge within 6 months after the date on which the
 8 charge was filed. The board is considered to have acted on a
 9 charge if it has given notice by mail to the licensee of its
 10 intent to suspend or revoke his license and the notice
 11 contains those matters required by 2-4-601.

12 (2) A hearing on the charge must be conducted in
 13 accordance with 37-1-121(1) and the Montana Administrative
 14 Procedure Act.

15 NEW SECTION. Section 13. Privileged communications --
 16 exceptions. A licensee may not disclose any information he
 17 acquires from clients consulting him in his professional
 18 capacity except:

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

23 (2) that he need not treat as confidential a
 24 communication otherwise confidential that reveals the
 25 contemplation of a crime by the client or any other person

1 or that in his professional opinion reveals a threat of
 2 imminent harm to the client or others;

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

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

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

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

16 NEW SECTION. Section 14. Misdemeanor violations --
 17 penalties. (1) It is a misdemeanor for a person to
 18 knowingly:

19 (a) represent himself as a licensed professional
 20 counselor without being licensed under [sections 2 through
 21 14];

22 (b) obtain or attempt to obtain a license or license
 23 renewal by bribery or fraudulent representation; or

24 (c) make a false statement on any form used by the
 25 board to implement [sections 2 through 14] or the rules

1 adopted under [sections 2 through 14].

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

7 Section 15. Section 33-22-111, MCA, is amended to
8 read:

9 "33-22-111. Policies to provide for freedom of choice
10 of practitioners -- professional practice not enlarged. (1)
11 All policies of disability insurance, including individual,
12 group, and blanket policies, and all policies insuring the
13 payment of compensation under the Workers' Compensation Act
14 shall provide the insured shall have full freedom of choice
15 in the selection of any duly licensed physician, dentist,
16 osteopath, chiropractor, optometrist, chiropodist,
17 psychologist, or nurse specialist as specifically listed in
18 37-8-202, or professional counselor for treatment of any
19 illness or injury within the scope and limitations of his
20 practice. Whenever such policies insure against the expense
21 of drugs, the insured shall have full freedom of choice in
22 the selection of any duly licensed and registered
23 pharmacist.

24 (2) Nothing in this section shall be construed as
25 enlarging the scope and limitations of practice of any of

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

5 Section 16. Section 33-30-101, MCA, is amended to
6 read:

7 "33-30-101. Definitions. As used in this chapter, the
8 following definitions apply:

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

15 (2) "Health services" means the health care and
16 services provided by hospitals or other health care
17 institutions, organizations, associations, or groups and by
18 doctors of medicine, osteopathy, dentistry, chiropractic,
19 optometry, and podiatry; nursing services; licensed social
20 worker, professional counselor, or psychologist; medical
21 appliances, equipment, and supplies; drugs, medicines,
22 ambulance services, and other therapeutic services and
23 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 17. Licensure of certain board
4 members appointed to initial board. Notwithstanding the
5 qualifications for appointment contained in [section 1(2)(a)
6 and (b)], a person may be appointed to the initial board
7 without being licensed as a professional counselor if he is
8 issued a license under this act within 30 days after his
9 appointment.

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

14 NEW SECTION. Section 19. Severability. If a part of
15 this act is invalid, all valid parts that are severable from
16 the invalid part remain in effect. If a part of this act is
17 invalid in one or more of its applications, the part remains
18 in effect in all valid applications that are severable from
19 the invalid applications.

-End-

FISCAL NOTE

In compliance with a written request received January 31, 1985, there is hereby submitted a Fiscal Note for House Bill 571 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:

Provides for licensing and regulation of Professional Counselors, creates a state board of professional counselors; creates communications privileges; provides penalties for violations; allows disability and health insurance coverage for work done by licensed professional counselors.

ASSUMPTIONS:

1. 5 members, 4 meetings a year = minimum of 20 meeting days at an average of \$300 per person per day for travel and compensation. \$4000 in FY 86, \$6,000 in FY 87.
2. Assume 23 pages rules and notices at \$14 a page = \$322 per year
3. Assume .25 FTE (Grade 10, Step 2) plus 18½% benefits.
4. Assume use of professional examination service at \$50 per examination.
5. Assume 200 licensees in FY 87, 10 new applicants per year and no licenses issued in FY 86.
6. Indirect costs of \$200 per year to Department of Commerce.
7. Assume renewals every 3 years and expiration on the date of issue rather than a set renewal date.
8. Assume that the continuing education required for renewal will not affect FY 86-87.
9. Assume that all persons must be licensed by October 1, 1987 who are practicing in Montana on that date.
10. 20 hours legal at \$40 an hour = \$800 per year.
11. Assume the use of an automated licensing system, costing \$400 for set up in FY 86 and \$200 for maintainance in FY 87.
12. Assume fees commensurate with costs.
13. Provide filing equipment and an automated typewriter. \$250 in FY 86 and \$2,000 in FY 87.

David L. Hamster

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 6, 1985

FISCAL IMPACT:

	<u>FY 86</u>	<u>FY 87</u>	<u>Biennium</u>
On State Special Revenues:			
Revenues:			
Current	-0-	-0-	-0-
Proposed	\$13,238	\$15,938	\$29,176
<u>Expenditures:</u>			
Current	-0-	-0-	-0-
Proposed	\$13,238	\$15,938	\$29,176

TECHNICAL OR MECHANICAL DEFECT OR CONFLICTS WITH EXISTING LEGISLATION:

1. Expiration date should be the same date for all licensees rather than on the date of issue which is difficult to administer.
2. Bill provides for qualifications for licensure before and after October 1, 1987, but does not state professional counselor must be licensed.
3. Areas of special competence are not defined in the bill.
4. The proposed bill paraphrases the statutes regulating psychologists and masters of social work and appears to give counselors essentially the same rights and privileges while requiring much less education and training.
5. Provides for original license to expire 3 years after date of issue, but does not clearly state if renewal licenses will be issued for another 3 year period or for some other time frame (annual or biennial).

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The 3 year licensing period, as proposed, will cause administrative hardships in keeping licensees notified for renewals and other board related notices. People move and change names without notifying the board or the department. Those boards currently using biennial renewals have requested a change to annual renewals during this legislative session due to these kinds of problems in tracking licensees.

RE-REFERRED AND
APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

STATEMENT OF INTENT

HOUSE BILL 571

House Human Services and Aging Committee

1 Section 4 requires the board of professional counselors
2 to adopt rules setting professional and ethical standards
3 and continuing education requirements for professional
4 licensed counselors and to adopt such other rules as are
5 necessary for the regulation of this profession. In
6 addition, section 4 permits the board to adopt rules
7 governing the issuance of certificates in particular areas
8 of practice as a licensed professional counselor. The
9 legislature perceives a need to regulate persons holding
10 themselves out as professional counselors. Consumers of
11 professional counseling services are entitled to adequate
12 regulation of those services in the public interest. It is
13 contemplated that the board may promulgate rules that:

- 14 (1) protect the public from abuse of the trust placed
15 in professional counselors;
- 16 (2) regulate the day-to-day practices of licensed
17 professional counselors;
- 18 (3) ensure a professional attitude and professional
19 work in a professional atmosphere;
- 20 (4) regulate fees charged for services;
- 21 (5) regulate testing devices and methods used by

- 2 licensed professional counselors;
- 3 (6) regulate counseling techniques;
- 4 (7) determine the type, amount, and quality of
5 continuing education of licensed professional counselors;
- 6 (8) determine the areas of specialization in which a
7 professional counselor could be certified and define the
8 requirements that must be met for certification in these
9 areas; and
- 10 (9) are otherwise necessary to the regulation of the
11 profession.

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2 INTRODUCED BY BERGENE, KEATING, CHRISTIAENS

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5 MANDATORY LICENSING AND REGULATION OF PROFESSIONAL
6 COUNSELORS; CREATING A STATE BOARD OF PROFESSIONAL
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9 OR HEALTH SERVICE CORPORATION TO OFFER THE OPTION OF
10 ADDITIONAL DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK
11 DONE BY LICENSED PROFESSIONAL COUNSELORS; AMENDING SECTIONS
12 SECTION 33-22-111 AND ~~33-30-101~~, MCA; AND PROVIDING AN
13 EFFECTIVE DATE."

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21 addition:

22 (a) three members must be licensed professional
23 counselors engaged primarily in rendering professional
24 counseling services;

25 (b) one member must be a licensed professional

1 counselor engaged primarily in teaching, training, or
2 research in counseling; and

3 (c) one member must be appointed from and represent
4 the general public and may not be engaged in professional
5 counseling.

6 (3) A member may not succeed himself as a board member
7 but may be reappointed 3 or more years after completing his
8 most recent term.

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13 commerce for administrative purposes only as prescribed in
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21 professional counseling. [Sections 2 through 14] and the
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11 a group, through the counseling relationship, to develop
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14 action reflecting his or their needs, interests, and
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16 (b) appraisal, which means selecting, administering,
17 scoring, and interpreting instruments designed to assess an
18 individual's aptitudes, attitudes, abilities, achievement,
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20 nonstandardized methods and techniques for understanding
21 human behavior in relation to coping with, adapting to, or
22 changing life situations;

23 (c) technical assistance, which means applying
24 scientific principles and procedures in counseling,
25 guidance, and human development to provide assistance in

1 understanding and solving a current or potential problem
2 that an individual may have in relation to another
3 individual, a group or organization, or other third party;
4 and

5 (d) referral, which means evaluating information to
6 identify needs or problems of an individual and to determine
7 the advisability of referral to other specialists, informing
8 the individual of such judgment, and communicating as
9 requested or considered appropriate with such referral
10 sources.

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14 the governor or the legislature, or both;

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16 14] to the attorney general or appropriate county attorneys,
17 or both;

18 (c) annually publish a list of the names and addresses
19 of all persons who are licensed professional counselors;

20 (d) establish requirements for continuing education
21 that are conditions of license renewal;

22 (e) meet at least once every 3 months to perform the
23 duties described in this section unless the board, by a
24 consensus of its members, determines that there is no
25 necessity for a board meeting;

1 (f) adopt rules that set professional and ethical
2 standards for licensed professional counselors and such
3 other rules as may be reasonably necessary for the
4 administration of [sections 2 through 14]; and

5 (g) distribute a copy of the professional and ethical
6 standards to each licensed professional counselor.

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8 of certificates of special competence in particular areas of
9 practice as a licensed professional counselor. The board
10 shall establish criteria for each particular area for which
11 a certificate is issued.

12 NEW SECTION. Section 5. Representation to public as
13 licensed professional counselor -- limitations on use of
14 title. (1) No person may represent himself to be a licensed
15 professional counselor by adding the letters "LPC" after his
16 name or by any other means unless licensed under [sections 2
17 through 14]; and

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

19 (a) a qualified member of another profession, such as
20 a physician, psychologist, lawyer, pastoral counselor,
21 probation officer, court employee, nurse, social worker,
22 school counselor, or educator, from professional counseling
23 consistent with his training if he does not hold himself out
24 to the public by a title or description incorporating the
25 words "licensed professional counselor", "licensed

1 counselor", or "professional counselor";

2 (b) an activity or service or use of an official title
3 by a person employed by a federal, state, county, or
4 municipal agency or an educational, research, or charitable
5 institution that is a part of the duties of the office or
6 position;

7 (c) an activity or service of an employee of a
8 business establishment performed solely for the benefit of
9 the establishment's employees;

10 (d) an activity or service of a student, intern, or
11 resident in mental health counseling pursuing a course of
12 study at an accredited university or college or working in a
13 generally recognized training center if the activity or
14 service constitutes a part of the supervised course of
15 study;

16 (e) an activity or service of a person who is not a
17 resident of this state, which activity or service is
18 rendered for a period that does not exceed, in the
19 aggregate, 60 days during a calendar year, if the person is
20 authorized under the law of the state or country of
21 residence to perform such activity or service. However, such
22 person shall report to the department of commerce the nature
23 and extent of the activity or service if it exceeds 10 days
24 in a calendar year.

25 (f) pending disposition of the application for a

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

6 NEW SECTION. Section 6. Licensure requirements. (1)
 7 To be licensed on or before October 1, 1987, as a
 8 professional counselor under [sections 2 through 14], an
 9 applicant must have satisfactorily completed:

10 (a) a planned graduate program of study that was
 11 primarily counseling in nature which resulted in an advanced
 12 degree in a counseling field from an institution accredited
 13 to offer such a degree program;

14 (b) 2,000 hours or more of postdegree work experience
 15 as a counselor in a hospital, school, agency, or other
 16 supervised setting;

17 (c) and passed an examination prepared and
 18 administered by the board or a national examination approved
 19 by the board; and

20 (d) an application form and process prescribed by the
 21 board that includes submission of three letters of
 22 nomination from counselors or related professionals, each of
 23 whom holds a master's degree or higher and who can attest to
 24 the quality of the applicant's work.

25 (2) To be licensed after October 1, 1987, an applicant

1 must have satisfactorily completed:

2 (a) a planned graduate program of 90 quarter hours,
 3 primarily counseling in nature, nine quarter hours of which
 4 were earned in an advanced counseling practicum, which
 5 resulted in a graduate degree from an institution accredited
 6 to offer a graduate program in counseling;

7 (b) 2,000 hours of counseling practice supervised by a
 8 licensed professional counselor or licensed member of an
 9 allied mental health profession, at least half of which was
 10 postdegree. The applicant must have each supervisor endorse
 11 his application for licensure, attesting to the number of
 12 hours supervised.

13 (c) and passed an examination prepared and
 14 administered by the board or a national examination approved
 15 by the board; and

16 (d) an application form and process prescribed by the
 17 board.

18 NEW SECTION. Section 7. Fees. (1) Each applicant for
 19 a license shall, upon submitting his application to the
 20 board, pay an application fee set by the board ~~equal-to--the~~
 21 ~~cost--of-processing-the-application~~ COMMENSURATE WITH COSTS.

22 (2) Each applicant for a license required to take an
 23 examination shall, before commencement of the examination,
 24 pay an examination fee set by the board ~~equal-to-the-cost-of~~
 25 ~~administering-the-examination~~ COMMENSURATE WITH COSTS.

1 (3) Each applicant shall, before receipt of a license
2 or license renewal, pay a fee set by the board ~~equal-to-the~~
3 ~~cost-of-issuing-a-license~~ COMMENSURATE WITH COSTS.

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

8 NEW SECTION. Section 8. Issuance, effective date, and
9 display of license. (1) If an applicant meets the
10 requirements contained in [section 6] and has paid the
11 appropriate fees, the board shall issue a license to the
12 applicant attesting to the date and fact of licensure. The
13 license is effective on the date of issuance and expires 3
14 years after that date.

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

17 NEW SECTION. Section 9. Reciprocity. Upon payment of
18 the license fee provided for in [section 7], the board may
19 issue a license to a person who, at the time of application,
20 is licensed or certified as a professional counselor by an
21 agency located in another state if the requirements of such
22 licensure or certification are substantially similar to the
23 requirements of [sections 2 through 14].

24 NEW SECTION. Section 10. Renewal of license. (1) An
25 application for renewal of an existing license made within

1 60 days after the expiration of the license is timely, and
2 the rights and privileges of the applicant during that
3 period remain in effect.

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

9 NEW SECTION. Section 11. Suspension or revocation of
10 license. (1) The board may suspend or revoke the license of
11 a person found according to the procedure contained in
12 [section 12] to have violated a professional or ethical
13 standard adopted by the board. A person may not practice
14 counseling in this state as a licensed professional
15 counselor during the period for which his license is
16 suspended or revoked.

17 (2) The board may not suspend a license for more than
18 6 months. Upon termination of the suspension period, the
19 person whose license has been suspended must undergo a board
20 review before resuming practice as a licensed professional
21 counselor.

22 (3) The board may not revoke a license for less than 3
23 years. Upon termination of the revocation period, the person
24 whose license has been revoked may apply to the board for
25 reinstatement.

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

15 (2) A hearing on the charge must be conducted in
 16 accordance with 37-1-121(1) and the Montana Administrative
 17 Procedure Act.

18 NEW SECTION. Section 13. 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 counselor-client relationship, the client
 15 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 14. Misdemeanor violations --
 20 penalties. (1) It is a misdemeanor for a person to
 21 knowingly:

22 (a) represent himself as a licensed professional
 23 counselor without being licensed under [sections 2 through
 24 14];

25 (b) obtain or attempt to obtain a license or license

1 renewal by bribery or fraudulent representation; or
 2 (c) make a false statement on any form used by the
 3 board to implement [sections 2 through 14] or the rules
 4 adopted under [sections 2 through 14].

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

10 Section 15. Section 33-22-111, MCA, is amended to
 11 read:

12 "33-22-111. Policies to provide for freedom of choice
 13 of practitioners -- professional practice not enlarged. (1)
 14 All policies of disability insurance, including individual,
 15 group, and blanket policies, and all policies insuring the
 16 payment of compensation under the Workers' Compensation Act
 17 shall provide the insured shall have full freedom of choice
 18 in the selection of any duly licensed physician, dentist,
 19 osteopath, chiropractor, optometrist, chiropodist,
 20 psychologist, or OR nurse specialist as specifically listed
 21 in 37-8-202, ~~or professional counselor~~ for treatment of any
 22 illness or injury within the scope and limitations of his
 23 practice. Whenever such policies insure against the expense
 24 of drugs, the insured shall have full freedom of choice in
 25 the selection of any duly licensed and registered

1 pharmacist. AN INSURER SHALL OFFER, AT ADDITIONAL COST TO
 2 THE INSURED, THE OPTION OF DISABILITY AND HEALTH INSURANCE
 3 COVERAGE FOR SERVICES PERFORMED BY A LICENSED PROFESSIONAL
 4 COUNSELOR.

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

11 ~~Section 16. Section 33-30-101, MCA, is amended to~~
 12 ~~read:~~

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

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

21 ~~(2) "Health services" means the health care and~~
 22 ~~services provided by hospitals or other health care~~
 23 ~~institutions, organizations, associations, or groups and by~~
 24 ~~doctors of medicine, osteopathy, dentistry, chiropractic,~~
 25 ~~optometry, and podiatry, nursing services, licensed social~~

1 worker, professional counselor, or psychologist; medical
2 appliances, equipment, and supplies; drugs, medicines,
3 ambulance services, and other therapeutic services and
4 supplies.

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

9 NEW SECTION. SECTION 16. OPTIONAL COVERAGE FOR
10 SERVICES PROVIDED BY PROFESSIONAL COUNSELORS. A HEALTH
11 SERVICE CORPORATION SHALL PROVIDE IN ITS MEMBERSHIP
12 CONTRACT, AT AN ADDITIONAL COST TO A MEMBER, OPTIONAL
13 COVERAGE FOR SERVICES PERFORMED BY A LICENSED PROFESSIONAL
14 COUNSELOR.

15 NEW SECTION. Section 17. Licensure of certain board
16 members appointed to initial board. Notwithstanding the
17 qualifications for appointment contained in [section 1(2)(a)
18 and (b)], a person may be appointed to the initial board
19 without being licensed as a professional counselor if he is
20 issued a license under this act within 30 days after his
21 appointment.

22 NEW SECTION. Section 18. Codification instruction.
23 Section 1 is intended to be codified as an integral part of
24 Title 2, chapter 15, part 18, and the provisions of Title 2,
25 chapter 15, apply to section 1.

1 NEW SECTION. Section 19. Severability. If a part of
2 this act is invalid, all valid parts that are severable from
3 the invalid part remain in effect. If a part of this act is
4 invalid in one or more of its applications, the part remains
5 in effect in all valid applications that are severable from
6 the invalid applications.

7 NEW SECTION. SECTION 20. EFFECTIVE DATE. THIS ACT IS
8 EFFECTIVE JULY 1, 1985.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 571

3 House Human Services and Aging Committee
4

5 Section 4 requires the board of professional counselors
6 to adopt rules setting professional and ethical standards
7 and continuing education requirements for professional
8 licensed counselors and to adopt such other rules as are
9 necessary for the regulation of this profession. In
10 addition, section 4 permits the board to adopt rules
11 governing the issuance of certificates in particular areas
12 of practice as a licensed professional counselor. The
13 legislature perceives a need to regulate persons holding
14 themselves out as professional counselors. Consumers of
15 professional counseling services are entitled to adequate
16 regulation of those services in the public interest. It is
17 contemplated that the board may promulgate rules that:

18 (1) protect the public from abuse of the trust placed
19 in professional counselors;

20 (2) regulate the day-to-day practices of licensed
21 professional counselors;

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

24 (4) regulate fees charged for services;

25 (5) regulate testing devices and methods used by

1 licensed professional counselors;

2 (6) regulate counseling techniques;

3 (7) determine the type, amount, and quality of
4 continuing education of licensed professional counselors;

5 (8) determine the areas of specialization in which a
6 professional counselor could be certified and define the
7 requirements that must be met for certification in these
8 areas; and

9 (9) are otherwise necessary to the regulation of the
10 profession.

THIRD READING

1 HOUSE BILL NO. 571

2 INTRODUCED BY BERGENE, KEATING, CHRISTIAENS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 MANDATORY LICENSING AND REGULATION OF PROFESSIONAL
6 COUNSELORS; CREATING A STATE BOARD OF PROFESSIONAL
7 COUNSELORS; CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING
8 PENALTIES FOR VIOLATIONS; AND ALLOWING REQUIRING AN INSURER
9 OR HEALTH SERVICE CORPORATION TO OFFER THE OPTION OF, IF
10 REQUESTED, ADDITIONAL DISABILITY AND HEALTH INSURANCE
11 COVERAGE FOR WORK DONE BY LICENSED PROFESSIONAL COUNSELORS;
12 AMENDING SECTIONS SECTION 33-22-111 AND 33-30-101, MCA; AND
13 PROVIDING AN EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 NEW SECTION. Section 1. Board of professional
17 counselors -- appointment -- qualifications -- organization.18 (1) The governor shall appoint a board of professional
19 counselors consisting of five members.20 (2) The members must be residents of the state. In
21 addition:22 (a) three members must be licensed professional
23 counselors engaged primarily in rendering professional
24 counseling services;

25 (b) one member must be a licensed professional

1 counselor engaged primarily in teaching, training, or
2 research in counseling; and3 (c) one member must be appointed from and represent
4 the general public and may not be engaged in professional
5 counseling.6 (3) A member may not succeed himself as a board member
7 but may be reappointed 3 or more years after completing his
8 most recent term.9 (4) The board is designated a quasi-judicial board.
10 Members are appointed, serve, and are subject to removal in
11 accordance with 2-15-124.12 (5) The board is allocated to the department of
13 commerce for administrative purposes only as prescribed in
14 2-15-121.15 NEW SECTION. Section 2. Purpose. The legislature
16 finds and declares that because the profession of
17 professional counseling profoundly affects the lives of
18 people of this state, it is the purpose of [sections 2
19 through 14] to provide for the common good by ensuring
20 ethical, qualified, and professional practice of
21 professional counseling. [Sections 2 through 14] and the
22 rules promulgated under [section 4] set standards of
23 qualification, education, training, and experience and
24 establish professional ethics for those who seek to engage
25 in the practice of professional counseling as licensed

1 professional counselors.

2 NEW SECTION. Section 3. Definitions. As used in
3 [sections 2 through 14], the following definitions apply:

4 (1) "Board" means the board of professional counselors
5 established under [section 1].

6 (2) "Licensee" means a person licensed under [sections
7 2 through 14].

8 (3) "Professional counseling" means engaging in
9 methods and techniques that include:

10 (a) counseling, which means assisting an individual or
11 a group, through the counseling relationship, to develop
12 understanding of intrapersonal and interpersonal problems,
13 to define goals, to make decisions, to plan a course of
14 action reflecting his or their needs, interests, and
15 abilities, and to use informational and community resources;

16 (b) appraisal, which means selecting, administering,
17 scoring, and interpreting instruments designed to assess an
18 individual's aptitudes, attitudes, abilities, achievement,
19 interests, and personal characteristics and using
20 nonstandardized methods and techniques for understanding
21 human behavior in relation to coping with, adapting to, or
22 changing life situations;

23 (c) technical assistance, which means applying
24 scientific principles and procedures in counseling,
25 guidance, and human development to provide assistance in

1 understanding and solving a current or potential problem
2 that an individual may have in relation to another
3 individual, a group or organization, or other third party;
4 and

5 (d) referral, which means evaluating information to
6 identify needs or problems of an individual and to determine
7 the advisability of referral to other specialists, informing
8 the individual of such judgment, and communicating as
9 requested or considered appropriate with such referral
10 sources.

11 NEW SECTION. Section 4. Powers and duties of board.

12 (1) The board shall:

13 (a) recommend amendments to [sections 2 through 14] to
14 the governor or the legislature, or both;

15 (b) recommend prosecutions for violations of [section
16 14] to the attorney general or appropriate county attorneys,
17 or both;

18 (c) annually publish a list of the names and addresses
19 of all persons who are licensed professional counselors;

20 (d) establish requirements for continuing education
21 that are conditions of license renewal;

22 (e) ~~meet at least once every 3 months to perform the~~
23 ~~duties described in this section unless the board, by a~~
24 ~~consensus of its members, determines that there is no~~
25 ~~necessity for a board meeting;~~

1 (f) adopt rules that set professional and ethical
 2 standards for licensed professional counselors and such
 3 other rules as may be reasonably necessary for the
 4 administration of [sections 2 through 14]; and

5 (g) distribute a copy of the professional and ethical
 6 standards to each licensed professional counselor.

7 (2) The board may adopt rules governing the issuance
 8 of certificates of special competence in particular areas of
 9 practice as a licensed professional counselor. The board
 10 shall establish criteria for each particular area for which
 11 a certificate is issued.

12 NEW SECTION. Section 5. Representation to public as
 13 licensed professional counselor -- limitations on use of
 14 title. (1) No person may represent himself to be a licensed
 15 professional counselor by adding the letters "LPC" after his
 16 name or by any other means unless licensed under [sections 2
 17 through 14]; and

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

19 (a) a qualified member of another profession, such as
 20 a physician, psychologist, lawyer, pastoral counselor,
 21 probation officer, court employee, nurse, social worker,
 22 school counselor, or educator, from professional counseling
 23 consistent with his training if he does not hold himself out
 24 to the public by a title or description incorporating the
 25 words "licensed professional counselor", "licensed

1 counselor", or "professional counselor";

2 (b) an activity or service or use of an official title
 3 by a person employed by a federal, state, county, or
 4 municipal agency or an educational, research, or charitable
 5 institution that is a part of the duties of the office or
 6 position;

7 (c) an activity or service of an employee of a
 8 business establishment performed solely for the benefit of
 9 the establishment's employees;

10 (d) an activity or service of a student, intern, or
 11 resident in mental health counseling pursuing a course of
 12 study at an accredited university or college or working in a
 13 generally recognized training center if the activity or
 14 service constitutes a part of the supervised course of
 15 study;

16 (e) an activity or service of a person who is not a
 17 resident of this state, which activity or service is
 18 rendered for a period that does not exceed, in the
 19 aggregate, 60 days during a calendar year, if the person is
 20 authorized under the law of the state or country of
 21 residence to perform such activity or service. However, such
 22 person shall report to the department of commerce the nature
 23 and extent of the activity or service if it exceeds 10 days
 24 in a calendar year.

25 (f) pending disposition of the application for a

1 license, the activity or service by a person who has
2 recently become a resident of this state, has applied for a
3 license within 90 days of taking up residency in this state,
4 and is licensed to perform such activity or service in the
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7 To be licensed on or before October 1, 1987, as a
8 professional counselor under [sections 2 through 14], an
9 applicant must have satisfactorily completed:

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11 primarily counseling in nature which resulted in an advanced
12 degree in a counseling field from an institution accredited
13 to offer such a degree program;

14 (b) 2,000 hours or more of postdegree work experience
15 as a counselor in a hospital, school, agency, or other
16 supervised setting;

17 (c) and passed an examination prepared and
18 administered by the board or a national examination approved
19 by the board; and

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21 board that includes submission of three letters of
22 nomination from counselors or related professionals, each of
23 whom holds a master's degree or higher and who can attest to
24 the quality of the applicant's work.

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1 must have satisfactorily completed:

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4 were earned in an advanced counseling practicum, which
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6 to offer a graduate program in counseling;

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8 licensed professional counselor or licensed member of an
9 allied mental health profession, at least half of which was
10 postdegree. The applicant must have each supervisor endorse
11 his application for licensure, attesting to the number of
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 4 or that in his professional opinion reveals a threat of
 5 imminent harm to the client or others;

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 9 fully in relation thereto in any investigation, trial, or
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9 repealing any statutes relating to the licensing or use of
10 hospitals."

11 ~~Section 16. Section 33-30-101, MCA, is amended to~~
12 ~~read:~~

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

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

21 ~~(2) "Health services" means the health care and~~
22 ~~services provided by hospitals or other health care~~
23 ~~institutions, organizations, associations, or groups and by~~
24 ~~doctors of medicine, osteopathy, dentistry, chiropractic,~~
25 ~~optometry, and podiatry, nursing services, licensed social~~

1 ~~worker, professional counselor, or psychologist, medical~~
 2 ~~appliances, equipment, and supplies, drugs, medicines,~~
 3 ~~ambulance services, and other therapeutic services and~~
 4 ~~supplies.~~

5 {3}--"Membership--contract"---means---any---agreement,
 6 contract,---or---certificate---by---which---a---health---service
 7 corporation---describes---the---health---services---or---benefits
 8 provided---to---its---members---or---beneficiaries."

9 NEW SECTION. SECTION 16. OPTIONAL--COVERAGE COVERAGE
 10 FOR SERVICES PROVIDED BY PROFESSIONAL COUNSELORS. A HEALTH
 11 SERVICE CORPORATION, IF REQUESTED, SHALL PROVIDE IN ITS
 12 MEMBERSHIP--CONTRACT GROUP INSURANCE CONTRACTS, AT AN
 13 ADDITIONAL COST, TO A MEMBER, OPTIONAL COVERAGE FOR SERVICES
 14 PERFORMED BY A LICENSED PROFESSIONAL COUNSELOR.

15 NEW SECTION. Section 17. Licensure of certain board
 16 members appointed to initial board. Notwithstanding the
 17 qualifications for appointment contained in [section 1(2)(a)
 18 and (b)], a person may be appointed to the initial board
 19 without being licensed as a professional counselor if he is
 20 issued a license under this act within 30 days after his
 21 appointment.

22 NEW SECTION. Section 18. Codification instruction.
 23 Section 1 is intended to be codified as an integral part of
 24 Title 2, chapter 15, part 18, and the provisions of Title 2,
 25 chapter 15, apply to section 1.

1 NEW SECTION. Section 19. Severability. If a part of
 2 this act is invalid, all valid parts that are severable from
 3 the invalid part remain in effect. If a part of this act is
 4 invalid in one or more of its applications, the part remains
 5 in effect in all valid applications that are severable from
 6 the invalid applications.

7 NEW SECTION. SECTION 20. EFFECTIVE DATE. THIS ACT IS
 8 EFFECTIVE JULY 1, 1985.

-End-

MARCH 27 19 85

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

having had under consideration HOUSE BILL No. 571

third reading copy (blue color)

MANDATORY LICENSING & REGULATION OF PROFESSIONAL COUNSELORS (Keating)

HOUSE BILL 571

Respectfully report as follows: That No.

be amended as follows:

- 1. Title, line 6 and 7. Following: "COUNSELORS;" on line 6 Strike: "CREATING A STATE BOARD OF PROFESSIONAL COUNSELORS;"
2. Title, line 12. Following: "SECTIONS" Strike: "SECTION" Insert: "SECTIONS 2-15-1854," Following: "33-30-1017" Insert: "AND 37-22-102,"
3. Page 1, line 16 through line 14 on page 2. Strike: Section 1 in its entirety Renumber: subsequent sections
4. Page 2, line 18. Following: "[sections]" Strike: "2" Insert: "1"
5. Page 2, line 19. Following: "through" Strike: "14" Insert: "13"

(continued)

XXXXXX
XXXXXXXX

[Handwritten signature]

Chairman.

MARCH 27 19 85

6. Page 2, line 21. Following: "[Sections" Strike: "2" Insert: "1" Following: "through" Insert: "13"

7. Page 2, line 22. Following: "[section" Strike: "4" Insert: "3"

8. Page 3, line 3. Following: "[sections" Strike: "2" Insert: "1" Following: "through" Strike: "14" Insert: "13"

9. Page 3, line 4. Following: "board of" Insert: "social work examiners and"

10. Page 3, line 5. Following: "under" Strike: "[section 1]" Insert: "2-15-1854"

11. Page 3, line 7. Following: line 6 Strike: "2" Insert: "1" Following: "through" Strike: "14" Insert: "13"

12. Page 4, line 13. Following: "[sections" Strike: "2" Insert: "1" Following: "through" Strike: "14" Insert: "13"

(continued)

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13. Page 4, line 16.
Following: line 15
Strike: "14"
Insert: "13"

14. Page 5, line 2.
Following: "counselors"
Insert: "which are based on national standards"

15. Page 5, line 4.
Following: "[sections"
Strike: "2"
Insert: "1"
Following: "through"
Strike: "14"
Insert: "13"

16. Page 5, line 16.
Following: "[sections"
Strike: "2"
Insert: "1"

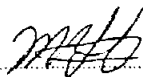
17. Page 5, line 17.
Following: "through"
Strike: "14"
Insert: "13"

18. Page 7, line 7.
Following: "before"
Strike: "October 1"
Insert: "December 31"

19. Page 7, line 8.
Following: "[sections"
Strike: "2"
Insert: "1"
Following: "through"
Strike: "14"
Insert: "13"

20. Page 7, line 18.
Following: "board"
Strike: "or"
Insert: "based on"

(continued)



21. Page 7, line 25.
Following: "after"
Strike: "October 1"
Insert: "December 31"

22. Page 8, line 14.
Following: "board"
Strike: "or"
Insert: "based on"

23. Page 9, line 10.
Following: "[section"
Strike: "6"
Insert: "5"

24. Page 9, lines 13 and 14.
Following: "and" on line 13
Strike: "expires 3 years after that date"
Insert: "must be renewed every year as provided in [section 10]"

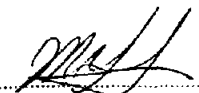
25. Page 9, line 18.
Following: "[section"
Strike: "7"
Insert: "6"

26. Page 9, line 24.
Following: "license."
Insert: "(1) A license may be issued for no longer than 1 year. The board may adopt rules to provide for annual renewal of an existing license."

ReNUMBER: subsequent subsections

27. Page 9, line 23.
Following: "[sections"
Strike: "2"
Insert: "1"
Following: "through"
Strike: "14"
Insert: "13"

(continued)



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28. Page 10, line 12.
Following: "[section"
Strike: "12"
Insert: "11"

29. Page 12, line 23.
Following: "[sections"
Strike: "2"
Insert: "1"

30. Page 12, line 24.
Following: line 23
Strike: "14"
Insert: "13"

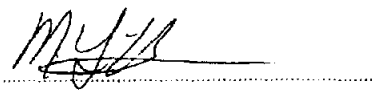
31. Page 13, line 3.
Following: "[sections"
Strike: "2"
Insert: "1"
Following: "through"
Strike: "14"
Insert: "13"

32. Page 13, line 4.
Following: "[sections"
Strike: "2"
Insert: "1"
Following: "through"
Strike: "14"
Insert: "13"

33. Page 15, line 16.
Following: "to"
Strike: "initial"
Following: "board"
Insert: "of social work examiners and professional
counselors"

34. Page 15, lines 17 and 18.
Following: "in" on line 17
Strike: "[section 1 (2) (a) and (b)]"
Insert: "2-15-1854"

(continued)



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35. Page 15, line 18.
Following: "the"
Strike: "initial"

36. Page 15, line 22.
Following: line 21
Insert: "Section 18. Section 2-15-1854, MCA, is amended to
read:

"2-15-1854. Board of social work examiners and
professional counselors. ~~{}~~ The governor shall appoint
a board of social work examiners and professional
counselors consisting of five seven members. ~~{1}~~ Four Three
members must be licensed social workers, and: three must be
licensed professional counselors.

~~{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-medical-or-social
welfare-field; and~~

~~----{d}--one-member-must-be-an-educator-in-the-field-of
social-work;~~

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

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

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

(continued)



MARCH 27 19 85

Section 19. Section 37-22-102, MCA, is amended to read:


"37-22-102. Definitions. As used in this chapter:

- (1) "Board" means the board of social work examiners and professional counselors established under 2-15-1854.
- (2) "Department" means the department of commerce.
- (3) "Licensee" means a person licensed under this chapter.
- (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:
 - (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." "

Renumber: subsequent sections

37. Page 15, lines 22 through 25.
Strike: section 18 in its entirety
Renumber: subsequent sections

KB AND AS AMENDED
BE CONCURRED IN


Sen. Mike Halligan, Chairman

STATEMENT OF INTENT

HOUSE BILL 571

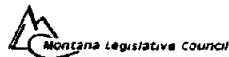
House Human Services and Aging Committee

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4
5 Section 4 requires the board of professional counselors
6 to adopt rules setting professional and ethical standards
7 and continuing education requirements for professional
8 licensed counselors and to adopt such other rules as are
9 necessary for the regulation of this profession. In
10 addition, section 4 permits the board to adopt rules
11 governing the issuance of certificates in particular areas
12 of practice as a licensed professional counselor. The
13 legislature perceives a need to regulate persons holding
14 themselves out as professional counselors. Consumers of
15 professional counseling services are entitled to adequate
16 regulation of those services in the public interest. It is
17 contemplated that the board may promulgate rules that:

- 18 (1) protect the public from abuse of the trust placed
19 in professional counselors;
20 (2) regulate the day-to-day practices of licensed
21 professional counselors;
22 (3) ensure a professional attitude and professional
23 work in a professional atmosphere;
24 (4) regulate fees charged for services;
25 (5) regulate testing devices and methods used by

- 1 licensed professional counselors;
2 (6) regulate counseling techniques;
3 (7) determine the type, amount, and quality of
4 continuing education of licensed professional counselors;
5 (8) determine the areas of specialization in which a
6 professional counselor could be certified and define the
7 requirements that must be met for certification in these
8 areas; and
9 (9) are otherwise necessary to the regulation of the
10 profession.

REFERENCE BILL
HB 571



HOUSE BILL NO. 571

INTRODUCED BY BERGENE, KEATING, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE MANDATORY LICENSING AND REGULATION OF PROFESSIONAL COUNSELORS; ~~CREATING A STATE BOARD OF PROFESSIONAL COUNSELORS;~~ CREATING A COMMUNICATIONS PRIVILEGE; PROVIDING PENALTIES FOR VIOLATIONS; AND ALLOWING REQUIRING AN INSURER OR HEALTH SERVICE CORPORATION TO OFFER THE OPTION OF, IF REQUESTED, ADDITIONAL DISABILITY AND HEALTH INSURANCE COVERAGE FOR WORK DONE BY LICENSED PROFESSIONAL COUNSELORS; AMENDING SECTIONS SECTION SECTIONS 2-15-1854, 33-22-111 AND 33-30-101, AND 37-22-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Board of professional counselors. ~~appointment qualifications organization.~~

(1) ~~The governor shall appoint a board of professional counselors consisting of five members.~~

(2) ~~The members must be residents of the state. In addition:~~

(a) ~~three members must be licensed professional counselors engaged primarily in rendering professional counseling services;~~

~~(b) one member must be a licensed professional counselor engaged primarily in teaching, training, or research in counseling; and~~

~~(c) one member must be appointed from and represent the general public and may not be engaged in professional counseling;~~

~~(3) A member may not succeed himself as a board member but may be reappointed 3 or more years after completing his most recent term.~~

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

~~(5) The board is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121.~~

NEW SECTION. Section 1. Purpose. The legislature finds and declares that because the profession of professional counseling profoundly affects the lives of people of this state, it is the purpose of [sections 2 1 through 14 13] to provide for the common good by ensuring ethical, qualified, and professional practice of professional counseling. [Sections 2 1 through 14 13] and the rules promulgated under [section 4 3] set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage



1 in the practice of professional counseling as licensed
2 professional counselors.

3 NEW SECTION. Section 2. Definitions. As used in
4 [sections ~~2 1~~ through ~~14 13~~], the following definitions
5 apply:

6 (1) "Board" means the board of SOCIAL WORK EXAMINERS
7 AND professional counselors established under ~~{section--1}~~
8 2-15-1854.

9 (2) "Licensee" means a person licensed under [sections
10 ~~2 1~~ through ~~14 13~~].

11 (3) "Professional counseling" means engaging in
12 methods and techniques that include:

13 (a) counseling, which means assisting an individual or
14 a group, through the counseling relationship, to develop
15 understanding of intrapersonal and interpersonal problems,
16 to define goals, to make decisions, to plan a course of
17 action reflecting his or their needs, interests, and
18 abilities, and to use informational and community resources;

19 (b) appraisal, which means selecting, administering,
20 scoring, and interpreting instruments designed to assess an
21 individual's aptitudes, attitudes, abilities, achievement,
22 interests, and personal characteristics and using
23 nonstandardized methods and techniques for understanding
24 human behavior in relation to coping with, adapting to, or
25 changing life situations;

1 (c) technical assistance, which means applying
2 scientific principles and procedures in counseling,
3 guidance, and human development to provide assistance in
4 understanding and solving a current or potential problem
5 that an individual may have in relation to another
6 individual, a group or organization, or other third party;
7 and

8 (d) referral, which means evaluating information to
9 identify needs or problems of an individual and to determine
10 the advisability of referral to other specialists, informing
11 the individual of such judgment, and communicating as
12 requested or considered appropriate with such referral
13 sources.

14 NEW SECTION. Section 3. Powers and duties of board.

15 (1) The board shall:

16 (a) recommend amendments to [sections ~~2 1~~ through ~~14~~
17 ~~13~~] to the governor or the legislature, or both;

18 (b) recommend prosecutions for violations of [section
19 ~~14 13~~] to the attorney general or appropriate county
20 attorneys, or both;

21 (c) annually publish a list of the names and addresses
22 of all persons who are licensed professional counselors;

23 (d) establish requirements for continuing education
24 that are conditions of license renewal;

25 (e) ~~meet at-least-once-every-3-months~~ to perform the

1 duties described in this section ~~unless the board, by a~~
 2 ~~consensus of its members, determines that there is no~~
 3 ~~necessity for a board meeting;~~

4 (f) adopt rules that set professional and ethical
 5 standards for licensed professional counselors WHICH ARE
 6 BASED ON NATIONAL STANDARDS and such other rules as may be
 7 reasonably necessary for the administration of [sections ~~2~~ 1
 8 through ~~14~~ 13]; and

9 (g) distribute a copy of the professional and ethical
 10 standards to each licensed professional counselor.

11 (2) The board may adopt rules governing the issuance
 12 of certificates of special competence in particular areas of
 13 practice as a licensed professional counselor. The board
 14 shall establish criteria for each particular area for which
 15 a certificate is issued.

16 NEW SECTION. Section 4. Representation to public as
 17 licensed professional counselor -- limitations on use of
 18 title. (1) No person may represent himself to be a licensed
 19 professional counselor by adding the letters "LPC" after his
 20 name or by any other means unless licensed under [sections ~~2~~
 21 1 through ~~14~~ 13]; and

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

23 (a) a qualified member of another profession, such as
 24 a physician, psychologist, lawyer, pastoral counselor,
 25 probation officer, court employee, nurse, social worker,

1 school counselor, or educator, from professional counseling
 2 consistent with his training if he does not hold himself out
 3 to the public by a title or description incorporating the
 4 words "licensed professional counselor", "licensed
 5 counselor", or "professional counselor";

6 (b) an activity or service or use of an official title
 7 by a person employed by a federal, state, county, or
 8 municipal agency or an educational, research, or charitable
 9 institution that is a part of the duties of the office or
 10 position;

11 (c) an activity or service of an employee of a
 12 business establishment performed solely for the benefit of
 13 the establishment's employees;

14 (d) an activity or service of a student, intern, or
 15 resident in mental health counseling pursuing a course of
 16 study at an accredited university or college or working in a
 17 generally recognized training center if the activity or
 18 service constitutes a part of the supervised course of
 19 study;

20 (e) an activity or service of a person who is not a
 21 resident of this state, which activity or service is
 22 rendered for a period that does not exceed, in the
 23 aggregate, 60 days during a calendar year, if the person is
 24 authorized under the law of the state or country of
 25 residence to perform such activity or service. However, such

1 person shall report to the department of commerce the nature
2 and extent of the activity or service if it exceeds 10 days
3 in a calendar year.

4 (f) pending disposition of the application for a
5 license, the activity or service by a person who has
6 recently become a resident of this state, has applied for a
7 license within 90 days of taking up residency in this state,
8 and is licensed to perform such activity or service in the
9 state of his former residence.

10 NEW SECTION. Section 5. Licensure requirements. (1)
11 To be licensed on or before ~~October-1~~ DECEMBER 31, 1987, as
12 a professional counselor under [sections 2 1 through ~~14~~ 13],
13 an applicant must have satisfactorily completed:

14 (a) a planned graduate program of study that was
15 primarily counseling in nature which resulted in an advanced
16 degree in a counseling field from an institution accredited
17 to offer such a degree program;

18 (b) 2,000 hours or more of postdegree work experience
19 as a counselor in a hospital, school, agency, or other
20 supervised setting;

21 (c) and passed an examination prepared and
22 administered by the board ~~or~~ BASED ON a national examination
23 approved by the board; and

24 (d) an application form and process prescribed by the
25 board that includes submission of three letters of

1 nomination from counselors or related professionals, each of
2 whom holds a master's degree or higher and who can attest to
3 the quality of the applicant's work.

4 (2) To be licensed after ~~October-1~~ DECEMBER 31, 1987,
5 an applicant must have satisfactorily completed:

6 (a) a planned graduate program of 90 quarter hours,
7 primarily counseling in nature, nine quarter hours of which
8 were earned in an advanced counseling practicum, which
9 resulted in a graduate degree from an institution accredited
10 to offer a graduate program in counseling;

11 (b) 2,000 hours of counseling practice supervised by a
12 licensed professional counselor or licensed member of an
13 allied mental health profession, at least half of which was
14 postdegree. The applicant must have each supervisor endorse
15 his application for licensure, attesting to the number of
16 hours supervised.

17 (c) and passed an examination prepared and
18 administered by the board ~~or~~ BASED ON a national examination
19 approved by the board; and

20 (d) an application form and process prescribed by the
21 board.

22 NEW SECTION. Section 6. Fees. (1) Each applicant for
23 a license shall, upon submitting his application to the
24 board, pay an application fee set by the board ~~equi-to-the~~
25 ~~cost-of-processing-the-application~~ COMMENSURATE WITH COSTS.

1 (2) Each applicant for a license required to take an
2 examination shall, before commencement of the examination,
3 pay an examination fee set by the board ~~equal-to-the-cost-of~~
4 ~~administering-the-examination~~ COMMENSURATE WITH COSTS.

5 (3) Each applicant shall, before receipt of a license
6 or license renewal, pay a fee set by the board ~~equal-to--the~~
7 ~~cost-of-issuing-a-license~~ COMMENSURATE WITH COSTS.

8 (4) Subject to 37-1-101(6), money paid for
9 application, examination, license, and license renewal fees
10 must be deposited in the state special revenue fund for the
11 use of the board.

12 NEW SECTION. Section 7. Issuance, effective date, and
13 display of license. (1) If an applicant meets the
14 requirements contained in [section 6 5] and has paid the
15 appropriate fees, the board shall issue a license to the
16 applicant attesting to the date and fact of licensure. The
17 license is effective on the date of issuance and ~~expires--3~~
18 ~~years-after-that-date~~ MUST BE RENEWED EVERY YEAR AS PROVIDED
19 IN [SECTION 9].

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

22 NEW SECTION. Section 8. Reciprocity. Upon payment of
23 the license fee provided for in [section 7 6], the board may
24 issue a license to a person who, at the time of application,
25 is licensed or certified as a professional counselor by an

1 agency located in another state if the requirements of such
2 licensure or certification are substantially similar to the
3 requirements of [sections 2 1 through 4 13].

4 NEW SECTION. Section 9. Renewal of license. (1) A
5 LICENSE MAY BE ISSUED FOR NO LONGER THAN 1 YEAR. THE BOARD
6 MAY ADOPT RULES TO PROVIDE FOR ANNUAL RENEWAL OF AN EXISTING
7 LICENSE.

8 ~~(1)~~(2) An application for renewal of an existing
9 license made within 60 days after the expiration of the
10 license is timely, and the rights and privileges of the
11 applicant during that period remain in effect.

12 ~~(2)~~(3) Application for renewal must be made upon a
13 form provided by the department. A renewal license must be
14 issued upon payment of a renewal fee set by the board and
15 upon submitting proof of completion of continuing education
16 requirements established by the board.

17 NEW SECTION. Section 10. Suspension or revocation of
18 license. (1) The board may suspend or revoke the license of
19 a person found according to the procedure contained in
20 [section 4 11] to have violated a professional or ethical
21 standard adopted by the board. A person may not practice
22 counseling in this state as a licensed professional
23 counselor during the period for which his license is
24 suspended or revoked.

25 (2) The board may not suspend a license for more than

1 6 months. Upon termination of the suspension period, the
 2 person whose license has been suspended must undergo a board
 3 review before resuming practice as a licensed professional
 4 counselor.

5 (3) The board may not revoke a license for less than 3
 6 years. Upon termination of the revocation period, the person
 7 whose license has been revoked may apply to the board for
 8 reinstatement.

9 NEW SECTION. Section 11. Procedure for charging
 10 violation of professional or ethical standard. (1) A member
 11 of the board or any other person may charge a licensee with
 12 violating a professional or ethical standard adopted by the
 13 board. The charge must be made by affidavit, subscribed and
 14 sworn to by the person making it, and filed with the
 15 department of commerce. The charge must be investigated by
 16 the board, and unless the board dismisses the charge after
 17 investigation as unfounded or trivial, the board must act on
 18 the charge within 6 months after the date on which the
 19 charge was filed. The board is considered to have acted on a
 20 charge if it has given notice by mail to the licensee of its
 21 intent to suspend or revoke his license and the notice
 22 contains those matters required by 2-4-601.

23 (2) A hearing on the charge must be conducted in
 24 accordance with 37-1-121(1) and the Montana Administrative
 25 Procedure Act.

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

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

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

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

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

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

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

2 NEW SECTION. Section 13. Misdemeanor violations --
3 penalties. (1) It is a misdemeanor for a person to
4 knowingly:

5 (a) represent himself as a licensed professional
6 counselor without being licensed under [sections 2 1 through
7 14 13];

8 (b) obtain or attempt to obtain a license or license
9 renewal by bribery or fraudulent representation; or

10 (c) make a false statement on any form used by the
11 board to implement [sections 2 1 through 14 13] or the rules
12 adopted under [sections 2 1 through 14 13].

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

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

20 "33-22-111. Policies to provide for freedom of choice
21 of practitioners -- professional practice not enlarged. (1)
22 All policies of disability insurance, including individual,
23 group, and blanket policies, and all policies insuring the
24 payment of compensation under the Workers' Compensation Act
25 shall provide the insured shall have full freedom of choice

1 in the selection of any duly licensed physician, dentist,
2 osteopath, chiropractor, optometrist, chiropodist,
3 psychologist, or OR nurse specialist as specifically listed
4 in 37-8-2027-~~or-professional-counselor~~ for treatment of any
5 illness or injury within the scope and limitations of his
6 practice. Whenever such policies insure against the expense
7 of drugs, the insured shall have full freedom of choice in
8 the selection of any duly licensed and registered
9 pharmacist. AN INSURER SHALL OFFER, AT ADDITIONAL COST TO
10 THE INSURED, THE OPTION OF DISABILITY AND HEALTH INSURANCE
11 COVERAGE FOR SERVICES PERFORMED BY A LICENSED PROFESSIONAL
12 COUNSELOR.

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

19 ~~Section 16. Section 33-30-101, MCA, is amended to~~
20 ~~read:~~

21 ~~"33-30-101. Definitions. As used in this chapter, the~~
22 ~~following definitions apply:~~

23 ~~(i) "Health service corporation" means a nonprofit~~
24 ~~corporation organized or operating for the purposes of~~
25 ~~establishing and operating a nonprofit plan or plans under~~

1 which prepaid hospital care, medical surgical care, and
 2 other health care and services, or reimbursement therefor,
 3 may be furnished to a member or beneficiary.

4 (2) "Health services" means the health care and
 5 services provided by hospitals or other health care
 6 institutions, organizations, associations, or groups and by
 7 doctors of medicine, osteopathy, dentistry, chiropractic,
 8 optometry, and podiatry, nursing services, licensed social
 9 worker, professional counselor, or psychologist, medical
 10 appliances, equipment, and supplies, drugs, medicines,
 11 ambulance services, and other therapeutic services and
 12 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 15. OPTIONAL COVERAGE COVERAGE
 18 FOR SERVICES PROVIDED BY PROFESSIONAL COUNSELORS. A HEALTH
 19 SERVICE CORPORATION, IF REQUESTED, SHALL PROVIDE IN ITS
 20 MEMBERSHIP CONTRACT GROUP INSURANCE CONTRACTS, AT AN
 21 ADDITIONAL COST, TO A MEMBER, OPTIONAL COVERAGE FOR SERVICES
 22 PERFORMED BY A LICENSED PROFESSIONAL COUNSELOR.

23 NEW SECTION. Section 16. Licensure of certain board
 24 members appointed to initial board OF SOCIAL WORK EXAMINERS
 25 AND PROFESSIONAL COUNSELORS. Notwithstanding the

1 qualifications for appointment contained in (section 1(2)(a)
 2 and (b)) 2-15-1854, a person may be appointed to the initial
 3 board without being licensed as a professional counselor if
 4 he is issued a license under this act within 30 days after
 5 his appointment.

6 SECTION 17. SECTION 2-15-1854, MCA, IS AMENDED TO
 7 READ:

8 "2-15-1854. Board of social work examiners and
 9 professional counselors. (†) The governor shall appoint a
 10 board of social work examiners and professional counselors
 11 consisting of five seven members.

12 (1) Four Three members must be licensed social
 13 workers, and three must be licensed professional
 14 counselors.

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

17 (b) one member must be employed by a state social
 18 service agency;

19 (c) one member must be in the medical or social
 20 welfare field; and

21 (d) one member must be an educator in the field of
 22 social work;

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

25 (3) The board is allocated to the department for

1 administrative purposes only as prescribed in 2-15-121.

2 (4) The board is designated a quasi-judicial board.

3 Members are appointed, serve, and are subject to removal in

4 accordance with 2-15-124."

5 SECTION 18. SECTION 37-22-102, MCA, IS AMENDED TO

6 READ:

7 "37-22-102. Definitions. As used in this chapter:

8 (1) "Board" means the board of social work examiners

9 and professional counselors established under 2-15-1854.

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

11 (3) "Licensee" means a person licensed under this

12 chapter.

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

14 methods within a professional relationship to assist a

15 person to achieve a better psychosocial adaptation and to

16 modify internal and external conditions that affect

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

18 emotions, and thinking concerning their interpersonal

19 processes.

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

21 directed toward helping people achieve more adequate,

22 satisfying, and productive social adjustments. The practice

23 of social work involves special knowledge of social

24 resources, human capabilities, and the roles that individual

25 motivation and social influences play in determining

1 behavior and involves the application of social work

2 techniques, including:

3 (a) counseling and using psychotherapy with

4 individuals, families, or groups;

5 (b) providing information and referral services;

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

7 of social services;

8 (d) explaining and interpreting the psychosocial

9 aspects in the situations of individuals, families, or

10 groups;

11 (e) helping communities to organize to provide or

12 improve social and health services; and

13 (f) research or teaching related to social work."

14 ~~NEW SECTION. Section 18. Codification. Instruction.~~

15 ~~Section 1 is intended to be codified as an integral part of~~

16 ~~Title 27, Chapter 157, part 187, and the provisions of Title 27,~~

17 ~~Chapter 157, apply to section 1.~~

18 NEW SECTION. Section 19. Severability. If a part of

19 this act is invalid, all valid parts that are severable from

20 the invalid part remain in effect. If a part of this act is

21 invalid in one or more of its applications, the part remains

22 in effect in all valid applications that are severable from

23 the invalid applications.

24 NEW SECTION. SECTION 20. EFFECTIVE DATE. THIS ACT IS

25 EFFECTIVE JULY 1, 1985.