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SENATE BILL NO. 226

INTRODUCED BY

Keating B. Brant

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNSELING LAWS; REVISING THE DEFINITION OF PROFESSIONAL COUNSELING; REQUIRING LICENSURE TO ENGAGE IN THE PRACTICE OF PROFESSIONAL COUNSELING OR FOR A PERSON TO REPRESENT THAT THE PERSON IS A PROFESSIONAL COUNSELOR OR COUNSELOR; AUTHORIZING COUNSELING BY AN INDIVIDUAL WORKING TO COMPLETE CERTAIN COUNSELING REQUIREMENTS; AMENDING SECTIONS 37-23-102, 37-23-201, AND 37-23-311, MCA; AND PROVIDING A DELAYED DATE."

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

Section 1. Section 37-23-102, MCA, is amended to read:

"37-23-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of social work examiners and professional counselors established under 2-15-1854.

(2) "Licensee" means a person licensed under this chapter.

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

(a) counseling, which means ~~assisting an individual or a group, through the counseling relationship, to develop understanding of intrapersonal and interpersonal problems, to define goals, to make decisions, to plan a course of action reflecting his or their needs, interests, and abilities, and to use informational and community resources~~ the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; and

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) ~~appraisal~~ assessment, which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human

1 behavior in relation to coping with, adapting to, or changing life situations;

2 (c) ~~technical assistance, which means applying scientific principles and procedures in counseling,~~
 3 ~~guidance, and human development to provide assistance in understanding and solving a current or potential~~
 4 ~~problem that an individual may have in relation to another individual, a group or organization, or other third~~
 5 ~~party~~ counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic
 6 counseling strategies, techniques, and methods common to the behavioral sciences that are specifically
 7 implemented in the context of a therapeutic relationship. Other treatment interventions include
 8 developmental counseling, guidance, and consulting to facilitate normal growth and development, including
 9 educational and career development; and

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

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 14 **Section 2.** Section 37-23-201, MCA, is amended to read:

15 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**
 16 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title
 17 "licensed clinical professional counselor", "professional counselor", or "counselor".

18 (2) Except as provided in subsection ~~(2)~~ (3), a person may not represent that the person is a
 19 licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or
 20 "LCPC" after the person's name or by any other means, engage in the practice of professional counseling,
 21 represent that the person is engaged in the practice of professional counseling, or represent that the person
 22 is a counselor, unless licensed under this chapter.

23 ~~(2)(3)~~ Individuals licensed in accordance with this chapter before October 1, 1993, who use the
 24 title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor"
 25 or "LCPC".

26 ~~(3)(4)~~ Subsection ~~(4)~~ (2) does not prohibit:

27 (a) a qualified member of another profession, such as a physician, psychologist, lawyer, pastoral
 28 counselor, probation officer, court employee, nurse, social worker, school counselor, ~~or~~ educator, or
 29 chemical dependency counselor certified pursuant to 53-24-215 from professional counseling consistent
 30 with that person's training if the person does not use a title or description incorporating the words "licensed

1 ~~professional counselor", "licensed counselor", "professional counselor", "licensed clinical professional~~
 2 ~~counselor", or "licensed clinical counselor"~~ performing duties and services consistent with the person's
 3 training and the code of ethics of the person's profession as long as the person does not represent by title
 4 or practice that the person is engaging in the practice of professional counseling;

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

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

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

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

18 (f) pending disposition of the application for a license, the activity or service by a person who has
 19 recently become a resident of this state, has applied for a license within 90 days of taking up residency in
 20 this state, and is licensed to perform ~~such~~ the activity or service in the state of ~~his~~ the person's former
 21 residence;

22 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of
 23 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned
 24 graduate program as required by 37-23-202(1)(a)."

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 26 **Section 3.** Section 37-23-311, MCA, is amended to read:

27 **"37-23-311. Misdemeanor violations -- penalties.** (1) It is a misdemeanor for a person to knowingly:

28 (a) engage in the practice of professional counseling or represent himself as that the person is a
 29 licensed professional counselor without being licensed under this chapter;

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

1 or

2 (c) make a false statement on any form used by the board to implement this chapter or the rules
3 adopted under this chapter.

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

7

8 NEW SECTION. **Section 4. Effective date.** [This act] is effective January 1, 1996.

9

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0226, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising counseling laws; revising the definition of professional counseling; requiring licensure to engage in the practice of professional counseling or for a person to represent that the person is a professional counselor or counselor; authorizing counseling by an individual working to complete certain counseling requirements.

ASSUMPTIONS:

1. This bill primarily changes Title 37, Chapter 23, from a professional counselors title act to a practice act.

FISCAL IMPACT:

There would be no fiscal impact to the Department of Commerce.

David Lewis 1-28-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Keating
THOMAS F. KEATING, PRIMARY SPONSOR DATE
Fiscal Note for SB0226, as introduced

SB 226

1 SENATE BILL NO. 226

2 INTRODUCED BY KEATING, BARNHART

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNSELING LAWS; REVISING THE DEFINITION OF
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6 COUNSELING OR FOR A PERSON TO REPRESENT THAT THE PERSON IS A PROFESSIONAL COUNSELOR
7 ~~OR COUNSELOR~~; AUTHORIZING COUNSELING BY AN INDIVIDUAL WORKING TO COMPLETE CERTAIN
8 COUNSELING REQUIREMENTS; AMENDING SECTIONS 37-23-102, 37-23-201, AND 37-23-311, MCA;
9 AND PROVIDING A DELAYED DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 **Section 1.** Section 37-23-102, MCA, is amended to read:14 **"37-23-102. Definitions.** As used in this chapter, the following definitions apply:15 (1) "Board" means the board of social work examiners and professional counselors established
16 under 2-15-1854.

17 (2) "Licensee" means a person licensed under this chapter.

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

19 (a) counseling, which means ~~assisting an individual or a group, through the counseling relationship,~~
20 ~~to develop understanding of intrapersonal and interpersonal problems, to define goals, to make decisions,~~
21 ~~to plan a course of action reflecting his or their needs, interests, and abilities, and to use informational and~~
22 ~~community resources~~ the therapeutic process of:

23 (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and
24 objectives; and

25 (ii) planning, implementing, and evaluating treatment plans that use treatment interventions to
26 facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and
27 associated distresses that interfere with mental health;

28 (b) ~~appraisal~~ assessment, which means selecting, administering, scoring, and interpreting
29 instruments designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and
30 personal characteristics and using nonstandardized methods and techniques for understanding human

1 behavior in relation to coping with, adapting to, or changing life situations;

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 3 ~~guidance, and human development to provide assistance in understanding and solving a current or potential~~
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 5 ~~party counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic~~
 6 ~~counseling strategies, techniques, and methods common to the behavioral sciences that are specifically~~
 7 ~~implemented in the context of a therapeutic relationship. Other treatment interventions include~~
 8 ~~developmental counseling, guidance, and consulting to facilitate normal growth and development, including~~
 9 ~~educational and career development;~~ and

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 12 and communicating as requested or considered appropriate with ~~such~~ the referral sources."

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18 (2) Except as provided in subsection ~~(2)~~ (3), a person may not represent that the person is a
 19 licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or
 20 "LCPC" after the person's name or by any other means, engage in the practice of professional counseling,
 21 OR represent that the person is engaged in the practice of professional counseling, ~~or represent that the~~
 22 ~~person is a counselor,~~ unless licensed under this chapter.

23 ~~(2)(3)~~ Individuals licensed in accordance with this chapter before October 1, 1993, who use the
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 25 or "LCPC".

26 ~~(3)(4)~~ Subsection ~~(4)~~ (2) does not prohibit:

27 (a) a qualified member of another profession, such as a physician, ~~psychologist,~~ lawyer, pastoral
 28 counselor, probation officer, court employee, nurse, ~~social worker,~~ school counselor, ~~or~~ educator, or
 29 chemical dependency counselor certified pursuant to 53-24-215 from ~~professional counseling consistent~~
 30 ~~with that person's training if the person does not use a title or description incorporating the words "licensed~~

1 ~~professional counselor", "licensed counselor", "professional counselor", "licensed clinical professional~~
 2 ~~counselor", or "licensed clinical counselor"~~ performing duties and services consistent with the person's
 3 training LICENSURE OR CERTIFICATION and the code of ethics of the person's profession as long as the
 4 person does not represent by title or practice that the person is engaging in the practice of professional
 5 counseling;

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

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

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

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

19 (f) pending disposition of the application for a license, the activity or service by a person who has
 20 recently become a resident of this state, has applied for a license within 90 days of taking up residency in
 21 this state, and is licensed to perform ~~such~~ the activity or service in the state of ~~his~~ the person's former
 22 residence;

23 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of
 24 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned
 25 graduate program as required by 37-23-202(1)(a) OR IS WORKING TO COMPLETE THE 3,000 HOURS OF
 26 SOCIAL WORK EXPERIENCE AS REQUIRED BY 37-22-301; OR

27 (H) AN ACTIVITY OR SERVICE PERFORMED BY A LICENSED SOCIAL WORKER OR LICENSED
 28 PSYCHOLOGIST."

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 30 **Section 3.** Section 37-23-311, MCA, is amended to read:

- 1 **"37-23-311. Misdemeanor violations -- penalties.** (1) It is a misdemeanor for a person to knowingly:
2 (a) engage in the practice of professional counseling, EXCEPT AS PROVIDED IN 37-23-201(4)(G),
3 or represent himself as that the person is a licensed professional counselor without being licensed under
4 this chapter;
5 (b) obtain or attempt to obtain a license or license renewal by bribery or fraudulent representation;
6 or
7 (c) make a false statement on any form used by the board to implement this chapter or the rules
8 adopted under this chapter.
9 (2) A person convicted under this section shall be imprisoned in the county jail for a period not
10 exceeding 6 months or fined not more than \$500, or both. A person convicted of any subsequent offense
11 under this section shall be punished by both ~~such~~ fine and imprisonment."

12

13 **NEW SECTION. Section 4. Effective date.** [This act] is effective January 1, 1996.

14

-END-

SENATE BILL NO. 226

INTRODUCED BY KEATING, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNSELING LAWS; REVISING THE DEFINITION OF PROFESSIONAL COUNSELING; REQUIRING LICENSURE TO ENGAGE IN THE PRACTICE OF PROFESSIONAL COUNSELING OR FOR A PERSON TO REPRESENT THAT THE PERSON IS A PROFESSIONAL COUNSELOR OR COUNSELOR; AUTHORIZING COUNSELING BY AN INDIVIDUAL WORKING TO COMPLETE CERTAIN COUNSELING REQUIREMENTS; AMENDING SECTIONS 37-23-102, 37-23-201, AND 37-23-311, MCA; AND PROVIDING A DELAYED DATE."

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 20 "LCPC" after the person's name or by any other means, engage in the practice of professional counseling,
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 13 if the activity or service constitutes a part of the supervised course of study;

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 16 person is authorized under the law of the state or country of residence to perform ~~such~~ the activity or
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-END-



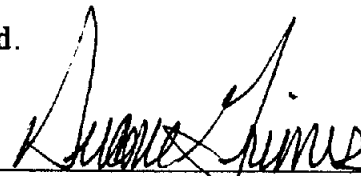
HOUSE STANDING COMMITTEE REPORT

March 31, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Human Services and Aging** report that **Senate Bill 226** (third reading copy -- blue) be concurred in as amended.

Signed:


Duane Grimes, Chair

And, that such amendments read:

Carried by: Rep. Kottel

1. Title, lines 7 and 8.

Strike: "AN INDIVIDUAL WORKING TO COMPLETE CERTAIN COUNSELING REQUIREMENTS"

Insert: "CERTAIN INDIVIDUALS ACTING WITHIN THE SCOPE OF THEIR PROFESSIONAL PRACTICE"

2. Page 1, line 24.

Strike: "and"

Insert: "or"

3. Page 2, line 28.

Following: "educator,"

Insert: "chemical dependency counselor accredited by a federal agency,"

4. Page 2, line 29.

Following: "53-24-215"

Insert: ", "

5. Page 3, line 3.

Following: "profession"

Insert: "or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training,"

SB 226

Committee Vote:
Yes 13, No 3

HOUSE

6. Page 3, line 27.

Following: "WORKER"

Insert: ", licensed psychiatrist,"

7. Page 3, line 28.

Following: "PSYCHOLOGIST"

Insert: "when performing the activity or service in a manner
consistent with the person's license and the code of ethics
of the person's profession"

8. Page 4, line 2.

Strike: "(G),"

Insert: " ; "

9. Page 4, line 3.

Strike: "or"

Insert: "(b) "

Renumber: subsequent subsections

-END-

1 SENATE BILL NO. 226

2 INTRODUCED BY KEATING, BARNHART

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22 OR represent that the person is engaged in the practice of professional counseling, ~~or represent that the~~
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26 or "LCPC".

27 ~~(3)(4)~~ Subsection ~~(4)~~ (2) does not prohibit:

28 (a) a qualified member of another profession, such as a physician, ~~psychologist,~~ lawyer, pastoral
29 counselor, probation officer, court employee, nurse, ~~social worker,~~ school counselor, ~~or~~ educator,
30 CHEMICAL DEPENDENCY COUNSELOR ACCREDITED BY A FEDERAL AGENCY, or chemical dependency

1 ~~counselor certified pursuant to 53-24-215, from professional counseling consistent with that person's~~
 2 ~~training if the person does not use a title or description incorporating the words "licensed professional~~
 3 ~~counselor", "licensed counselor", "professional counselor", "licensed clinical professional counselor", or~~
 4 ~~"licensed clinical counselor" performing duties and services consistent with the person's training~~
 5 LICENSURE OR CERTIFICATION and the code of ethics of the person's profession OR, IN THE CASE OF
 6 A QUALIFIED MEMBER OF ANOTHER PROFESSION WHO IS NOT LICENSED OR CERTIFIED OR FOR WHOM
 7 THERE IS NO APPLICABLE CODE OF ETHICS, FROM PERFORMING DUTIES AND SERVICES CONSISTENT
 8 WITH THE PERSON'S TRAINING, as long as the person does not represent by title or practice that the
 9 person is engaging in the practice of professional counseling;

10 (b) an activity or service or use of an official title by a person employed by OR ACTING AS A
 11 VOLUNTEER FOR a federal, state, county, or municipal agency or an educational, research, or charitable
 12 institution that is a part of the duties of the office or position;

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

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

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

23 (f) pending disposition of the application for a license, the activity or service by a person who has
 24 recently become a resident of this state, has applied for a license within 90 days of taking up residency in
 25 this state, and is licensed to perform ~~such~~ the activity or service in the state of ~~his~~ the person's former
 26 residence;

27 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of
 28 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned
 29 graduate program as required by 37-23-202(1)(a) OR IS WORKING TO COMPLETE THE 3,000 HOURS OF
 30 SOCIAL WORK EXPERIENCE AS REQUIRED BY 37-22-301; OR

