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2 INTRODUCED BY House BILL NO. 399  
3 Tom Christensen

4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE DUTIES AND RESPONSIBILITIES FOR  
5 CERTIFYING CHEMICAL DEPENDENCY COUNSELORS FROM THE DEPARTMENT OF PUBLIC HEALTH AND  
6 HUMAN SERVICES TO THE DEPARTMENT OF COMMERCE; PROVIDING RULEMAKING AUTHORITY;  
7 PROVIDING FOR DEPARTMENT POWERS AND DUTIES; PROVIDING CERTIFICATION REQUIREMENTS AND  
8 FEES; PROVIDING FOR COMPLAINTS OF UNPROFESSIONAL CONDUCT AND SANCTIONS; PROVIDING  
9 A CRIMINAL PENALTY FOR VIOLATIONS; PROVIDING FOR TRANSITION; AMENDING SECTIONS  
10 33-22-705, 37-23-201, AND 53-24-204, MCA; REPEALING SECTIONS 53-24-215, 53-24-216, AND  
11 53-24-217, MCA; AND PROVIDING EFFECTIVE DATES."

12  
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because [section 3] grants rulemaking authority to the  
15 department of commerce.

16 It is the intent of the legislature that the department of commerce have authority to adopt rules to  
17 implement and enforce [sections 1 through 9] and specific authority to adopt rules regarding:

- 18 (1) certification applications and procedures necessary to receive and process those applications;
- 19 (2) examinations and criteria for grading examinations;
- 20 (3) disciplinary standards for certificate holders, including definitions of conduct for which discipline  
21 may be appropriate;
- 22 (4) investigations of complaints;
- 23 (5) setting and modifying appropriate fees; and
- 24 (6) a process for renewal of certificates, including procedures for late renewal.

25  
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
27

28 NEW SECTION. Section 1. Purpose. The legislature finds and declares that because the profession  
29 of chemical dependency counseling profoundly affects the lives of people of this state, it is the purpose of  
30 [sections 1 through 9] to provide for the common good by ensuring the ethical, qualified, and professional



1 practice of chemical dependency counseling. [Sections 1 through 9] and the rules promulgated under  
2 [section 3] set standards of qualification, education, training, and experience and establish professional  
3 ethics for those who seek to engage in the practice of chemical dependency counseling as certified  
4 chemical dependency counselors.

5

6 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions  
7 apply:

8 (1) "Accredited college or university" means a college or university accredited by a regional  
9 accrediting association for institutions of higher learning.

10 (2) "Certified chemical dependency counselor" means a person who has the knowledge and skill  
11 necessary to provide the therapeutic process of chemical dependency counseling and who is certified under  
12 the provisions of [sections 1 through 9].

13 (3) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates  
14 behavior or health problems, or both, resulting in operational impairment. This term includes alcoholism,  
15 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of  
16 an individual or the public health, safety, or welfare.

17 (4) "Department" means the department of commerce provided for in 2-15-1801.

18

19 **NEW SECTION. Section 3. Department powers and duties.** (1) The department shall:

20 (a) examine, certify, and renew the certificates of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) prescribing the time, place, content, and passing requirements of the certification and  
24 competency examinations and passing scores for certification under [section 5];

25 (iii) for application forms and fees for certification and for renewal and certification expiration dates;

26 and

27 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

28 (c) adopt and implement rules for training programs, internships, and continuing education  
29 requirements to ensure the quality of chemical dependency counseling.

30 (2) The department may:

- 1 (a) adopt rules necessary to implement the provisions of [sections 1 through 9];  
2 (b) adopt rules specifying the scope of chemical dependency counseling that are consistent with  
3 the education required by [section 5]; and  
4 (c) establish recertification requirements and procedures that the department considers appropriate.  
5

6 **NEW SECTION. Section 4. Certificate required -- exceptions.** (1) Except as otherwise provided  
7 in [sections 1 through 9], a person may not practice chemical dependency counseling or represent to the  
8 public that the person is a certified chemical dependency counselor unless the person is certified under the  
9 provisions of [sections 1 through 9].

10 (2) [Sections 1 through 9] do not prohibit an activity or service:

11 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed  
12 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation  
13 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or  
14 certification and the code of ethics of the person's profession, as long as the person does not represent  
15 by title that the person is a certified chemical dependency counselor. If a person is a qualified member of  
16 a profession that is not licensed or certified or for which there is no applicable code of ethics, this section  
17 does not prohibit an activity or service of the profession as long as the person does not represent by title  
18 that the person is a certified chemical dependency counselor.

19 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,  
20 county, or municipal agency or an educational, research, or charitable institution if that activity or service  
21 or use of that title is a part of the duties of the office or position;

22 (c) of an employee of a business establishment performed solely for the benefit of the  
23 establishment's employees;

24 (d) of a student, intern, or resident in chemical dependency counseling who is pursuing a course  
25 of study at an accredited college or university or who is working in a generally recognized training center  
26 if the activity or service constitutes part of the course of study;

27 (e) of a person who is not a resident of this state if the activity or service is rendered for a period  
28 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under  
29 the laws of the state or country of residence to perform the activity or service. However, the person shall  
30 report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar

1 year.

2 (f) of a person who is working to satisfactorily complete supervised chemical dependency  
3 counseling experience required for certification.

4 (3) [Sections 1 through 9] are not intended to limit, preclude, or interfere with the practice of other  
5 persons and health care providers licensed by the appropriate agencies of the state of Montana.

6

7 **NEW SECTION. Section 5. Certification requirements -- examination -- fees.** (1) To be eligible for  
8 certification as a chemical dependency counselor, the applicant shall submit an application fee in an amount  
9 established by the department by rule and a written application on a form provided by the department that  
10 demonstrates that the applicant has completed the eligibility requirements and competency standards as  
11 defined by department rule.

12 (2) A person may apply for certification as a certified chemical dependency counselor if the person  
13 has:

14 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social work,  
15 counseling, or a related field from an accredited college or university;

16 (b) received an associate of arts degree in alcohol and drug studies, chemical dependency, or  
17 substance abuse from an accredited institution; or

18 (c) successfully completed at least 1 year of formalized training in chemical dependency counseling  
19 in a program approved by the department or recognized under the laws of another state.

20 (3) Prior to becoming eligible to begin the examination process, each person shall complete  
21 supervised work experience in a chemical dependency treatment program as defined by the department,  
22 in an internship approved by the department, or in a similar program recognized under the laws of another  
23 state.

24 (4) Each applicant shall successfully complete a competency examination process as defined by  
25 rules adopted by the department.

26 (5) A person holding a certificate to practice as a certified chemical dependency counselor in this  
27 state may use the title "certified chemical dependency counselor".

28

29 **NEW SECTION. Section 6. Renewal of license -- application and fee.** (1) A certificate expires  
30 biennially on the date set by department rule.

1 (2) A certificate holder may renew a certificate by:

2 (a) filing an application on a form prescribed by the department; and

3 (b) paying a renewal fee in an amount established by the department.

4 (3) A default in the payment of a renewal fee after the date it is due may increase the fee, as  
5 prescribed by the department by rule.

6 (4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a certified  
7 chemical dependency counselor in this state.

8 (5) A certificate not renewed within 1 year following its expiration date terminates automatically.

9  
10 **NEW SECTION. Section 7. Unprofessional conduct complaint -- sanctions.** (1) A formal complaint  
11 alleging unprofessional conduct by a certified chemical dependency counselor may be directed to the  
12 department. The charges must be made by an affidavit, subscribed and sworn to by the person making  
13 it, and filed with the department.

14 (2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further  
15 defined by department rule that constitutes a threat to the public health, safety, or welfare and that is  
16 inappropriate to the practice of a certified chemical dependency counselor.

17 (3) The director of the department shall appoint a review panel to investigate a complaint of  
18 unprofessional conduct directed to the department. The panel must consist of:

19 (a) three certified chemical dependency counselors;

20 (b) one employee of the department; and

21 (c) one member of the public.

22 (4) The panel shall recommend to the department either that the person be cleared of any charges  
23 or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

24 (5) For the purposes of this section, the department is vested with a board's authority for the  
25 purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and 37-1-301  
26 through 37-1-318 apply to any proceeding under this section.

27  
28 **NEW SECTION. Section 8. Penalty.** A person convicted of violating any provision of [sections 1  
29 through 9] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in  
30 a county jail for a term not to exceed 6 months, or both.

1           **NEW SECTION. Section 9. Deposit of fees.** All fees and money received by the department must  
2 be deposited in the state treasury to the credit of a state special revenue fund for use by the department  
3 in its performance of its duties under [sections 1 through 9].  
4

5           **NEW SECTION. Section 10. Transition -- transfer of certificates.** The department shall grant a  
6 certificate without the need for further application or other requirements to those persons holding a current,  
7 unrestricted certificate as a certified chemical dependency counselor as of [the effective date of this act]  
8 that was issued by the department of public health and human services.  
9

10           **Section 11.** Section 33-22-705, MCA, is amended to read:

11           **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for  
12 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental  
13 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with  
14 respect to major medical policies or contracts, also includes those benefits payable for charges made by  
15 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished  
16 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in  
17 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by the  
18 department of public health and human services under 53-24-208.

19           (2) "Outpatient benefits" are benefits payable for:

20           (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,  
21 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

22           (b) reasonable charges for services rendered or prescribed by a physician for the necessary care  
23 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not  
24 confined as an inpatient;

25           (c) reasonable charges made by a mental health or chemical dependency treatment center for the  
26 necessary care and treatment of a covered person provided in the treatment center. The chemical  
27 dependency treatment center must be approved by the department of public health and human services  
28 under 53-24-208.

29           (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed  
30 professional counselor, licensed social worker, or chemical dependency counselor certified by the

1 department of ~~public health and human services under 53-24-204~~ commerce under [sections 1 through 9]."

2  
3 **Section 12.** Section 37-23-201, MCA, is amended to read:

4 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**  
5 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title  
6 "licensed clinical professional counselor" or "professional counselor".

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

12 (3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title  
13 "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or  
14 "LCPC".

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

16 (a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor,  
17 probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor  
18 accredited by a federal agency, or chemical dependency counselor certified pursuant to ~~53-24-215~~ [sections  
19 1 through 9], from performing duties and services consistent with the person's licensure or certification and  
20 the code of ethics of the person's profession or, in the case of a qualified member of another profession  
21 who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties  
22 and services consistent with the person's training, as long as the person does not represent by title that  
23 the person is engaging in the practice of professional counseling;

24 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer  
25 for a federal, state, county, or municipal agency or an educational, research, or charitable institution that  
26 is a part of the duties of the office or position;

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

29 (d) an activity or service of a student, intern, or resident in mental health counseling pursuing a  
30 course of study at an accredited university or college or working in a generally recognized training center

1 if the activity or service constitutes a part of the supervised course of study;

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

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

10 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of  
11 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned  
12 graduate program as required by 37-23-202(1)(a) or is working to complete the 3,000 hours of social work  
13 experience as required by 37-22-301; or

14 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed  
15 psychologist when performing the activity or service in a manner consistent with the person's license and  
16 the code of ethics of the person's profession."

17

18 **Section 13.** Section 53-24-204, MCA, is amended to read:

19 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

20 (a) accept gifts, grants, and donations of money and property from public and private sources;

21 (b) enter into contracts;

22 (c) acquire and dispose of property.

23 (2) The department shall:

24 (a) approve treatment facilities as provided for in 53-24-208;

25 (b) prepare a comprehensive long-term state chemical dependency plan every 4 years and update  
26 this plan each biennium;

27 (c) provide for and conduct statewide service system evaluations;

28 (d) distribute state and federal funds to the counties for approved treatment programs in  
29 accordance with the provisions of 53-24-206;

30 (e) plan in conjunction with approved programs and provide for training of program personnel



1 delivering services to ~~chemically dependent~~ persons with a chemical dependency;

2 (f) establish criteria to be used for the development of new programs;

3 ~~(g) certify and establish standards for the certification of:~~

4 ~~(i) chemical dependency counselors; and~~

5 ~~(ii) instructors providing chemical dependency educational courses;~~

6 ~~(h)(g)~~ encourage planning for the greatest utilization of funds by discouraging duplication of  
7 services, encouraging efficiency of services through existing programs, and encouraging rural counties to  
8 form multicounty districts or contract with urban programs for services;

9 ~~(h)(h)~~ cooperate with the board of pardons and parole in establishing and conducting programs to  
10 provide treatment for ~~chemically dependent and~~ intoxicated persons and persons with a chemical  
11 dependency in or on parole from penal institutions;

12 ~~(i)(i)~~ establish standards for chemical dependency educational courses provided by state-approved  
13 treatment programs and approve or disapprove the courses; and

14 ~~(k)(j)~~ assist all interested public agencies and private organizations in developing education and  
15 prevention programs for chemical dependency."

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17 **NEW SECTION. Section 14. Repealer.** Sections 53-24-215, 53-24-216, and 53-24-217, MCA, are  
18 repealed.

19  
20 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 9] are intended to be  
21 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

22  
23 **NEW SECTION. Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act]  
24 is effective July 1, 1997.

25 (2) The department may publish a notice of adoption of rules and of a hearing to adopt rules to be  
26 effective on July 1, 1997.

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0399, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act transferring the duties and responsibilities for certifying chemical dependency counselors from the Department of Public Health and Human Services to the Department of Commerce; providing rulemaking authority; providing for department powers and duties; providing certification requirements and fees; providing for complaints of unprofessional conduct and sanctions; providing a criminal penalty for violators; and providing for transition.

ASSUMPTIONS:

**Department of Commerce/POL Bureau:**

1. The operating expenses and personal services for the licensing of chemical dependency counselors will be transferred to the Department of Commerce (DOC) and will be paid from the alcohol earmarked tax (A/E 02034) in the Department of Public Health and Human Services (DPHHS) state special revenue account created by HB 399.
2. Operating and personal services expenses include the printing costs for applications and licenses, salaries and benefits for 1.00 FTE program specialist, grade 14, supplies and materials, communications, travel for a five member review panel, and rent for examination sites, and administrative indirect costs.
3. Examination applicants will pay directly to a contracted testing agency for the costs of administering and grading written and oral examinations.
4. HB 399 requires the establishment of a state special revenue account which will be established in the DOC for the deposit of fees. Additional expenses incurred with application processing, licensing and renewals above those paid by the alcohol earmarked tax would be paid from the licensing account.
5. There are an estimated 500 certified dependency counselors who were issued licenses for a four-year period and approximately 175 of those licenses will expire both in fiscal year 1998 and fiscal year 1999. The 175 licensees will pay a proposed renewal fee of at least \$100 and it is anticipated there will be 60 new applications per year.
6. The DPHHS will transfer equipment, which includes a desk, chair, computer, and file cabinets, currently used by the 1.00 FTE to the DOC.
7. Administrative indirect costs to other licensing boards will be reallocated if the proposed legislation passes.

**Department of Health and Human Services:**

8. The Addictive and Mental Disorders Division (AMDD) of DPHHS currently performs this function.
9. DPHHS-AMDD would transfer 1.00 FTE program specialist, grade 14, to the DOC.
10. The transfer would include personal services and operating expenses allocated to the position in fiscal year 1996.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<b>Department of Commerce, POL Bureau:</b>		
FTE	1.00	1.00
Personal Services	38,215	38,215
Operating Expenses	<u>34,283</u>	<u>34,324</u>
Total	72,498	72,539
<b>Department of Health and Human Services:</b>		
FTE	(1.00)	(1.00)
Personal Services	(38,215)	(38,215)
Operating Expenses	<u>(10,783)</u>	<u>(10,824)</u>
Total	(48,998)	(49,039)

(Continued)

*Dave Lewis* 2-5-97

DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

*Carley Tuss*  
CARLEY TUSS, PRIMARY SPONSOR DATE

Fiscal Note for HB0399, as introduced

**HB 399**

<u>Funding:</u>	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Chemical Dependency Fees (02)	23,500	23,500
Alcohol Earmarked Tax (02)	<u>48,998</u>	<u>49,039</u>
Total	72,498	72,539

Net Impact on Fund Balance: (Revenue minus expenses):

Chemical Dependency Fees (02)	23,500	23,500
Alcohol Earmarked Tax (02)	(48,998)	(49,039)

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay?  
(Please explain)

No. Licensing fees paid by applicants for a chemical dependency counselor license in combination with the resources provided by the alcohol earmarked revenue account will support the costs incurred by the Department of Commerce.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

Problems which arise in regard to the services provided by chemical dependency counselors can be mitigated by resources funded directly by the fees from those regulated rather than from those allocated to the alcohol tax earmark account or the general fund.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended?  Yes  No (if no, explain)

- d) Does the need for this state special revenue provision still exist?  Yes  No (Explain)

Fees collected from the licensing of chemical dependency counselors will be used to help offset the costs incurred through the regulation of this profession.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. The Legislature establishes appropriation authority for each biennium for state special revenue accounts. The Legislature also sets priorities when it considers Executive Budget priorities and the Legislative Code Committee provides oversight and guidance in the establishment of settings sufficient fees by rule to meet anticipated program costs.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes, provided the legislature continues to understand the importance and the need to mandate the regulation and licensing of the professions.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

Agencies with the responsibility of maintaining the solvency of state special revenue accounts generally raise or lower fees to keep them commensurate with projected costs. Activities funded by the general fund typically do not have the responsibility of maintaining the resources necessary to fully support their program. This difference greatly contributes to accounting, budgeting, and auditing efficiency.

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*Tom Christiane*

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17 (4) "Department" means the department of commerce provided for in 2-15-1801.

18

19 **NEW SECTION. Section 3. Department powers and duties.** (1) The department shall:

20 (a) examine, certify, and renew the certificates of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) prescribing the time, place, content, and passing requirements of the certification and  
24 competency examinations and passing scores for certification under [section 5];

25 (iii) for application forms and fees for certification and for renewal and certification expiration dates;

26 and

27 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

28 (c) adopt and implement rules for training programs, internships, and continuing education  
29 requirements to ensure the quality of chemical dependency counseling.

30 (2) The department may:

- 1 (a) adopt rules necessary to implement the provisions of [sections 1 through 9];
- 2 (b) adopt rules specifying the scope of chemical dependency counseling that are consistent with
- 3 the education required by [section 5]; and
- 4 (c) establish recertification requirements and procedures that the department considers appropriate.

5

6 **NEW SECTION. Section 4. Certificate required -- exceptions.** (1) Except as otherwise provided

7 in [sections 1 through 9], a person may not practice chemical dependency counseling or represent to the

8 public that the person is a certified chemical dependency counselor unless the person is certified under the

9 provisions of [sections 1 through 9].

10 (2) [Sections 1 through 9] do not prohibit an activity or service:

11 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed

12 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation

13 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or

14 certification and the code of ethics of the person's profession, as long as the person does not represent

15 by title that the person is a certified chemical dependency counselor. If a person is a qualified member of

16 a profession that is not licensed or certified or for which there is no applicable code of ethics, this section

17 does not prohibit an activity or service of the profession as long as the person does not represent by title

18 that the person is a certified chemical dependency counselor.

19 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,

20 county, or municipal agency or an educational, research, or charitable institution if that activity or service

21 or use of that title is a part of the duties of the office or position;

22 (c) of an employee of a business establishment performed solely for the benefit of the

23 establishment's employees;

24 (d) of a student, intern, or resident in chemical dependency counseling who is pursuing a course

25 of study at an accredited college or university or who is working in a generally recognized training center

26 if the activity or service constitutes part of the course of study;

27 (e) of a person who is not a resident of this state if the activity or service is rendered for a period

28 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under

29 the laws of the state or country of residence to perform the activity or service. However, the person shall

30 report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar



1 year.

2 (f) of a person who is working to satisfactorily complete supervised chemical dependency  
3 counseling experience required for certification.

4 (3) [Sections 1 through 9] are not intended to limit, preclude, or interfere with the practice of other  
5 persons and health care providers licensed by the appropriate agencies of the state of Montana.

6

7 **NEW SECTION. Section 5. Certification requirements -- examination -- fees.** (1) To be eligible for  
8 certification as a chemical dependency counselor, the applicant shall submit an application fee in an amount  
9 established by the department by rule and a written application on a form provided by the department that  
10 demonstrates that the applicant has completed the eligibility requirements and competency standards as  
11 defined by department rule.

12 (2) A person may apply for certification as a certified chemical dependency counselor if the person  
13 has:

14 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social work,  
15 counseling, or a related field from an accredited college or university;

16 (b) received an associate of arts degree in alcohol and drug studies, chemical dependency, or  
17 substance abuse from an accredited institution; or

18 (c) successfully completed at least 1 year of formalized training in chemical dependency counseling  
19 in a program approved by the department or recognized under the laws of another state.

20 (3) Prior to becoming eligible to begin the examination process, each person shall complete  
21 supervised work experience in a chemical dependency treatment program as defined by the department,  
22 in an internship approved by the department, or in a similar program recognized under the laws of another  
23 state.

24 (4) Each applicant shall successfully complete a competency examination process as defined by  
25 rules adopted by the department.

26 (5) A person holding a certificate to practice as a certified chemical dependency counselor in this  
27 state may use the title "certified chemical dependency counselor".

28

29 **NEW SECTION. Section 6. Renewal of license -- application and fee.** (1) A certificate expires  
30 biennially on the date set by department rule.

1 (2) A certificate holder may renew a certificate by:

2 (a) filing an application on a form prescribed by the department; and

3 (b) paying a renewal fee in an amount established by the department.

4 (3) A default in the payment of a renewal fee after the date it is due may increase the fee, as  
5 prescribed by the department by rule.

6 (4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a certified  
7 chemical dependency counselor in this state.

8 (5) A certificate not renewed within 1 year following its expiration date terminates automatically.  
9

10 **NEW SECTION. Section 7. Unprofessional conduct complaint -- sanctions.** (1) A formal complaint  
11 alleging unprofessional conduct by a certified chemical dependency counselor may be directed to the  
12 department. The charges must be made by an affidavit, subscribed and sworn to by the person making  
13 it, and filed with the department.

14 (2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further  
15 defined by department rule that constitutes a threat to the public health, safety, or welfare and that is  
16 inappropriate to the practice of a certified chemical dependency counselor.

17 (3) The director of the department shall appoint a review panel to investigate a complaint of  
18 unprofessional conduct directed to the department. The panel must consist of:

19 (a) ~~three~~ TWO certified chemical dependency counselors;

20 (b) one employee of the department; and

21 (c) ~~one member~~ TWO MEMBERS of the public.

22 (4) The panel shall recommend to the department either that the person be cleared of any charges  
23 or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

24 (5) For the purposes of this section, the department is vested with a board's authority for the  
25 purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and 37-1-301  
26 through 37-1-318 apply to any proceeding under this section.  
27

28 **NEW SECTION. Section 8. Penalty.** A person convicted of violating any provision of [sections 1  
29 through 9] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in  
30 a county jail for a term not to exceed 6 months, or both.

1           **NEW SECTION. Section 9. Deposit of fees.** All fees and money received by the department must  
2 be deposited in the state treasury to the credit of a state special revenue fund for use by the department  
3 in its performance of its duties under [sections 1 through 9].

4

5           **NEW SECTION. Section 10. Transition -- transfer of certificates.** The department shall grant a  
6 certificate without the need for further application or other requirements to those persons holding a current,  
7 unrestricted certificate as a certified chemical dependency counselor as of [the effective date of this act]  
8 that was issued by the department of public health and human services.

9

10           **Section 11.** Section 33-22-705, MCA, is amended to read:

11           **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for  
12 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental  
13 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with  
14 respect to major medical policies or contracts, also includes those benefits payable for charges made by  
15 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished  
16 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in  
17 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by the  
18 department of public health and human services under 53-24-208.

19           (2) "Outpatient benefits" are benefits payable for:

20           (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,  
21 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

22           (b) reasonable charges for services rendered or prescribed by a physician for the necessary care  
23 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not  
24 confined as an inpatient;

25           (c) reasonable charges made by a mental health or chemical dependency treatment center for the  
26 necessary care and treatment of a covered person provided in the treatment center. The chemical  
27 dependency treatment center must be approved by the department of public health and human services  
28 under 53-24-208.

29           (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed  
30 professional counselor, licensed social worker, or chemical dependency counselor certified by the

1 department of ~~public health and human services under 53-24-204~~ commerce under [sections 1 through 9]."

2  
3 **Section 12.** Section 37-23-201, MCA, is amended to read:

4 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**  
5 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title  
6 "licensed clinical professional counselor" or "professional counselor".

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

12 (3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title  
13 "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or  
14 "LCPC".

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

16 (a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor,  
17 probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor  
18 accredited by a federal agency, or chemical dependency counselor certified pursuant to ~~53-24-215~~ sections  
19 1 through 9], from performing duties and services consistent with the person's licensure or certification and  
20 the code of ethics of the person's profession or, in the case of a qualified member of another profession  
21 who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties  
22 and services consistent with the person's training, as long as the person does not represent by title that  
23 the person is engaging in the practice of professional counseling;

24 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer  
25 for a federal, state, county, or municipal agency or an educational, research, or charitable institution that  
26 is a part of the duties of the office or position;

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

29 (d) an activity or service of a student, intern, or resident in mental health counseling pursuing a  
30 course of study at an accredited university or college or working in a generally recognized training center

1 if the activity or service constitutes a part of the supervised course of study;

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

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

10 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of  
11 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned  
12 graduate program as required by 37-23-202(1)(a) or is working to complete the 3,000 hours of social work  
13 experience as required by 37-22-301; or

14 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed  
15 psychologist when performing the activity or service in a manner consistent with the person's license and  
16 the code of ethics of the person's profession."

17

18 **Section 13.** Section 53-24-204, MCA, is amended to read:

19 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

20 (a) accept gifts, grants, and donations of money and property from public and private sources;

21 (b) enter into contracts;

22 (c) acquire and dispose of property.

23 (2) The department shall:

24 (a) approve treatment facilities as provided for in 53-24-208;

25 (b) prepare a comprehensive long-term state chemical dependency plan every 4 years and update  
26 this plan each biennium;

27 (c) provide for and conduct statewide service system evaluations;

28 (d) distribute state and federal funds to the counties for approved treatment programs in  
29 accordance with the provisions of 53-24-206;

30 (e) plan in conjunction with approved programs and provide for training of program personnel

1 delivering services to ~~chemically dependent~~ persons with a chemical dependency;

2 (f) establish criteria to be used for the development of new programs;

3 ~~(g) certify and establish standards for the certification of:~~

4 ~~(i) chemical dependency counselors; and~~

5 ~~(ii) instructors providing chemical dependency educational courses;~~

6 ~~(h)~~(g) encourage planning for the greatest utilization of funds by discouraging duplication of  
7 services, encouraging efficiency of services through existing programs, and encouraging rural counties to  
8 form multicounty districts or contract with urban programs for services;

9 ~~(i)~~(h) cooperate with the board of pardons and parole in establishing and conducting programs to  
10 provide treatment for ~~chemically dependent and intoxicated~~ persons and persons with a chemical  
11 dependency in or on parole from penal institutions;

12 ~~(j)~~(i) establish standards for chemical dependency educational courses provided by state-approved  
13 treatment programs and approve or disapprove the courses; and

14 ~~(k)~~(j) assist all interested public agencies and private organizations in developing education and  
15 prevention programs for chemical dependency."

16

17 **NEW SECTION. Section 14. Repealer.** Sections 53-24-215, 53-24-216, and 53-24-217, MCA, are  
18 repealed.

19

20 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 9] are intended to be  
21 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

22

23 **NEW SECTION. Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act]  
24 is effective July 1, 1997:

25 (2) The department may publish a notice of adoption of rules and of a hearing to adopt rules to be  
26 effective on July 1, 1997.

27

-END-

## 1 HOUSE BILL NO. 399

2 INTRODUCED BY TUSS, CHRISTIAENS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE DUTIES AND RESPONSIBILITIES FOR  
5 CERTIFYING CHEMICAL DEPENDENCY COUNSELORS FROM THE DEPARTMENT OF PUBLIC HEALTH AND  
6 HUMAN SERVICES TO THE DEPARTMENT OF COMMERCE; PROVIDING RULEMAKING AUTHORITY;  
7 PROVIDING FOR DEPARTMENT POWERS AND DUTIES; PROVIDING CERTIFICATION REQUIREMENTS AND  
8 FEES; PROVIDING FOR COMPLAINTS OF UNPROFESSIONAL CONDUCT AND SANCTIONS; PROVIDING  
9 A CRIMINAL PENALTY FOR VIOLATIONS; PROVIDING FOR TRANSITION; AMENDING SECTIONS  
10 33-22-705, 37-23-201, AND 53-24-204, MCA; REPEALING SECTIONS 53-24-215, 53-24-216, AND  
11 53-24-217, MCA; AND PROVIDING EFFECTIVE DATES."

12  
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because [section 3] grants rulemaking authority to the  
15 department of commerce.

16 It is the intent of the legislature that the department of commerce have authority to adopt rules to  
17 implement and enforce [sections 1 through 9] and specific authority to adopt rules regarding:

18 (1) certification applications and procedures necessary to receive and process those applications;

19 (2) examinations and criteria for grading examinations;

20 (3) disciplinary standards for certificate holders, including definitions of conduct for which discipline  
21 may be appropriate;

22 (4) investigations of complaints;

23 (5) setting and modifying appropriate fees; and

24 (6) a process for renewal of certificates, including procedures for late renewal.

25  
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

27  
28 **NEW SECTION. Section 1. Purpose.** The legislature finds and declares that because the profession  
29 of chemical dependency counseling profoundly affects the lives of people of this state, it is the purpose of  
30 [sections 1 through 9] to provide for the common good by ensuring the ethical, qualified, and professional

1 practice of chemical dependency counseling. [Sections 1 through 9] and the rules promulgated under  
2 [section 3] set standards of qualification, education, training, and experience and establish professional  
3 ethics for those who seek to engage in the practice of chemical dependency counseling as certified  
4 chemical dependency counselors.

5

6 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions  
7 apply:

8 (1) "Accredited college or university" means a college or university accredited by a regional  
9 accrediting association for institutions of higher learning.

10 (2) "Certified chemical dependency counselor" means a person who has the knowledge and skill  
11 necessary to provide the therapeutic process of chemical dependency counseling and who is certified under  
12 the provisions of [sections 1 through 9].

13 (3) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates  
14 behavior or health problems, or both, resulting in operational impairment. This term includes alcoholism,  
15 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of  
16 an individual or the public health, safety, or welfare.

17 (4) "Department" means the department of commerce provided for in 2-15-1801.

18

19 **NEW SECTION. Section 3. Department powers and duties.** (1) The department shall:

20 (a) examine, certify, and renew the certificates of qualified applicants;

21 (b) adopt rules:

22 (i) for eligibility requirements and competency standards;

23 (ii) prescribing the time, place, content, and passing requirements of the certification and  
24 competency examinations and passing scores for certification under [section 5];

25 (iii) for application forms and fees for certification and for renewal and certification expiration dates;

26 and

27 (iv) defining any unprofessional conduct that is not included in 37-1-316; and

28 (c) adopt and implement rules for training programs, internships, and continuing education  
29 requirements to ensure the quality of chemical dependency counseling.

30 (2) The department may:



- 1 (a) adopt rules necessary to implement the provisions of [sections 1 through 9];
- 2 (b) adopt rules specifying the scope of chemical dependency counseling that are consistent with
- 3 the education required by [section 5]; and
- 4 (c) establish recertification requirements and procedures that the department considers appropriate.

5

6 **NEW SECTION. Section 4. Certificate required -- exceptions.** (1) Except as otherwise provided

7 in [sections 1 through 9], a person may not practice chemical dependency counseling or represent to the

8 public that the person is a certified chemical dependency counselor unless the person is certified under the

9 provisions of [sections 1 through 9].

10 (2) [Sections 1 through 9] do not prohibit an activity or service:

11 (a) performed by a qualified member of a profession, such as a physician, lawyer, licensed

12 professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation

13 officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or

14 certification and the code of ethics of the person's profession, as long as the person does not represent

15 by title that the person is a certified chemical dependency counselor. If a person is a qualified member of

16 a profession that is not licensed or certified or for which there is no applicable code of ethics, this section

17 does not prohibit an activity or service of the profession as long as the person does not represent by title

18 that the person is a certified chemical dependency counselor.

19 (b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state,

20 county, or municipal agency or an educational, research, or charitable institution if that activity or service

21 or use of that title is a part of the duties of the office or position;

22 (c) of an employee of a business establishment performed solely for the benefit of the

23 establishment's employees;

24 (d) of a student, intern, or resident in chemical dependency counseling who is pursuing a course

25 of study at an accredited college or university or who is working in a generally recognized training center

26 if the activity or service constitutes part of the course of study;

27 (e) of a person who is not a resident of this state if the activity or service is rendered for a period

28 that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under

29 the laws of the state or country of residence to perform the activity or service. However, the person shall

30 report to the department the nature and extent of the activity or service if it exceeds 10 days in a calendar

1 year.

2 (f) of a person who is working to satisfactorily complete supervised chemical dependency  
3 counseling experience required for certification.

4 (3) [Sections 1 through 9] are not intended to limit, preclude, or interfere with the practice of other  
5 persons and health care providers licensed by the appropriate agencies of the state of Montana.

6

7 **NEW SECTION. Section 5. Certification requirements -- examination -- fees.** (1) To be eligible for  
8 certification as a chemical dependency counselor, the applicant shall submit an application fee in an amount  
9 established by the department by rule and a written application on a form provided by the department that  
10 demonstrates that the applicant has completed the eligibility requirements and competency standards as  
11 defined by department rule.

12 (2) A person may apply for certification as a certified chemical dependency counselor if the person  
13 has:

14 (a) received a baccalaureate degree in alcohol and drug studies, psychology, sociology, social work,  
15 counseling, or a related field from an accredited college or university;

16 (b) received an associate of arts degree in alcohol and drug studies, chemical dependency, or  
17 substance abuse from an accredited institution; or

18 (c) successfully completed at least 1 year of formalized training in chemical dependency counseling  
19 in a program approved by the department or recognized under the laws of another state.

20 (3) Prior to becoming eligible to begin the examination process, each person shall complete  
21 supervised work experience in a chemical dependency treatment program as defined by the department,  
22 in an internship approved by the department, or in a similar program recognized under the laws of another  
23 state.

24 (4) Each applicant shall successfully complete a competency examination process as defined by  
25 rules adopted by the department.

26 (5) A person holding a certificate to practice as a certified chemical dependency counselor in this  
27 state may use the title "certified chemical dependency counselor".

28

29 **NEW SECTION. Section 6. Renewal of license -- application and fee.** (1) A certificate expires  
30 biennially on the date set by department rule.

- 1 (2) A certificate holder may renew a certificate by:
- 2 (a) filing an application on a form prescribed by the department; and
- 3 (b) paying a renewal fee in an amount established by the department.
- 4 (3) A default in the payment of a renewal fee after the date it is due may increase the fee, as
- 5 prescribed by the department by rule.
- 6 (4) It is unlawful for a person who refuses or fails to pay the renewal fee to practice as a certified
- 7 chemical dependency counselor in this state.
- 8 (5) A certificate not renewed within 1 year following its expiration date terminates automatically.
- 9

10 **NEW SECTION. Section 7. Unprofessional conduct complaint -- sanctions.** (1) A formal complaint

11 alleging unprofessional conduct by a certified chemical dependency counselor may be directed to the

12 department. The charges must be made by an affidavit, subscribed and sworn to by the person making

13 it, and filed with the department.

14 (2) The complaint may allege any unprofessional conduct contained in 37-1-316 or as further

15 defined by department rule that constitutes a threat to the public health, safety, or welfare and that is

16 inappropriate to the practice of a certified chemical dependency counselor.

17 (3) The director of the department shall appoint a review panel to investigate a complaint of

18 unprofessional conduct directed to the department. The panel must consist of:

- 19 (a) ~~three~~ TWO certified chemical dependency counselors;
- 20 (b) one employee of the department; and
- 21 (c) ~~one member~~ TWO MEMBERS of the public.

22 (4) The panel shall recommend to the department either that the person be cleared of any charges

23 or that a sanction or combination of sanctions contained in 37-1-312 be imposed.

24 (5) For the purposes of this section, the department is vested with a board's authority for the

25 purposes of the procedures in 37-1-307 through 37-1-318 regarding unprofessional conduct, and 37-1-301

26 through 37-1-318 apply to any proceeding under this section.

27

28 **NEW SECTION. Section 8. Penalty.** A person convicted of violating any provision of [sections 1

29 through 9] is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in

30 a county jail for a term not to exceed 6 months, or both.

1           **NEW SECTION. Section 9. Deposit of fees.** All fees and money received by the department must  
2 be deposited in the state treasury to the credit of a state special revenue fund for use by the department  
3 in its performance of its duties under [sections 1 through 9].  
4

5           **NEW SECTION. Section 10. Transition -- transfer of certificates.** The department shall grant a  
6 certificate without the need for further application or other requirements to those persons holding a current,  
7 unrestricted certificate as a certified chemical dependency counselor as of [the effective date of this act]  
8 that was issued by the department of public health and human services.  
9

10           **Section 11.** Section 33-22-705, MCA, is amended to read:

11           **"33-22-705. Inpatient and outpatient benefits.** (1) "Inpatient benefits" are benefits payable for  
12 charges made by a hospital or freestanding inpatient facility for the necessary care and treatment of mental  
13 illness, alcoholism, or drug addiction furnished to a covered person while confined as an inpatient and, with  
14 respect to major medical policies or contracts, also includes those benefits payable for charges made by  
15 a physician for the necessary care and treatment of mental illness, alcoholism, or drug addiction furnished  
16 to a covered person while confined as an inpatient. Care and treatment of alcoholism or drug addiction in  
17 a freestanding inpatient facility must be in a chemical dependency treatment center that is approved by the  
18 department of public health and human services under 53-24-208.

19           (2) "Outpatient benefits" are benefits payable for:

20           (a) reasonable charges made by a hospital for the necessary care and treatment of mental illness,  
21 alcoholism, or drug addiction furnished to a covered person while not confined as an inpatient;

22           (b) reasonable charges for services rendered or prescribed by a physician for the necessary care  
23 and treatment for mental illness, alcoholism, or drug addiction furnished to a covered person while not  
24 confined as an inpatient;

25           (c) reasonable charges made by a mental health or chemical dependency treatment center for the  
26 necessary care and treatment of a covered person provided in the treatment center. The chemical  
27 dependency treatment center must be approved by the department of public health and human services  
28 under 53-24-208.

29           (d) reasonable charges for services rendered by a licensed psychiatrist, psychologist, licensed  
30 professional counselor, licensed social worker, or chemical dependency counselor certified by the

1 department of public health and human services under ~~53-24-204~~ commerce under [sections 1 through 9]."

2

3 **Section 12.** Section 37-23-201, MCA, is amended to read:

4 **"37-23-201. Representation or practice as licensed clinical professional counselor -- license**  
 5 **required.** (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title  
 6 "licensed clinical professional counselor" or "professional counselor".

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

12 (3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title  
 13 "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or  
 14 "LCPC".

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

16 (a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor,  
 17 probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor  
 18 accredited by a federal agency, or chemical dependency counselor certified pursuant to ~~53-24-215~~ [sections  
 19 1 through 9], from performing duties and services consistent with the person's licensure or certification and  
 20 the code of ethics of the person's profession or, in the case of a qualified member of another profession  
 21 who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties  
 22 and services consistent with the person's training, as long as the person does not represent by title that  
 23 the person is engaging in the practice of professional counseling;

24 (b) an activity or service or use of an official title by a person employed by or acting as a volunteer  
 25 for a federal, state, county, or municipal agency or an educational, research, or charitable institution that  
 26 is a part of the duties of the office or position;

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

29 (d) an activity or service of a student, intern, or resident in mental health counseling pursuing a  
 30 course of study at an accredited university or college or working in a generally recognized training center

1 if the activity or service constitutes a part of the supervised course of study;

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

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

10 (g) an activity or service of a person who is working to satisfactorily complete the 3,000 hours of  
11 counseling practice required for licensure by 37-23-202(1)(b) if the person has already completed a planned  
12 graduate program as required by 37-23-202(1)(a) or is working to complete the 3,000 hours of social work  
13 experience as required by 37-22-301; or

14 (h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed  
15 psychologist when performing the activity or service in a manner consistent with the person's license and  
16 the code of ethics of the person's profession."

17

18 **Section 13.** Section 53-24-204, MCA, is amended to read:

19 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

20 (a) accept gifts, grants, and donations of money and property from public and private sources;

21 (b) enter into contracts;

22 (c) acquire and dispose of property.

23 (2) The department shall:

24 (a) approve treatment facilities as provided for in 53-24-208;

25 (b) prepare a comprehensive long-term state chemical dependency plan every 4 years and update  
26 this plan each biennium;

27 (c) provide for and conduct statewide service system evaluations;

28 (d) distribute state and federal funds to the counties for approved treatment programs in  
29 accordance with the provisions of 53-24-206;

30 (e) plan in conjunction with approved programs and provide for training of program personnel

1 delivering services to ~~chemically dependent~~ persons with a chemical dependency;

2 (f) establish criteria to be used for the development of new programs;

3 ~~(g) certify and establish standards for the certification of:~~

4 ~~(i) chemical dependency counselors; and~~

5 ~~(ii) instructors providing chemical dependency educational courses;~~

6 ~~(h)(g)~~ encourage planning for the greatest utilization of funds by discouraging duplication of

7 services, encouraging efficiency of services through existing programs, and encouraging rural counties to

8 form multicounty districts or contract with urban programs for services;

9 ~~(i)(h)~~ cooperate with the board of pardons and parole in establishing and conducting programs to

10 provide treatment for ~~chemically dependent and~~ intoxicated persons and persons with a chemical

11 dependency in or on parole from penal institutions;

12 ~~(j)(i)~~ establish standards for chemical dependency educational courses provided by state-approved

13 treatment programs and approve or disapprove the courses; and

14 ~~(k)(j)~~ assist all interested public agencies and private organizations in developing education and

15 prevention programs for chemical dependency."

16

17 **NEW SECTION. Section 14. Repealer.** Sections 53-24-215, 53-24-216, and 53-24-217, MCA, are

18 repealed.

19

20 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 9] are intended to be

21 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 9].

22

23 **NEW SECTION. Section 16. Effective dates.** (1) Except as provided in subsection (2), [this act]

24 is effective July 1, 1997.

25 (2) The department may publish a notice of adoption of rules and of a hearing to adopt rules to be

26 effective on July 1, 1997.

27 -END-