



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4325 (Substitute H-7 as passed by the House)

Sponsor: Representative Aaron Miller

House Committee: Health Policy

Ways and Means

Senate Committee: Health Policy and Human Services

Date Completed: 10-15-19

### **CONTENT**

**The bill would amend Article 15 (Occupations) of the Public Health Code to do the following:**

- **Modify certain definitions related to the practice of counseling.**
- **Modify the circumstances for which the Department of Licensing and Regulatory Affairs (LARA) could grant a professional counselor license to an individual.**
- **Modify the circumstances for which LARA could grant a limited counselor license to an individual.**
- **Require LARA and the Michigan Board of Counseling to promulgate rules as necessary or appropriate to supplement the requirements for licensure.**
- **Provide the circumstances for which LARA could grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who was applying for relicensure.**
- **Modify the list of individuals exempt from certain requirements of the Code if he or she did not hold himself or herself out as a counselor.**
- **Specify that Part 181 (Counseling) of the Code would not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under Part 181.**

The bill would take effect 90 days after its enactment.

#### **Practice of Counseling**

Under the Code, "practice of counseling" means the rendering to individuals, groups, families, organizations, or the general public a service involving the application of clinical counseling principles, methods, or procedures for the purpose of achieving social, personal, career, and emotional development and with the goal of promoting and enhancing healthy self-actualizing and satisfying lifestyles whether the services are rendered in an educational, business, health, private practice, or human services setting. The bill would add within this definition that services rendered would have to be in accordance with accepted and established ethics.

The practice of counseling currently does not include the following:

- Practice of psychology except for those preventive techniques, counseling techniques, or behavior modification techniques for which the licensed professional counselor or limited licensed counselor has been specifically trained.

- The practice of medicine such as prescribing drugs or administering electroconvulsive therapy.

The bill would add that the practice of counseling would not include the practice of osteopathic medicine and surgery, including the differential diagnosis of medical conditions.

In addition, a counselor currently cannot hold himself or herself out as any of the following:

- A psychologist as defined in Section 18201: an individual licensed under Article 15 to engage in the practice of psychology.
- A marriage and family counselor providing marriage counseling pursuant to Section 1501 of the Occupational Code.

The bill would modify the language of the latter provision to specify that a counselor could not hold himself or herself out as a marriage and family therapist as defined in Section 16901 of the Code: an individual licensed under Article 15 to engage in the practice of marriage and family therapy. In addition, the bill would prohibit a counselor from holding himself or herself out as a licensed bachelor's social worker or a licensed master's social worker as those terms were defined in Section 18501.

(Section 18501 defines "licensed bachelor's social worker" as an individual licensed under Article 15 to engage in the practice of social work at the bachelor's level. "Licensed master's social worker" means an individual licensed under Article 15 to engage in the practice of social work at the master's level.)

#### Counseling Principle and Techniques

Under the Code, "counseling principles, methods, or procedures" means a developmental approach that systematically assists an individual through the application of any of the following procedures:

- Evaluation and appraisal techniques, which means selecting, administering, scoring, and interpreting instruments and procedures designed to assess an individual's aptitudes, interests, attitudes, abilities, achievements, and personal characteristics for developmental purposes and not for psychodiagnostic purposes.
- Exploring alternative solutions.
- Developing and providing a counseling plan for mental and emotional development.
- Guidance.
- Psychoeducational consulting.
- Learning theory.
- Individual and group techniques emphasizing prevention.
- Counseling techniques.
- Behavioral modification techniques.
- Referrals, which includes determining the need for referral to one or more statutorily regulated mental health professionals whose expertise, skills, and competence are appropriate to the problems of the individual, informing the individual of the referral, and communicating as appropriate with the professional to whom the individual has been referred.

The bill would delete this definition, and would modify the term to refer instead to "clinical counseling principles, methods, or procedures". The term would mean one or more of the following:

- Psychotherapy, the diagnosis and treatment planning for mental and emotional disorders, and evaluation.
- Selecting, administering, scoring, and interpreting assessments, tests, and appraisals that were designed to assess an individual's aptitudes, interests, attitudes, abilities, achievements and personal characteristics in order to use appraisal and diagnostic results in helping processes.
- Psychoeducational consulting, which would mean assisting a consultee that was working with an individual, small group, or organization by identifying problems, strengths, and weaknesses and making recommendations for the implementation of preventative or remedial strategies.
- Behavioral modification techniques, which would mean assisting clients in identifying maladaptive or harmful behaviors and replacing them with adaptive and helpful behaviors.
- Referral, which would include determining the need for referral to one or more statutorily regulated mental health professionals whose expertise, skills, and competence were appropriate to the problems of the individual, informing the individual of the referral, and communication as appropriate with the profession to whom the individual was referred.
- Preventative techniques, which would mean assisting a client in maintaining mental and emotional well-being and preventing emotional distress and mental illness.
- Establishing a counseling plan for the treatment of disorders of an individual, couple, group, or family: a) an emotional disorder; b) a mental disorder; c) an addiction disorder; d) a physical disorder that required a counseling intervention.
- Promoting mental health wellness, which would mean the achievement of social, career, and emotional development across an individual's life span.
- Preventing and treating mental and emotional disorders, which would include the use of crisis intervention.

In addition, "clinical counseling principles, methods, or procedures" would include "counseling techniques", which would mean the application of basic counseling and psychotherapy skills and theories in the counseling process for the purposes of establishing and maintaining the counseling relationship, diagnosing the problem, formulating a preventative, treatment, or rehabilitative plan, and facilitating appropriate interventions.

The bill would define "diagnosing the problem" as the identification of the problem through the application of recognized counseling techniques and psychotherapy skills and theories, including the use of the classification and diagnoses in the Diagnostic and Statistical Manual for Mental Disorders, obtained through the successful completion of a qualified program. Diagnosing the problem would not include the identification of other medical or physical conditions.

### Professional Counselor Licensure

Currently, "licensed professional counselor" means an individual who is licensed under the Code to engage in the practice of counseling. The bill would modify the definition to include the phrase "without supervision". The bill also would prohibit a licensed professional counselor from supervising a limited licensed counselor without completing training in supervision as required by rules promulgated by LARA in consultation with the Board.

Under the Code, the Board may grant a professional counselor license to an individual who meets the following criteria:

- Is at least 21 years old.
- Has received a master's or doctoral degree in counseling or student personnel work in a program approved by the Board; the Board must promulgate rules to establish standards to approve only those programs that include graduate studies in the following areas:

research, group techniques, counseling theories, ethics, counseling techniques, counseling philosophy, testing procedures, career development, consulting, practicum, and internship.

- Has at least two years of counseling experience under the supervision of a licensed professional counselor.

The Board may decrease the required length of counseling experience under the supervision of a licensed professional counselor to one year if an applicant has completed 30 hours of graduate study in counseling beyond the master's degree.

Instead, under the bill and subject to rules promulgated by LARA and the Board, LARA could grant a professional counselor license to an individual who met the following:

- Was at least 18 years old.
- Had received from an accredited college or university approved by LARA a master's or doctoral degree in counseling from a qualified program, or a degree determined by LARA in consultation with the Board to be substantially equivalent to a counseling degree from a qualified program.
- Had at least two years of counseling experience under the supervision of a licensed professional counselor.

The Department, in consultation with the Board, could decrease the required length of counseling experience under the supervision of a licensed professional counselor to one year if an applicant has completed a doctoral degree in counseling.

The Department, in consultation with the Board, also would have to do all of the following:

- Promulgate rules to establish standards to approve qualified programs.
- Promulgate rules under Section 16145 as necessary or appropriate to supplement the requirements for licensure as a licensed professional counselor under the bill, including adopting updated standards of the Council for the Accreditation of Counseling and Related Educational Programs (CACREP) or a successor organization.

(Section 16145 of the Code specifies that the Board can promulgate rules necessary or appropriate to fulfill its functions as prescribed in Article 15.)

Under the bill, "qualified program" would mean any of the following:

- A program that was accredited by the CACREP, included coursework and training in the diagnosis and treatment of mental and emotional disorders, and was approved by the LARA in consultation with the Board.
- A program that was not accredited by the CACREP, included coursework and training in diagnosis and treatment of mental and emotional disorders and all other coursework requirements of the CACREP, including practicum and internship requirements, and was approved by the LARA in consultation with the Board.

The bill also specifies that a licensee could not administer an assessment unless he or she had received specific training on administering the assessment.

### Limited Licensure

Currently, "limited licensed counselor" means an individual who has been granted a limited license by the Board to offer counseling services under the supervision of a licensed professional counselor. Under the bill, the term would mean an individual who has been

granted a limited license under Article 15 to engage in the practice of counseling under the supervision of a licensed profession counselor who has completed training in supervision.

Under the Code, the Board may grant a limited license to an individual who meets both of the following criteria:

- Is at least 21 years of age.
- Has received, from an accredited college or university approved by LARA, a master's or doctoral degree in counseling or student personnel work in a program approved by the board.

The Board must approve only those programs that include graduate studies in the following areas: research, group techniques, counseling theories, ethics, counseling techniques, counseling philosophy, testing procedures, career development, consulting, practicum, and internship.

Instead, under the bill and subject to rules promulgated by LARA and the Board, LARA could grant a limited license to an individual who met the following criteria:

- Was at least 18 years of age.
- Had received from an accredited college or university approved by LARA a master's or doctoral degree in counseling from a qualified program, or a degree determined by LARA in consultation with the Board to be substantially equivalent to a counseling degree from a qualified program.

The Department, in consultation with the board, would have to promulgate rules to establish standards to approve qualified programs, and as necessary or appropriate to supplement the requirements for licensure as a limited licensed professional counselor under the bill, including adopting updated standards of the CACREP or a successor organization.

#### Relicensure

Under the bill, and except as otherwise provided, LARA could grant relicensure as a licensed professional counselor or limited license counselor to an individual who was applying for relicensure less than three years after the expiration date of his or her license he or she submitted to LARA a completed application on a form provided by LARA together with payment of the applicable fees. In addition, he or she would have to do both of the following:

- Submit with his or her application a professional disclosure statement that met the requirements of Section 18113 of the Code.
- If the individual held or a license as a licensed professional counselor or limited licensed counselor in another state, ensure that the licensing agency of each out-of-state license verified all of the following: a) that disciplinary proceedings were not pending against the individual at the time of his or her application for relicensure and b) that, if sanctions had been imposed against the individual, the sanctions were not in force at the time of his or her application for relicensure.

Except as otherwise provided, LARA could grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who was applying for relicensure more than three years after the expiration date of his or her license if the individual submitted to LARA a completed application on a form provided by LARA together with payment of the applicable fees and a professional disclosure statement that met the requirements of Section 18113 of the Code. In addition, he or she would have to do the following:

- Take or retake and pass one of the following: a) the national counselor examination developed by the National Board for Certified Counselors, b) the certification examination given by the Commission on Rehabilitation Counselor Certification, or c) an examination that LARA determined was equivalent to a) or b).
- Demonstrate to the satisfaction of LARA that he or she met the requirements for certification issued by the National Board for Certified Counselors, the Commission on Rehabilitation Counselor Certification, or an equivalent program as determined by LARA.

The Department could grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who received a master's or doctoral degree in counseling or student personnel work before October 1, 1991, and completed two years of professional experience before October 1, 1993, if the individual submitted to LARA a completed application on a form provided by LARA together with payment of the applicable fees. In addition, he or she would have to comply with one of the following:

- Submit with his or her application a professional disclosure statement that met the requirements of Section 18113.
- If the individual held a license as a licensed professional counselor or limited license counselor in another state, ensure that the licensing agency of each out-of-state license verified all of the following: a) that disciplinary proceedings were not pending against the individual at the time of his or her application for relicensure and b) that, if sanctions had been imposed against the individual, the sanctions were not in force at the time of his or her application for relicensure.

(Section 18113 of the Code requires a licensee to furnish a professional disclosure statement to a prospective client before engaging in counseling services. The disclosure must contain certain information: 1) the licensee's name, number, and business address, 2) a description of the licensee's practice, 3) a description of the licensee's education and experience, 4) the licensee's counseling fees schedule, 5) and the name, address, and telephone number of the Department.)

### Exemptions

The Code specifies that Article 15 does not limit an individual in, nor prevent an individual from, the practice of a statutorily regulated profession or occupation if counseling is part of the services provided by that profession or occupation, and the individual does not hold himself or herself out as a counselor regulated under Article 15. "Statutorily regulated profession or occupations" includes, among other things, a physician, attorney, marriage and family therapist, and debt management counselor. The bill would include a licensed bachelor's social worker and a licensed master's social worker within the list.

In addition, the Code specifies that Part 181 does not apply to certain individuals, including a member of any other profession whose practice may include counseling principles, methods, or procedures from practicing his or her profession if he or she is trained in that profession and does not hold himself or herself out as a counselor providing counseling. "Profession" includes the fields of human resources development and organizational development.

The bill would delete this provision.

Under the bill, Part 181 also would not apply to a Christian Science practitioner.

MCL 333.16201 et al.

Legislative Analyst: Tyler VanHuyse

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government. The cost of administering the relicensure process authorized by the bill would be covered by existing appropriations and associated applicant fees. The promulgation of rules would be sufficiently funded by existing appropriations.

Fiscal Analyst: Elizabeth Raczowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.