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SENATE FILE

0271

AN ACT to create W.S. 33-38-111 through 33-38-121; and to repeal W.S. 33-38-101 through 33-38-110 relating to professions and occupations; providing for the regulation and licensure of certain mental health professions as specified; creating a licensure board; prescribing duties and powers of the board; providing qualifications of licensed professionals under this act; providing for examination and licensure; providing exemptions; providing penalties; providing licensure fees; providing reciprocity and disclosure; repealing related provisions; stating a policy; and providing for an effective date.

SENATE FILE 0271

Introduced by:

Michael Burke

[illegible]

CONTINUED ON BACK

House of Intro				Second House					
_____	To Com. No.	_____	_____	_____	To Com No.	_____	_____		
_____	Stand Report	Do	Amd	Not	_____	Stand Report	Do	Amd	Not
_____	Com Whole	Do	Amd	Not	_____	Com Whole	Do	Amd	Not
_____	2nd Reading	Amd	_____	_____	_____	2nd Reading	Amd	_____	_____
_____	3rd Reading	Amd	Pass	Fail	_____	3rd Reading	Amd	Pass	Fail

1991

STATE OF WYOMING

91LSO-0854.01

SENATE FILE NO. 0271

Mental health professions-licensure.

Sponsored by: Senator(s) BURKE



A BILL

for

1 AN ACT to create W.S. 33-38-111 through 33-38-122; and to
 2 repeal W.S. 33-38-101 through 33-38-110 relating to pro-
 3 fessions and occupations; providing for the regulation and
 4 licensure of certain mental health professions as speci-
 5 fied; creating a licensure board; prescribing duties and
 6 powers of the board; providing qualifications of licensed
 7 professionals under this act; providing for examination
 8 and licensure; providing exemptions; providing penalties;
 9 providing licensure fees; providing reciprocity and dis-
 10 closure; repealing related provisions; stating a policy;
 11 and providing for an effective date.

12 Be It Enacted by the Legislature of the State of Wyoming:

1 Section 1. W.S. 33-38-111 through 33-38-122 are cre-
2 ated to read:

3 33-38-111. Short title. This act may be cited as the
4 "Mental Health Professions Licensure Act".

5 33-38-112. Definitions.

6 (a) As used in this act:

7 (i) "Board" means the professional counselor,
8 marriage and family therapists, social workers and chemi-
9 cal dependency specialists licensing board or the mental
10 health professions licensure board;

11 (ii) "Counseling procedures" means engaging in
12 methods and techniques which include, but are not
13 restricted to:

14 (A) "Counseling" means assisting a client
15 through the counseling relationship, using a combination
16 of mental health, psychotherapy and human development
17 principles, methods and techniques, to achieve mental,
18 emotional, physical, social, moral, educational, spiritual
19 or career development and adjustment through the lifespan;

20 (B) "Appraisal" means selecting, adminis-

1 tering, scoring and interpreting instruments designed to
2 assess an individual's attitudes, abilities, achievements,
3 interests and personal characteristics and the use of
4 methods and techniques for understanding human behavior in
5 relation to coping with, adapting to, or changing life
6 situations;

7 (C) "Consulting" means the application of
8 scientific principles and procedures in counseling and
9 human development to provide assistance in understanding
10 and solving current or potential problems that the
11 consultee may have in relation to a third party, be it an
12 individual, a group or an organization;

13 (D) "Referral" means evaluating and identi-
14 fying needs of a counselee to determine the advisability
15 of referral to other specialists, informing the counselee
16 of such judgment and communicating as requested or deemed
17 appropriate to such referral sources;

18 (E) "Research" means a systematic effort to
19 collect, analyze and interpret quantitative or qualitative
20 data that describes how social characteristics and behav-
21 ior, emotion, cognitions and interpersonal transactions
22 among individuals and organizations interact.

1 (iii) "Licensed professional counselor, (LPC),
2 licensed professional marriage and family therapist,
3 (LPMFT), licensed professional social worker, (LPSW) and
4 licensed professional chemical dependency specialist,
5 (LPCDS)", means persons who represent themselves to the
6 public by any title or description of services incorporat-
7 ing the words "professional counselor", "marriage and fam-
8 ily therapist", "social worker" or "chemical dependency
9 specialist", who offer to render professional services in
10 their fields to individuals, groups, organizations, corpo-
11 rations, institutions, government agencies or the general
12 public for compensation, implying that they are licensed
13 and trained, experienced or expert in one (1) or more of
14 these fields of practice and who hold a valid license to
15 engage in the private practice of one (1) or more of these
16 specializations;

17 (iv) "Practice of addictions specialization"
18 means providing services based on theory and methods of
19 counseling, psychotherapy and addictionology to persons
20 who are experiencing cognitive, affective or behavioral
21 psychosocial dysfunction as a direct or indirect result of
22 addiction, chemical dependency, abuse of chemical sub-
23 stances or related disorders. The practice of chemical

1 dependency counseling includes, but is not limited to,
2 chemical abuse prevention, crisis intervention, diagnosis,
3 referral, direct treatment and follow-up treatment which
4 is rendered to individuals, families, groups, organiza-
5 tions, schools and communities who are adversely affected
6 by chemical dependency or related disorders;

7 (v) "Practice of counseling" means rendering to
8 individuals, couples, families, groups, organizations,
9 corporations, institutions, government agencies or the
10 general public a service that integrates a wellness,
11 pathology and multicultural model of human behavior. This
12 model applies a combination of mental health,
13 psychotherapeutic and human development principles and
14 procedures to help clients achieve effective mental, emo-
15 tional, physical, social, moral, educational, spiritual or
16 career development and adjustment through the lifespan,
17 and includes the diagnosis and treatment of mental disor-
18 ders or disabilities within the range of the
19 professional's preparation;

20 (vi) "Practice of marriage and family therapy"
21 means the rendering of professional marital and family
22 therapy treatment to individuals, family groups and mari-
23 tal pairs, singly or in groups, whether such services are

1 offered directly to the general public or through organi-
2 zations, either public or private, for a fee, monetary or
3 otherwise. Marital and family therapy includes but is not
4 limited to the diagnosis and treatment, including
5 psychotherapy and counseling, of nervous, emotional and
6 mental disorders, whether cognitive, affective or behav-
7 ioral, within the context of marital and family systems.
8 Marital and family therapy involves the professional
9 application of psychotherapeutic and family systems theo-
10 ries and techniques in the delivery of services to indi-
11 viduals, marital pairs and families for the purpose of
12 treating such diagnosed nervous and mental disorders;

13 (vii) "Practice of social work" means applying
14 social work theory and methods to the diagnosis, treatment
15 and prevention of psychosocial dysfunction, disability or
16 impairment, including emotional and mental disorders. It
17 is based on knowledge of one (1) or more theories of human
18 development within a psychosocial context. The perspec-
19 tive of person-in-situation is central to professional
20 social work practice. Professional clinical social work
21 includes but is not limited to interventions directed to
22 interpersonal interactions, intrapsychic dynamics and
23 life-support and management issues. Professional clinical

1 social work services consist of assessment, diagnosis,
2 treatment, including psychotherapy and counseling, client-
3 centered advocacy, consultation and evaluation;

4 (viii) "Psychotherapy" means the treatment,
5 diagnosis, testing, assessment or counseling in a profes-
6 sional relationship to assist individuals or groups to
7 alleviate mental disorders, understand unconscious or con-
8 scious motivations, resolve emotional relationships, or
9 attitudinal conflicts or modify behaviors which interfere
10 with effective emotional, social or intellectual function-
11 ing;

12 (ix) "This act" means W.S. 33-38-111 through
13 33-38-121.

14 33-38-113. Exemptions.

15 (a) Nothing in this act shall be construed to apply
16 to:

17 (i) The activities and services of qualified
18 members of other legally recognized professions, such as
19 physicians, psychologists, registered nurses, performing
20 services consistent with the laws of this state, their
21 training, and code of ethics of their professions, pro-

1 vided they do not represent themselves to the public or
2 other professionals to be licensed as a professional coun-
3 selor, social worker, marriage and family therapist or
4 licensed addictions specialist;

5 (ii) The activities, services and use of an
6 official title on the part of a person employed by any
7 federal, state, county or municipal agency, or public or
8 private educational institution, provided such persons are
9 performing professionally-related activities within the
10 scope of their employment;

11 (iii) The activities and services of a student,
12 intern or trainee pursuing a course of study in these pro-
13 fessions in a regionally accredited institution of higher
14 education or training institution, if these activities are
15 performed under supervision and constitute a part of the
16 supervised course of study, provided that such a person be
17 designated as a "counselor intern", "social work intern"
18 or "marriage and family intern";

19 (iv) The activities and services of nonresidents
20 rendered not more than thirty (30) days during any calen-
21 dar year, provided that such persons are duly authorized
22 to perform such activities and services under the laws of

1 the state or county of those persons' residency;

2 (v) The activities and services of a rabbi,
3 priest, minister or clergyperson of any religious denomi-
4 nation or sect provided such activities and services are
5 within the scope of the performance of regular or special-
6 ized ministerial duties;

7 (vi) The activities, titles and descriptions of
8 persons offering volunteer or professional services for
9 public and private nonprofit organizations or charities
10 provided that these persons are approved by the organiza-
11 tions or agencies for whom the services are rendered.

12 33-38-114. Board created; expenses.

13 (a) The board is created and shall consist of six (6)
14 members, residents of the state of Wyoming, who shall be
15 appointed by the governor by and with the consent of the
16 senate.

17 (b) Four (4) board members after the initial board
18 shall be licensed under this act, one (1) from each disci-
19 pline listed in W.S. 33-38-127(a)(iii) and two (2) members
20 shall be from the public at large. The governor shall
21 through appointments to the board ensure that appointees

1 are adult citizens and that differences in gender, ethnic
2 origin and the various levels of graduate and professional
3 degrees and specialties, are represented on the board,
4 though not all such differences shall necessarily be
5 reflected at the same time in board membership. When the
6 term of each member of the board ends, the governor shall
7 appoint a successor by and with the consent of the senate
8 for a term of three (3) years from a list of recommended,
9 eligible candidates provided by the Wyoming affiliates of
10 the specific discipline involved:

11 (i) The Wyoming division of the American associ-
12 ation for counseling and development;

13 (ii) The Wyoming chapter of the national associ-
14 ation of social workers;

15 (iii) The Wyoming division of the American asso-
16 ciation of marriage and family therapy and the Wyoming
17 association of addiction specialists.

18 (c) Any vacancy occurring on the board shall be
19 filled by the governor from a list of all eligible candi-
20 dates from that affiliated discipline whose position is
21 vacant.

1 (d) The board shall submit an annual report to the
2 governor which includes information on and descriptions of
3 all complaints filed.

4 (e) The members of the board shall be paid mileage
5 and per diem allowance as allowed to state employees when
6 engaged in performing their duties as members of the
7 board.

8 33-38-115. Powers and duties of the board; rules;
9 meetings; fees.

10 (a) The board shall adopt rules consistent with this
11 act or the laws of this state that are reasonable and nec-
12 essary to administer this act. A subcommittee from each
13 discipline shall draft the recommended rules and regula-
14 tions for that particular discipline and shall submit them
15 to the full board for action. The rules shall be adopted
16 in accordance with the provisions of the Wyoming Adminis-
17 trative Procedure Act.

18 (b) The board shall meet not later than thirty (30)
19 days after its members are appointed by the governor. The
20 board shall elect a chairperson and a vice-chairperson and
21 a secretary-treasurer who shall hold office according to
22 the rules adopted by the board.

1 (c) The board shall hold at least one (1) regular
2 meeting each year and such special meetings that are prop-
3 erly called as provided by the rules adopted by the board.
4 Four (4) members shall constitute a quorum.

5 (d) The board shall conduct hearings on complaints
6 concerning violations of this act and the rules adopted
7 under this act. The initial inquiry may be conducted by a
8 subcommittee, appointed by the board, composed of members
9 of the discipline in question which shall make recommenda-
10 tions to the board for action.

11 (e) The board may, in its own name, proceed in any
12 court of competent jurisdiction to enjoin and restrain any
13 unlicensed person from violating this act and may simi-
14 larly act to bring suit to prevent or remedy any other
15 violation of this act or of the rules adopted under this
16 act. The action is in addition to any other proceeding or
17 remedy authorized by law. The board shall be represented
18 in all such actions by the attorney general or private
19 counsel may be secured with approval of the attorney gen-
20 eral.

21 (f) The board may charge an application fee not to
22 exceed one hundred dollars (\$100.00) as determined by the

1 board. The board may charge fees for examinations,
2 licensing, specialty examination designation and renewal.
3 Examination fees shall not exceed the actual cost of
4 obtaining and administering the examinations. Licensing,
5 specialty examination fees and renewal fees shall not
6 exceed reasonable costs of administration. The board may
7 accept grants and gifts from individuals, associations,
8 corporations, foundations and institutions to carry on its
9 functions. All money received shall be deposited in the
10 state treasury to the credit of an account within the ear-
11 marked fund and may be used only for the administration of
12 this act.

13 (g) No member of the board is liable for any act per-
14 formed in good faith for the performance of duties set
15 forth in this act.

16 33-38-116. Requirements for licensure.

17 (a) The board shall issue a license as a professional
18 counselor, marriage and family therapist, social worker or
19 chemical dependency specialist to any applicant who files
20 an application upon a form and in the manner prescribed by
21 the board, accompanied by the appropriate fee and who fur-
22 nishes satisfactory evidence to the board of the follow-

1 ing:

2 (i) The applicant has reached the age of major-
3 ity;

4 (ii) The applicant has no felony convictions;

5 (iii) The applicant has received a master's or
6 doctorate degree in one (1) of the disciplines identified
7 from an accredited institution of higher education, which
8 is professional in content and which meets the academic
9 and training content standards established by the board.
10 The board shall use the professional training experience
11 standards of the appropriate professional associations,
12 the American association for counseling and development,
13 the American association of marriage and family therapy,
14 the national association of social workers and the
15 national association of alcoholism and drug abuse counsel-
16 ors as a guide in establishing the training standards for
17 licensure;

18 (iv) The applicant has validated individual
19 competencies and has demonstrated knowledge of one (1) of
20 the fields of professional counseling, marriage and family
21 therapy, professional social work practice or chemical
22 dependency specialization in general by passing a standard

1 examination which may be written or situational, as the
2 board prescribes. Upon examination of all credentials the
3 board may, by majority of the board members present and
4 voting, consider the credentials adequate evidence of pro-
5 fessional competence and recommend to the chairperson of
6 the board that a license be approved.

7 (b) The board may develop, adopt and administer
8 appropriate examinations. The board shall establish spe-
9 cific provisions for examinations of applicants for licen-
10 sure in the specific discipline at reasonable times and
11 places at least once each year. Before admission to the
12 licensure examination applicants shall demonstrate that
13 they have completed three thousand (3,000) hours of super-
14 vised professional experience including a minimum of one
15 hundred (100) hours of face to face clinical supervision
16 from a supervisor meeting qualifications established by
17 the board.

18 33-38-117. Renewal of license and continuing educa-
19 tion. Persons licensed under this act shall submit bienni-
20 ally the appropriate license renewal fee at a time speci-
21 fied by the board. The renewal request shall be accompa-
22 nied by evidence satisfactory to the board of compliance
23 with this act and participation in continuing education

1 activities as established by rules and regulations of the
2 board.

3 33-38-118. Reciprocity. The board may waive formal
4 examination requirements for an applicant provided that
5 the applicant is licensed to practice as a professional
6 counselor, a marriage and family therapist, a social
7 worker or a chemical dependency specialist by a licensing
8 board in another state and if the standards and qualifica-
9 tions required for practice in the applicant's state are
10 at least equal to those required by this act as determined
11 by the board. The board may waive formal examination
12 requirements only and shall not waive any required period
13 of experience as provided in this act or evidences of good
14 character.

15 33-38-119. Disclosure of confidential information.

16 (a) A person licensed under this act shall not dis-
17 close without consent of the client any communication made
18 by the client to the licensed professional in the course
19 of professional practice, nor may any employee of the
20 licensed professional reveal the information without the
21 consent of the employer or client except as indicated.

22 (b) For purposes of this act, the confidential rela-

1 tions and communications between a licensed professional
2 and client are placed upon the same basis as those pro-
3 vided by Wyoming statutes between a licensed psychologist
4 and client. Nothing in this act shall be construed to
5 require any communications be disclosed except by court
6 order.

7 33-38-120. Protection of the public; unlawful prac-
8 tice.

9 (a) It shall be a violation of this act for persons
10 not licensed in accordance with the provisions of this act
11 to represent themselves to the public as professional
12 counselors, professional social workers, professional mar-
13 riage and family therapists or professional addictions
14 specialists except as authorized by other acts or exempted
15 by W.S. 33-38-112.

16 (b) It shall be a violation of this act for persons
17 engaged in the professional practice of counseling, social
18 work, marriage and family therapy or addictions therapy to
19 fail to provide a professional disclosure statement pursu-
20 ant to W.S. 33-38-120 except as exempted by law or W.S.
21 33-38-112.

22 (c) Persons violating this act are guilty of a misde-

1 meanor and upon conviction thereof for a first or second
2 offense shall be punished by a fine of not more than seven
3 hundred fifty dollars (\$750.00), by imprisonment in the
4 county jail for not more than six (6) months, or both. A
5 third or subsequent conviction for violation of this sec-
6 tion during a thirty-six (36) month period shall consti-
7 tute a felony.

8 (d) Persons licensed pursuant to this act may have
9 their license revoked or suspended by the board for any of
10 the following causes:

11 (i) Conviction of a felony or high misdemeanor
12 involving moral turpitude, in which case the record of
13 conviction certified by the clerk or judge of the court in
14 which the conviction is held shall be conclusive evidence;

15 (ii) For renting or lending the license issued
16 pursuant to this act to any person planning to use that
17 license;

18 (iii) For unprofessional or unethical conduct
19 soliciting clients by any form of communication, in a man-
20 ner that is false or misleading;

21 (iv) Gross incompetence and malpractice;

1 (v) Mental incompetency;

2 (vi) Knowingly submitting false or misleading
3 information to the board in any application for examina-
4 tion or licensing;

5 (vii) Habitual intemperate use of alcohol after
6 award of the license;

7 (viii) Violation and conviction of a charge
8 under the Wyoming Controlled Substances Act;

9 (ix) Willful violation of any provisions of this
10 act.

11 (c) Proceedings under this section may be taken by
12 the board from matters within its knowledge or upon infor-
13 mation from another. If the informant is a member of the
14 board, the other members of the board shall judge the
15 accused. All complaints shall be in writing, verified by
16 a party familiar with the facts alleged and shall be filed
17 with the board. Upon receiving the complaint the board,
18 if it deems the complaint sufficient, shall proceed as in
19 a contested case under the Wyoming Administrative Proce-
20 dure Act. Upon revocation of any license, the fact shall
21 be noted upon the records of the board and the license

1 shall be marked canceled upon the date of its revocation.
2 Any suspension issued by the board pursuant to this sec-
3 tion shall be for a period not more than one (1) year and
4 any licensee sanctioned shall not be allowed to practice
5 in this state until completion of the suspension period
6 and timely review by the board. The sanction of revoca-
7 tion upon order of the board shall be for a stated period
8 not to exceed three (3) years, and a person whose license
9 has been revoked may not apply for reinstatement until
10 thirty (30) days before the end of the stated period of
11 revocation.

12 33-38-121. Protection of the public; professional
13 disclosure.

14 (a) Any individual, or employer of such an individ-
15 ual, who is licensed under this act may not charge a cli-
16 ent or receive remuneration for professional services
17 unless, before the performance of those services, the cli-
18 ent is furnished a copy of a professional disclosure
19 statement which shall be given to the client before or
20 during the first session at the place where the services
21 are performed. The professional disclosure statement
22 shall contain:

1 (i) The name, title, business address and busi-
2 ness telephone number of the professional performing the
3 services;

4 (ii) A listing of any degrees, credentials and
5 licensure status;

6 (iii) The professional's areas of specialization
7 and the services provided;

8 (iv) In the case of a person licensed under this
9 act who is engaged in a private individual practice, part-
10 nership or group practice, the person's fee schedule
11 listed by type of service or hourly rate;

12 (v) At the bottom of the first page of the dis-
13 closure statement, the words "Providing this information
14 is required by the mental health profession's licensure
15 board." The address and phone number of the board shall
16 follow;

17 (vi) The client may seek a second opinion from
18 another therapist and may terminate therapy at any time;

19 (vii) In a professional relationship, sexual
20 intimacy is never appropriate and shall be reported to the
21 board;

1 (viii) The information provided by the client
2 during therapy sessions shall be confidential except as
3 provided in W.S. 33-38-118.

4 33-38-122. Limitation of practice. All licensees
5 shall limit their practice according to the ethical stan-
6 dards of their discipline, promulgated in the rules and
7 regulations of the board, and only to areas of competence
8 as demonstrated by relevant professional education, train-
9 ing or experience.

10 Section 2. W.S. 33-38-101 through 33-38-110 are
11 repealed.

12 Section 3. Declaration of policy. It is declared to
13 the policy of the state of Wyoming that the activities of
14 those persons who render services to the public in the
15 areas of counseling, social work, marriage and family
16 therapy and addictions be regulated to ensure the protec-
17 tion of the public health, safety and welfare.

18 Section 4. This act is effective July 1, 1991.

19 (END)

FISCAL NOTE

<u>Anticipated REVENUE to:</u>	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED REVENUE	_____	_____	_____

<u>Anticipated COST to:</u>	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED COST	_____	_____	_____

<u>Anticipated SAVINGS to:</u>	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED SAVINGS	_____	_____	_____

<u>Anticipated Change in Personnel:</u>	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
Full-Time	_____	_____	_____
Part-Time	_____	_____	_____
Temporary	_____	_____	_____
Time-Limited, Other	_____	_____	_____
TOTAL PERSONNEL IMPACT	_____	_____	_____

A fiscal or personnel impact is indicated. However, time before bill introduction deadline is not sufficient for in-depth analysis.