

SCOPE OF PRACTICE FOR COUNSELORS

Phone: (517) 373-8080
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House Bill 4325 (H-3) as referred to second committee

Sponsor: Rep. Aaron Miller

1st Committee: Health Policy

2nd Committee: Ways and Means

Complete to 10-2-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4325 would update the “scope of practice” for counselors in the Public Health Code, largely to mirror those provisions in the Administrative Rules for counseling.¹ A medical profession’s scope of practice, or the extent and limits of the medical interventions that a health care provider may perform, is typically set by a jurisdiction’s laws, regulations, and licensing bodies. The definition for “counseling principles, methods, or procedures” was last set in 1989. The bill would replace that term with *clinical counseling principles, methods, or procedures* and also revise and introduce some categories falling under that term.

FISCAL IMPACT: House Bill 4325 would not have a significant fiscal impact on LARA. The bill would require additional rulemaking, but such processes would not create any appreciable additional costs for the department. The bill would also allow the department to grant relicensure for licensed professional counselors and limited licensed counselors, but would require the individual seeking relicensure to pay applicable fees. The bill would not have an impact on any other unit of state or local government.

THE CONTENT OF THE BILL:

Scope of practice and responsibilities

Clinical counseling principles, methods, or procedures, as defined in the bill, 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 are 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 is 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.
- **Counseling techniques**, which would mean the application of basic counseling and psychotherapy skills and theories in the counseling process to establish and maintain the counseling relationship; diagnose and identify the problem; formulate a preventative, treatment, or rehabilitative plan; and facilitate appropriate interventions.

¹ https://dtmb.state.mi.us/ORRDocs/AdminCode/1514_2015-017LR_AdminCode.pdf

(Diagnosing the problem would mean identifying the problem through the application of recognized counseling techniques and psychotherapy skills and theories.)

- **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 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.
- **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 one or more of the following disorders of an individual, couple, group, or family:
 - An emotional disorder.
 - A mental disorder.
 - An addiction disorder.
 - A physical disorder that requires a counseling intervention.
- **Promoting mental health wellness**, which would include the achievement of social, career, and emotional development across an individual's lifespan.
- **Preventing and treating mental and emotional disorders**, which would include the use of crisis intervention.

The bill would also amend the descriptions in statute of the scopes of practice of several other counseling professions. For instance, it would clarify that a licensed professional counselor (LPC) would be licensed to engage in the practice of counseling without supervision.

It would also provide that only LPCs who completed training in supervision, as required by the Department of Licensing and Regulatory Affairs (LARA) in consultation with the Board of Counseling, would be able to supervise a limited licensed counselor (designated a limited licensed professional counselor, or LLPC, by LARA).

The bill would add that, in addition to psychologist or marriage and family therapist, a counselor could not hold himself or herself out as a licensed bachelor's social worker or a licensed master's social worker.

Required Training

Current law requires that a person being granted an LPC or LLPC must be at least 21 years old and have received a master's or doctoral degree or student personnel work in a program approved by the Board. Under the bill, the person must be at least 18, the degree-granting institution must have been approved by LARA, and the master's or doctoral degree would have to be from a **qualified program** or a degree determined to be substantially equivalent to a counseling degree from a qualified program.

Qualified program is defined in the bill as either a program accredited by the Council for Accreditation of Counseling and Related Educational Programs that includes coursework and training in the diagnosis and treatment of mental and emotional disorders and that is approved by LARA (in consultation with the Board) or a program that is not accredited by the Council, but that includes equivalent coursework and training, including practicum and internship requirements and is approved by LARA (in consultation with the Board).

Rulemaking

Under the bill, LARA, in consultation with the Board, would have to promulgate rules as necessary or appropriate to supplement the requirements for licensure as an LPC, including adopting updated standards of the Council for the Accreditation of Counseling and related Educational Programs or a successor organization.

Relicensure

In all cases, the bill would allow LARA to grant relicensure as an LPC or LLPC to someone applying for relicensure if the person submitted a completed application and applicable fees to LARA, along with a professional disclosure statement.

Additionally, for a person applying for relicensure less than three years after the expiration date of the license, if the person held an out-of-state license, the bill would require that the granting agency verified that no disciplinary proceedings were pending and no sanctions in effect. (This stipulation would be an alternative to submitting a professional disclosure statement for a person 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.)

Finally, if a person applied for relicensure more than three years after the expiration date of the license, the person also would have to do one of the following:

- Take or retake and pass either the National Counselor Examination, the certification examination given by the Commission on Rehabilitation Counselor Certification, or an examination that LARA determined was equivalent to one of those examinations.
- Demonstrate to LARA's satisfaction that he or she met the requirements for certification set by an applicable board or commission.

Exemptions

The bill would add Christian Science practitioners to the list of groups to whom Part 181 (Counseling) of the code would not apply and remove from that list members of other professions whose practice may include counseling procedures but who do not hold themselves out as counselors.

The bill would take effect 90 days after its enactment.

MCL 333.18101 et al.; proposed MCL 333.18106

ARGUMENTS:

For:

Proponents advanced the bill as a way of clarifying the scope of practice for professional counselors in Michigan—a much-needed update, they said, since the law was originally enacted in 1989. They argued that the bill would largely codify in statute what has long been included in the Administrative Rules.

Response:

LARA has proposed changes to the Administrative Rules to remove the ability of LPCs to diagnose and offer psychotherapy² and will discuss those proposed changes at a public meeting on October 4, 2019.³ LARA argues that LPCs have been exercising those powers in violation of the state statute, which accurately limits their powers.

Rebuttal:

While state statute might not explicitly allow diagnosis, LPCs have been diagnosing and providing psychotherapy in practice for 31 years. Supporters argued that LARA’s actions would effectively strip 10,000 LPCs of their ability to practice and would remove mental health and substance abuse services from more than 150,000 people in Michigan.

For:

According to supporters, the bill would reflect the scope of practice endorsed by the American Counseling Association (ACA) and the American Association of State Counseling Boards (AASCB), which would help in efforts to establish national licensure portability for professional counselors.

Against:

Opponents argued that the bill would allow licensed professional counselors to treat mental disorders without requiring courses in psychopathology or mental disorders. Much of the opposition stems from the use of the terms “diagnosis” and “diagnose,” which they believe are terms and responsibilities that should be strictly regulated and restricted from usage by counselors. They argued that the requirement that the program be accredited by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP) is insufficient, as it would allow the graduate of any qualified master’s or doctoral counseling program to provide clinical counseling, including diagnosis and treatment of severe mental disorders.

Response:

In reply, proponents argued that language in the bill defining a “qualified program” would forestall this concern. If the individuals allowed to diagnose were limited to those with clinical counseling backgrounds, they argued, it would disenfranchise many existing or prospective licensees.

Rebuttal:

Critics of the bill responded that the goal of licensing bills should be to enhance care, not to expand the scope of licensees beyond their training. They argued that the bill would advance the latter goal rather than the former.

² LARA’s proposed changes: https://dtmb.state.mi.us/ORRDocs/ORR/1959_2019-063LR_orr-draft.pdf

³ https://www.michigan.gov/documents/lara/10.4.2019_Public_Hearing_Notice_665889_7.pdf

POSITIONS:

Representatives of the Michigan Mental Health Counselors Association testified in support of the bill. (5-16-19)

The following organizations testified in opposition to the bill:

Michigan Association of Professional Psychologists (5-16-19)

Michigan Psychological Association (9-5-19)

The following organizations oppose the bill:

Michigan Psychiatric Society (5-16-19)

Michigan State Medical Society (5-16-19)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.