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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3308**

February 21, 2008

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act  
1.2 relating to health occupations; modifying provisions for licensed professional  
1.3 clinical counselors; amending Minnesota Statutes 2006, sections 245.462,  
1.4 subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488,  
1.5 subdivision 1; 256B.0624, subdivisions 5, 8; 256B.0943, subdivision 1; 256J.08,  
1.6 subdivision 73a; Minnesota Statutes 2007 Supplement, section 256B.0623,  
1.7 subdivision 5.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2006, section 245.462, subdivision 18, is amended to  
1.10 read:

1.11 Subd. 18. **Mental health professional.** "Mental health professional" means a  
1.12 person providing clinical services in the treatment of mental illness who is qualified in at  
1.13 least one of the following ways:

1.14 (1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171  
1.15 to 148.285; and:

1.16 (i) who is certified as a clinical specialist or as a nurse practitioner in adult or family  
1.17 psychiatric and mental health nursing by a national nurse certification organization; or

1.18 (ii) who has a master's degree in nursing or one of the behavioral sciences or related  
1.19 fields from an accredited college or university or its equivalent, with at least 4,000 hours  
1.20 of post-master's supervised experience in the delivery of clinical services in the treatment  
1.21 of mental illness;

1.22 (2) in clinical social work: a person licensed as an independent clinical social worker  
1.23 under chapter 148D, or a person with a master's degree in social work from an accredited  
1.24 college or university, with at least 4,000 hours of post-master's supervised experience in  
1.25 the delivery of clinical services in the treatment of mental illness;

2.1 (3) in psychology: an individual licensed by the Board of Psychology under sections  
2.2 148.88 to 148.98 who has stated to the Board of Psychology competencies in the diagnosis  
2.3 and treatment of mental illness;

2.4 (4) in psychiatry: a physician licensed under chapter 147 and certified by the  
2.5 American Board of Psychiatry and Neurology or eligible for board certification in  
2.6 psychiatry;

2.7 (5) in marriage and family therapy: the mental health professional must be a  
2.8 marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least  
2.9 two years of post-master's supervised experience in the delivery of clinical services in  
2.10 the treatment of mental illness; ~~or~~

2.11 (6) in licensed professional clinical counseling, the mental health professional shall  
2.12 be a licensed professional clinical counselor under section 148B.5301; or

2.13 ~~(6)~~ (7) in allied fields: a person with a master's degree from an accredited college or  
2.14 university in one of the behavioral sciences or related fields, with at least 4,000 hours of  
2.15 post-master's supervised experience in the delivery of clinical services in the treatment of  
2.16 mental illness.

2.17 Sec. 2. Minnesota Statutes 2006, section 245.470, subdivision 1, is amended to read:

2.18 Subdivision 1. **Availability of outpatient services.** (a) County boards must provide  
2.19 or contract for enough outpatient services within the county to meet the needs of adults  
2.20 with mental illness residing in the county. Services may be provided directly by the  
2.21 county through county-operated mental health centers or mental health clinics approved  
2.22 by the commissioner under section 245.69, subdivision 2; by contract with privately  
2.23 operated mental health centers or mental health clinics approved by the commissioner  
2.24 under section 245.69, subdivision 2; by contract with hospital mental health outpatient  
2.25 programs certified by the Joint Commission on Accreditation of Hospital Organizations;  
2.26 or by contract with a licensed mental health professional as defined in section 245.462,  
2.27 subdivision 18, clauses (1) to ~~(4)~~ (6). Clients may be required to pay a fee according to  
2.28 section 245.481. Outpatient services include:

2.29 (1) conducting diagnostic assessments;

2.30 (2) conducting psychological testing;

2.31 (3) developing or modifying individual treatment plans;

2.32 (4) making referrals and recommending placements as appropriate;

2.33 (5) treating an adult's mental health needs through therapy;

2.34 (6) prescribing and managing medication and evaluating the effectiveness of  
2.35 prescribed medication; and

3.1 (7) preventing placement in settings that are more intensive, costly, or restrictive  
3.2 than necessary and appropriate to meet client needs.

3.3 (b) County boards may request a waiver allowing outpatient services to be provided  
3.4 in a nearby trade area if it is determined that the client can best be served outside the  
3.5 county.

3.6 Sec. 3. Minnesota Statutes 2006, section 245.4871, subdivision 27, is amended to read:

3.7 Subd. 27. **Mental health professional.** "Mental health professional" means a  
3.8 person providing clinical services in the diagnosis and treatment of children's emotional  
3.9 disorders. A mental health professional must have training and experience in working with  
3.10 children consistent with the age group to which the mental health professional is assigned.  
3.11 A mental health professional must be qualified in at least one of the following ways:

3.12 (1) in psychiatric nursing, the mental health professional must be a registered nurse  
3.13 who is licensed under sections 148.171 to 148.285 and who is certified as a clinical  
3.14 specialist in child and adolescent psychiatric or mental health nursing by a national nurse  
3.15 certification organization or who has a master's degree in nursing or one of the behavioral  
3.16 sciences or related fields from an accredited college or university or its equivalent, with  
3.17 at least 4,000 hours of post-master's supervised experience in the delivery of clinical  
3.18 services in the treatment of mental illness;

3.19 (2) in clinical social work, the mental health professional must be a person licensed  
3.20 as an independent clinical social worker under chapter 148D, or a person with a master's  
3.21 degree in social work from an accredited college or university, with at least 4,000 hours of  
3.22 post-master's supervised experience in the delivery of clinical services in the treatment  
3.23 of mental disorders;

3.24 (3) in psychology, the mental health professional must be an individual licensed by  
3.25 the board of psychology under sections 148.88 to 148.98 who has stated to the board of  
3.26 psychology competencies in the diagnosis and treatment of mental disorders;

3.27 (4) in psychiatry, the mental health professional must be a physician licensed under  
3.28 chapter 147 and certified by the American board of psychiatry and neurology or eligible  
3.29 for board certification in psychiatry;

3.30 (5) in marriage and family therapy, the mental health professional must be a  
3.31 marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least  
3.32 two years of post-master's supervised experience in the delivery of clinical services in the  
3.33 treatment of mental disorders or emotional disturbances; ~~or~~

3.34 (6) in licensed professional clinical counseling, the mental health professional shall  
3.35 be a licensed professional clinical counselor under section 148B.5301; or

4.1 ~~(6)~~ (7) in allied fields, the mental health professional must be a person with a  
4.2 master's degree from an accredited college or university in one of the behavioral sciences  
4.3 or related fields, with at least 4,000 hours of post-master's supervised experience in the  
4.4 delivery of clinical services in the treatment of emotional disturbances.

4.5 Sec. 4. Minnesota Statutes 2006, section 245.488, subdivision 1, is amended to read:

4.6 Subdivision 1. **Availability of outpatient services.** (a) County boards must provide  
4.7 or contract for enough outpatient services within the county to meet the needs of each  
4.8 child with emotional disturbance residing in the county and the child's family. Services  
4.9 may be provided directly by the county through county-operated mental health centers or  
4.10 mental health clinics approved by the commissioner under section 245.69, subdivision 2;  
4.11 by contract with privately operated mental health centers or mental health clinics approved  
4.12 by the commissioner under section 245.69, subdivision 2; by contract with hospital  
4.13 mental health outpatient programs certified by the Joint Commission on Accreditation  
4.14 of Hospital Organizations; or by contract with a licensed mental health professional as  
4.15 defined in section 245.4871, subdivision 27, clauses (1) to ~~(4)~~ (6). A child or a child's  
4.16 parent may be required to pay a fee based in accordance with section 245.481. Outpatient  
4.17 services include:

- 4.18 (1) conducting diagnostic assessments;
- 4.19 (2) conducting psychological testing;
- 4.20 (3) developing or modifying individual treatment plans;
- 4.21 (4) making referrals and recommending placements as appropriate;
- 4.22 (5) treating the child's mental health needs through therapy; and
- 4.23 (6) prescribing and managing medication and evaluating the effectiveness of  
4.24 prescribed medication.

4.25 (b) County boards may request a waiver allowing outpatient services to be provided  
4.26 in a nearby trade area if it is determined that the child requires necessary and appropriate  
4.27 services that are only available outside the county.

4.28 (c) Outpatient services offered by the county board to prevent placement must be at  
4.29 the level of treatment appropriate to the child's diagnostic assessment.

4.30 Sec. 5. Minnesota Statutes 2007 Supplement, section 256B.0623, subdivision 5,  
4.31 is amended to read:

4.32 Subd. 5. **Qualifications of provider staff.** Adult rehabilitative mental health  
4.33 services must be provided by qualified individual provider staff of a certified provider  
4.34 entity. Individual provider staff must be qualified under one of the following criteria:

5.1 (1) a mental health professional as defined in section 245.462, subdivision 18,  
5.2 clauses (1) to (5). If the recipient has a current diagnostic assessment by a licensed mental  
5.3 health professional as defined in section 245.462, subdivision 18, clauses (1) to ~~(5)~~ (6),  
5.4 recommending receipt of adult mental health rehabilitative services, the definition of  
5.5 mental health professional for purposes of this section includes a person who is qualified  
5.6 under section 245.462, subdivision 18, clause ~~(6)~~ (7), and who holds a current and valid  
5.7 national certification as a certified rehabilitation counselor or certified psychosocial  
5.8 rehabilitation practitioner;

5.9 (2) a mental health practitioner as defined in section 245.462, subdivision 17. The  
5.10 mental health practitioner must work under the clinical supervision of a mental health  
5.11 professional;

5.12 (3) a certified peer specialist under section 256B.0615. The certified peer specialist  
5.13 must work under the clinical supervision of a mental health professional; or

5.14 (4) a mental health rehabilitation worker. A mental health rehabilitation worker  
5.15 means a staff person working under the direction of a mental health practitioner or mental  
5.16 health professional and under the clinical supervision of a mental health professional in  
5.17 the implementation of rehabilitative mental health services as identified in the recipient's  
5.18 individual treatment plan who:

5.19 (i) is at least 21 years of age;

5.20 (ii) has a high school diploma or equivalent;

5.21 (iii) has successfully completed 30 hours of training during the past two years in all  
5.22 of the following areas: recipient rights, recipient-centered individual treatment planning,  
5.23 behavioral terminology, mental illness, co-occurring mental illness and substance abuse,  
5.24 psychotropic medications and side effects, functional assessment, local community  
5.25 resources, adult vulnerability, recipient confidentiality; and

5.26 (iv) meets the qualifications in subitem (A) or (B):

5.27 (A) has an associate of arts degree in one of the behavioral sciences or human  
5.28 services, or is a registered nurse without a bachelor's degree, or who within the previous  
5.29 ten years has:

5.30 (1) three years of personal life experience with serious and persistent mental illness;

5.31 (2) three years of life experience as a primary caregiver to an adult with a serious  
5.32 mental illness or traumatic brain injury; or

5.33 (3) 4,000 hours of supervised paid work experience in the delivery of mental health  
5.34 services to adults with a serious mental illness or traumatic brain injury; or

6.1 (B)(1) is fluent in the non-English language or competent in the culture of the  
6.2 ethnic group to which at least 20 percent of the mental health rehabilitation worker's  
6.3 clients belong;

6.4 (2) receives during the first 2,000 hours of work, monthly documented individual  
6.5 clinical supervision by a mental health professional;

6.6 (3) has 18 hours of documented field supervision by a mental health professional  
6.7 or practitioner during the first 160 hours of contact work with recipients, and at least six  
6.8 hours of field supervision quarterly during the following year;

6.9 (4) has review and cosignature of charting of recipient contacts during field  
6.10 supervision by a mental health professional or practitioner; and

6.11 (5) has 40 hours of additional continuing education on mental health topics during  
6.12 the first year of employment.

6.13 Sec. 6. Minnesota Statutes 2006, section 256B.0624, subdivision 5, is amended to read:

6.14 Subd. 5. **Mobile crisis intervention staff qualifications.** For provision of adult  
6.15 mental health mobile crisis intervention services, a mobile crisis intervention team is  
6.16 comprised of at least two mental health professionals as defined in section 245.462,  
6.17 subdivision 18, clauses (1) to ~~(5)~~ (6), or a combination of at least one mental health  
6.18 professional and one mental health practitioner as defined in section 245.462, subdivision  
6.19 17, with the required mental health crisis training and under the clinical supervision of  
6.20 a mental health professional on the team. The team must have at least two people with  
6.21 at least one member providing on-site crisis intervention services when needed. Team  
6.22 members must be experienced in mental health assessment, crisis intervention techniques,  
6.23 and clinical decision-making under emergency conditions and have knowledge of local  
6.24 services and resources. The team must recommend and coordinate the team's services  
6.25 with appropriate local resources such as the county social services agency, mental health  
6.26 services, and local law enforcement when necessary.

6.27 Sec. 7. Minnesota Statutes 2006, section 256B.0624, subdivision 8, is amended to read:

6.28 Subd. 8. **Adult crisis stabilization staff qualifications.** (a) Adult mental health  
6.29 crisis stabilization services must be provided by qualified individual staff of a qualified  
6.30 provider entity. Individual provider staff must have the following qualifications:

6.31 (1) be a mental health professional as defined in section 245.462, subdivision 18,  
6.32 clauses (1) to ~~(5)~~ (6);

7.1 (2) be a mental health practitioner as defined in section 245.462, subdivision 17.  
7.2 The mental health practitioner must work under the clinical supervision of a mental health  
7.3 professional; or

7.4 (3) be a mental health rehabilitation worker who meets the criteria in section  
7.5 256B.0623, subdivision 5, clause (3); works under the direction of a mental health  
7.6 practitioner as defined in section 245.462, subdivision 17, or under direction of a  
7.7 mental health professional; and works under the clinical supervision of a mental health  
7.8 professional.

7.9 (b) Mental health practitioners and mental health rehabilitation workers must have  
7.10 completed at least 30 hours of training in crisis intervention and stabilization during  
7.11 the past two years.

7.12 Sec. 8. Minnesota Statutes 2006, section 256B.0943, subdivision 1, is amended to read:

7.13 Subdivision 1. **Definitions.** For purposes of this section, the following terms have  
7.14 the meanings given them.

7.15 (a) "Children's therapeutic services and supports" means the flexible package of  
7.16 mental health services for children who require varying therapeutic and rehabilitative  
7.17 levels of intervention. The services are time-limited interventions that are delivered using  
7.18 various treatment modalities and combinations of services designed to reach treatment  
7.19 outcomes identified in the individual treatment plan.

7.20 (b) "Clinical supervision" means the overall responsibility of the mental health  
7.21 professional for the control and direction of individualized treatment planning, service  
7.22 delivery, and treatment review for each client. A mental health professional who is an  
7.23 enrolled Minnesota health care program provider accepts full professional responsibility  
7.24 for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work,  
7.25 and oversees or directs the supervisee's work.

7.26 (c) "County board" means the county board of commissioners or board established  
7.27 under sections 402.01 to 402.10 or 471.59.

7.28 (d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

7.29 (e) "Culturally competent provider" means a provider who understands and can  
7.30 utilize to a client's benefit the client's culture when providing services to the client. A  
7.31 provider may be culturally competent because the provider is of the same cultural or  
7.32 ethnic group as the client or the provider has developed the knowledge and skills through  
7.33 training and experience to provide services to culturally diverse clients.

7.34 (f) "Day treatment program" for children means a site-based structured program  
7.35 consisting of group psychotherapy for more than three individuals and other intensive

8.1 therapeutic services provided by a multidisciplinary team, under the clinical supervision  
8.2 of a mental health professional.

8.3 (g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision  
8.4 11.

8.5 (h) "Direct service time" means the time that a mental health professional, mental  
8.6 health practitioner, or mental health behavioral aide spends face-to-face with a client  
8.7 and the client's family. Direct service time includes time in which the provider obtains  
8.8 a client's history or provides service components of children's therapeutic services and  
8.9 supports. Direct service time does not include time doing work before and after providing  
8.10 direct services, including scheduling, maintaining clinical records, consulting with others  
8.11 about the client's mental health status, preparing reports, receiving clinical supervision  
8.12 directly related to the client's psychotherapy session, and revising the client's individual  
8.13 treatment plan.

8.14 (i) "Direction of mental health behavioral aide" means the activities of a mental  
8.15 health professional or mental health practitioner in guiding the mental health behavioral  
8.16 aide in providing services to a client. The direction of a mental health behavioral aide  
8.17 must be based on the client's individualized treatment plan and meet the requirements in  
8.18 subdivision 6, paragraph (b), clause (5).

8.19 (j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision  
8.20 15. For persons at least age 18 but under age 21, mental illness has the meaning given in  
8.21 section 245.462, subdivision 20, paragraph (a).

8.22 (k) "Individual behavioral plan" means a plan of intervention, treatment, and  
8.23 services for a child written by a mental health professional or mental health practitioner,  
8.24 under the clinical supervision of a mental health professional, to guide the work of the  
8.25 mental health behavioral aide.

8.26 (l) "Individual treatment plan" has the meaning given in section 245.4871,  
8.27 subdivision 21.

8.28 (m) "Mental health professional" means an individual as defined in section 245.4871,  
8.29 subdivision 27, clauses (1) to ~~(5)~~ (6), or tribal vendor as defined in section 256B.02,  
8.30 subdivision 7, paragraph (b).

8.31 (n) "Preschool program" means a day program licensed under Minnesota Rules,  
8.32 parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and  
8.33 supports provider to provide a structured treatment program to a child who is at least 33  
8.34 months old but who has not yet attended the first day of kindergarten.

8.35 (o) "Skills training" means individual, family, or group training designed to improve  
8.36 the basic functioning of the child with emotional disturbance and the child's family in the

9.1 activities of daily living and community living, and to improve the social functioning of the  
9.2 child and the child's family in areas important to the child's maintaining or reestablishing  
9.3 residency in the community. Individual, family, and group skills training must:

9.4 (1) consist of activities designed to promote skill development of the child and the  
9.5 child's family in the use of age-appropriate daily living skills, interpersonal and family  
9.6 relationships, and leisure and recreational services;

9.7 (2) consist of activities that will assist the family's understanding of normal child  
9.8 development and to use parenting skills that will help the child with emotional disturbance  
9.9 achieve the goals outlined in the child's individual treatment plan; and

9.10 (3) promote family preservation and unification, promote the family's integration  
9.11 with the community, and reduce the use of unnecessary out-of-home placement or  
9.12 institutionalization of children with emotional disturbance.

9.13 Sec. 9. Minnesota Statutes 2006, section 256J.08, subdivision 73a, is amended to read:

9.14 Subd. 73a. **Qualified professional.** (a) For physical illness, injury, or incapacity,  
9.15 a "qualified professional" means a licensed physician, a physician's assistant, a nurse  
9.16 practitioner, or a licensed chiropractor.

9.17 (b) For developmental disability and intelligence testing, a "qualified professional"  
9.18 means an individual qualified by training and experience to administer the tests necessary  
9.19 to make determinations, such as tests of intellectual functioning, assessments of adaptive  
9.20 behavior, adaptive skills, and developmental functioning. These professionals include  
9.21 licensed psychologists, certified school psychologists, or certified psychometrists working  
9.22 under the supervision of a licensed psychologist.

9.23 (c) For learning disabilities, a "qualified professional" means a licensed psychologist  
9.24 or school psychologist with experience determining learning disabilities.

9.25 (d) For mental health, a "qualified professional" means a licensed physician or a  
9.26 qualified mental health professional. A "qualified mental health professional" means:

9.27 (1) for children, in psychiatric nursing, a registered nurse who is licensed under  
9.28 sections 148.171 to 148.285, and who is certified as a clinical specialist in child  
9.29 and adolescent psychiatric or mental health nursing by a national nurse certification  
9.30 organization or who has a master's degree in nursing or one of the behavioral sciences  
9.31 or related fields from an accredited college or university or its equivalent, with at least  
9.32 4,000 hours of post-master's supervised experience in the delivery of clinical services in  
9.33 the treatment of mental illness;

9.34 (2) for adults, in psychiatric nursing, a registered nurse who is licensed under  
9.35 sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric

- 10.1 and mental health nursing by a national nurse certification organization or who has a  
10.2 master's degree in nursing or one of the behavioral sciences or related fields from an  
10.3 accredited college or university or its equivalent, with at least 4,000 hours of post-master's  
10.4 supervised experience in the delivery of clinical services in the treatment of mental illness;
- 10.5 (3) in clinical social work, a person licensed as an independent clinical social worker  
10.6 under chapter 148D, or a person with a master's degree in social work from an accredited  
10.7 college or university, with at least 4,000 hours of post-master's supervised experience in  
10.8 the delivery of clinical services in the treatment of mental illness;
- 10.9 (4) in psychology, an individual licensed by the Board of Psychology under sections  
10.10 148.88 to 148.98, who has stated to the Board of Psychology competencies in the  
10.11 diagnosis and treatment of mental illness;
- 10.12 (5) in psychiatry, a physician licensed under chapter 147 and certified by the  
10.13 American Board of Psychiatry and Neurology or eligible for board certification in  
10.14 psychiatry; ~~and~~
- 10.15 (6) in marriage and family therapy, the mental health professional must be a  
10.16 marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least  
10.17 two years of post-master's supervised experience in the delivery of clinical services in the  
10.18 treatment of mental illness; and
- 10.19 (7) in licensed professional clinical counseling, the mental health professional shall  
10.20 be a licensed professional clinical counselor under section 148B.5301.