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COMMITTEE REPORT

April 27, 2022

**S. 1179**

Introduced by Senator Shealy

S. Printed 4/27/22--H.

Read the first time April 7, 2022.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (S. 1179) to amend Section 40‑63‑20, Code of Laws of South Carolina, 1976, relating to definitions concerning the regulation of social workers, so as to define the, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill as amended allows for licensed social workers, professional counselors, marriage and family therapists, addiction counselors, and psycho-educational specialists to practice behavioral telehealth. A behavioral health provider who holds an active license to provide services in another state may provide services using behavioral telehealth to a client located in this State if the individual is registered with one of the boards and provides the services within the applicable scope established by this State. To be registered, this individual must complete an application, be licensed in another state, be free of disciplinary licensure action for five years, and pay a $10 fee. This bill as amended additionally requires each board to publish an extensive list of all registrants on its website and allows each board to take disciplinary action against out-of-state registrants.

The expenditure impact of this bill as amended on the boards, under the regulation of LLR, is pending, contingent upon a response from LLR.

**State Revenue**

This bill as amended requires a behavioral telehealth provider licensed to provide services in another state to be registered to provide services using behavioral telehealth to a client in this State. To be registered, this individual must complete an application, be licensed in another state, be free of disciplinary licensure action for five years, and pay a $10 fee.

The revenue impact of this bill as amended on the boards, under the regulation of LLR, is pending, contingent upon a response from LLR.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 40‑63‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF SOCIAL WORKERS, SO AS TO DEFINE THE TERM “TELEHEALTH”; TO AMEND SECTION 40‑63‑290, RELATING TO CERTAIN CATEGORIES OF PERSONS EXEMPT FROM REGULATION AS SOCIAL WORKERS, SO AS TO SIMILARLY EXEMPT CERTAIN INDEPENDENT SOCIAL WORKERS LICENSED IN THIS STATE OR ANOTHER STATE WHEN PROVIDING SERVICES USING TELEHEALTH TO PATIENTS LOCATED IN THIS STATE; TO AMEND SECTION 40‑75‑20, AS AMENDED, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED PSYCHO‑EDUCATIONAL SPECIALISTS, SO AS TO DEFINE THE TERM “TELEHEALTH”; AND TO AMEND SECTION 40‑75‑290, AS AMENDED, RELATING TO CERTAIN CATEGORIES OF PERSONS EXEMPT FROM REGULATION AS PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED PSYCHO‑EDUCATIONAL SPECIALISTS, SO AS TO SIMILARLY EXEMPT SUCH PROFESSIONALS LICENSED IN THIS STATE OR ANOTHER STATE WHEN PROVIDING SERVICES USING TELEHEALTH TO PATIENTS LOCATED IN THIS STATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑63‑30(B) of the 1976 Code is amended to read:

“(B) A person providing social work services to a client in this State, through telephonic, electronic, or other means, regardless of the location of the social worker, who is not licensed ~~in~~ or registered by this State, is practicing without a license. A social worker licensed by this State may provide services through these means to a client in this State within their appropriate scope of practice.”

SECTION 2. Article 1, Chapter 63, Title 40 of the 1976 Code is amended by adding:

“Section 40‑63‑35. (A) For purposes of this section, ‘behavioral telehealth’ means the practice of Independent Social Work‑CP using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for an Independent Social Work‑CP who provides in‑person social work services to clients in this State.

(B) An Independent Social Work‑CP who holds an active license to provide independent social work services in another state or jurisdiction may provide independent social work services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to an Independent Social Worker‑CP;

(3) have not been the subject of disciplinary action relating to his license during the five‑year period immediately prior to the submission of the application; and

(4) pay a ten dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board’s website containing information required under subsection (F).

(E) The individual may not register under this section if his license to provide social work services is subject to a pending disciplinary investigation or action or has been revoked in any state or jurisdiction. A social worker registered under this section must notify the board of restrictions placed on his license to practice, or any disciplinary action taken or pending against him, in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant’s:

(1) name;

(2) address;

(3) out‑of‑state social work license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out‑of‑state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board’s statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State.”

SECTION 3. Chapter 75, Title 40 of the 1976 Code is amended by adding:

“Article 5

Behavioral Telehealth

Section 40‑75‑800. (A) For purposes of this chapter, ‘behavioral telehealth’ means the practice of professional counseling, addiction counseling, marriage and family therapy, and licensed psycho‑educational specialty using electronic communications, information technology, or other means between a registrant located outside this State and a client located in this State with or without an intervening practitioner. A behavioral telehealth provider has the duty to practice in a manner consistent with his scope of practice and the prevailing professional standard of practice for a behavioral health care professional who provides in‑person professional counseling, addiction counseling, marriage and family therapy, and licensed psycho‑educational specialist services to clients in this State.

(B) Individuals who hold an active license to provide professional counseling, addiction counseling, marriage and family therapy, and licensed psycho‑educational specialist services in another state or jurisdiction may provide these services using behavioral telehealth to a client located in this State if the individual is registered with the board and provides the services within the applicable scope of practice established by this State.

(C) To be registered, the individual must:

(1) complete an application in the format prescribed by the board;

(2) be licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued by South Carolina to a professional counselor, addiction counselor, marriage and family therapist, or licensed psycho‑educational specialist;

(3) have not been the subject of disciplinary action relating to his license during the five‑year period immediately prior to the submission of the application; and

(4) pay a ten dollar fee.

(D) The website of a behavioral telehealth registrant must prominently display a hyperlink to the board’s website containing information required under subsection (F).

(E) The individual may not register under this subsection if his license to provide professional counseling, addiction counseling, marriage and family therapy, or licensed psycho‑educational specialist services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. An individual registered under this section must notify the board of restrictions placed on his license to practice or any disciplinary action taken or pending against him in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.

(F) The board shall publish on its website a list of all registrants and include, to the extent applicable, each registrant’s:

(1) name;

(2) address;

(3) out‑of‑state professional license type with the license number; and

(4) South Carolina behavioral telehealth registration number.

(G) The board may take disciplinary action against an out‑of‑state registrant registered under this section if the individual:

(1) fails to notify the board of any adverse actions taken against his license as required under subsection (E);

(2) has restrictions placed on or disciplinary action taken against his license in any state or jurisdiction;

(3) violates any of the requirements of this section; or

(4) commits any act that constitutes grounds for disciplinary action under the board’s statutes or regulations.

(H) For the purposes of this section, the delivery of behavioral telehealth services by a registrant licensed by another state or jurisdiction to a client residing in this State is deemed to occur in this State, and the registrant consents, as a condition of registration, to the personal and subject matter jurisdiction and disciplinary authority of the board.

(I) Nothing in this section requires or authorizes an individual licensed by this State pursuant to this chapter to obtain a behavioral telehealth registration in order to provide behavioral telehealth services to a client residing in this State.”

SECTION 4. This act takes effect thirty days after approval by the Governor.

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