



State of Utah
Department of Commerce
Division of Occupational and Professional Licensing



GARY R. HERBERT
Governor

FRANCINE A. GIANI
Executive Director

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Division Director

September 16, 2014

Dear Mr. Doe:

The Division is in receipt of your email requesting clarification regarding the scope of practice of clinical mental health counselors. Utah Code 58-60-102 (5) identifies a licensed clinical mental health counselor (CMHC) as a mental health therapist. Utah Code 58-60-102 (7) defines the practice of mental health therapy as follows:

"Practice of mental health therapy" means treatment or prevention of mental illness, including:

- (a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);
- (b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (5);
- (c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and
- (d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).

The practice of clinical mental health counseling is defined in Utah Code 58-60-402 (2) as follows:

"Practice of clinical mental health counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

Based on the statutory language referenced above, it is clear that a CMHC may evaluate and diagnose mental illness. The term "mental illness" as used above in Utah Code 58-60-102 (7) is defined in Utah Code 58-60-102 (6):

"Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).

If adequately educated and trained in psychometrics, a CMHC may use tests and measurements for mental health evaluation purposes. Utah law does not limit the type of evaluation tools that a CMHC may use to diagnose clients; however, only psychologists may perform psychological evaluations. If an agency, such as the Utah State Office of Rehabilitation, requests that a client obtain a psychological evaluation, it must be completed by a licensed psychologist. In short, a CMHC may complete a mental health evaluation using psychometrics as long as they have adequate education and training, but it is outside of their scope of practice to complete a psychological evaluation.

Please let me know if you have further questions.

Sincerely,

Richard J. Oborn, MPA
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Mental Health Professional Practice Act

58-60-102. Definitions.

(6) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).

(7) "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).

Clinical Mental Health Counselor Licensing Act

58-60-402. Definitions.

(2) "Practice of clinical mental health counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized clinical mental health counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

Psychologist Licensing Act

58-61-102. Definitions.

(9) (a) "Practice of psychology" includes:

(i) the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional psychological principles.

methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(ii) the observation, description, evaluation, interpretation, or modification of human behavior by the application of generally recognized professional principles, methods, or procedures requiring the education, training, and clinical experience of a psychologist, for the purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health;

(iii) psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis, and behavior analysis and therapy;

(v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; and

(vi) psychoeducational evaluation, therapy, remediation, and consultation.

(b) An individual practicing psychology may provide services to individuals, couples, families, groups of individuals, members of the public, and individuals or groups within organizations or institutions.



more information

Janiece Pompa <Janiece.Pompa@utah.edu>
To: Richard Oborn <roborn@utah.gov>

Thu, Aug 7, 2014 at 2:04 PM

Here is case law setting precedent that a psychologist must perform psychological testing:

IN THE SUPREME COURT OF THE STATE OF UTAH

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State of Utah,
Plaintiff and Appellee,

v.

Brett Wes Chappoose,
Defendant and Appellant.

No. 980213

FILED
September 3, 1999

1999 UT 83

Eighth District, Uintah County
The Honorable A. Lynn Payne

(Excerpt) Utah Code Ann. § 76-5-406.5(1)(j)(i)-(ii) (Supp. 1998).

3. The statute that licenses psychologists includes within the definition of the "practice of psychology" the "psychological testing and evaluation or assessment of personal characteristics." Utah Code Ann. § 58-61-102(9) (a)(iii) (1998). This plainly would include within its scope the performance of the "complete psychological evaluations" contemplated by section 76-5-406.5. On the other hand, the statute under which social workers are licensed, section 58-60-202, does not include within the definition of the "practice of certified social work" psychological testing and evaluation. *Id.* § 58-60-202(3) (1998). Therefore, it seems clear from the licensing statutes that the legislature contemplated that to perform the mandated evaluations, the professional in question must at least be a licensed psychologist.

Therefore, there seems to be precedent in Utah case law indicating that psychological testing should be performed by a licensed psychologist. An "evaluation" that may be performed by a licensed mental health

professional may or may not include some kind of testing, but psychological testing may only be performed by a licensed psychologist.

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