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Health Coverage, Insurance and Financial Services Committee

**LD 299, An Act to Provide Clarity in the Laws Governing the Profession of
Counseling**

Jay McCreight, HD 51, Harpswell, West Bath, Northeast Brunswick
April 21, 2021

Senator Sanborn, Representative Tepler, Esteemed Members of the Health Coverage, Insurance and Financial Services Committee, I am Jay McCreight, representing Harpswell, West Bath and Northeast Brunswick in the House. I'm here today to present **LD 299, An Act to Provide Clarity in the Laws Governing the Profession of Counseling**.

I learned through a constituent concern that there is a problem with our counseling licensure statutes allowing some people who are unlicensed, to practice as if they were. Though the details of my constituent's situation are disturbing, I focus here not on that specific situation, but on the general problem of the loophole that has allowed this to happen.

As a formerly licensed social worker and licensed clinical professional counselor, it honestly never occurred to me that anyone would practice without a valid professional license. A license confirms that the person has met certain qualifications and has committed to follow the ethical responsibilities and standard of care involved in the areas of practice for which they have been granted a license.

When a complaint is received about an unlicensed person who purports to be qualified to practice counseling or therapy, or who acts as if they are qualified, the Licensure Board doesn't have the authority to act. A Catch 22. The Board can refer the complaint to the Attorney General's Office. However, the Attorney General's Office shared that it is not possible to pursue enforcement of such unlicensed practice, "due to the muddled statutes," and stated that "resolving this conundrum would require enacting legislation." I was advised that "tightening up Title 32" is needed to address this problem.

Under the statutes related to the practice of counseling, unlike that of social work or psychology for example, the statutes are not as complete as they need to be. We need

District 51: Harpswell, West Bath, Brunswick (part)

to add statutory language clarifying that a person may neither engage in the practice of professional counseling nor profess to be qualified to engage in such practice unless licensed to do so. This proposal does not change any of the exemptions that already exist such as peer groups, support groups, clergy*.

The bill also makes it an unfair trade practice for persons to present themselves as social workers, psychologists or counseling professionals without a valid license to practice.

In complicated family situations, the courts may be involved in ordering counseling or therapy. Because of this, a third provision of this proposal specifies that when a court does so order, verification that the provider has the appropriate licensure is needed. With a licensed provider, should there be a complaint, the Board will be in a position address it and determine any action.

Thank you for your attention and I'll do my best to answer any questions.

Resources:

Title 32: Professions and Occupations, Chapter 119: Counseling Professionals §13858. Requirements for Licensure

<http://www.mainelegislature.org/legis/statutes/32/title32sec13858.html>

Title 32: Professions and Occupations, Chapter 119: Counseling Professionals §13856. Exemptions to licensure

<http://www.mainelegislature.org/legis/statutes/32/title32sec13856.html>