

SENATE BILL 2040

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 29;
Title 33 and Title 63, relative to mental health
disorders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

(a) For the purposes of this section, a "mental health disorder" means major depression, bipolar disorder, personality disorder, or post-traumatic stress disorder.

(b)

(1) A consumer is entitled to care from a competently qualified person when receiving care for a mental health disorder.

(2) A license is required under title 63 for a person to competently diagnose or treat mental health disorders. An unlicensed person is not competent to provide counseling or therapy to treat mental health disorders.

(3) An unlicensed person who provides counseling services shall provide to the client a written notice of unlicensed status and obtain from the client a signed client statement acknowledging the unlicensed status of the provider.

(c)

(1) An unlicensed person may be civilly liable to the consumer if the unlicensed person knowingly offered mental health counseling or psychotherapy to treat a mental health disorder without being licensed as a mental health provider.

(2) The consumer may maintain an action to recover damages, the consideration paid to the unlicensed provider, costs in recovering consideration paid, and three (3) times reasonable attorney's fees determined by the court.

(3) The unlicensed person acting as a licensed mental health professional or treating a mental health disorder for direct or indirect compensation is held to the ethical and professional standard of care of a licensed professional.

(d) The following persons are exempt from this section:

(1) Clergy who are not being compensated on a fee-for-service basis;

(2) Students and practitioners in training when the student or practitioner is under the lawful supervision of a licensed healthcare professional;

(3) Persons holding a license under title 63 when acting within their lawful scope of practice.

(e) This section does not expand or restrict the scope of practice for any person holding a license under title 63.

(f) Any non-licensed person offering counseling or psychotherapy on a fee-for-service basis shall have a rebuttable presumption that the services were not to treat a mental health disorder if the non-licensed person can produce a copy of the client statement for unlicensed therapist signed by the client.

(g) Any non-licensed person offering counseling or psychotherapy on a fee-for-service basis will have a rebuttable presumption that the services were to treat a mental health disorder if the non-licensed person cannot produce a copy of the client statement for unlicensed therapist signed by the client.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.