



HF 3822 Summary Sheet

Sections 1 & 3: Reciprocity

What is the purpose of HF 3822 in relationship to licensure *reciprocity*?

1. HF 3822 is designed to *increase the portability* of equivalently licensed individuals from other states to practice in Minnesota as a Licensed Professional Clinical Counselor (LPCC), a Licensed Professional Counselor (LPC), or a Licensed Alcohol and Drug Counselor (LADC).
2. The individual must have *qualifications and expertise substantially equivalent* to the requirements for a Minnesota license as determined by the Board.
3. The individual must have *been licensed for active practice* in another state for a *minimum of five years*.
4. The individual must *not have been subject to disciplinary action* in another state in order to be eligible for the granting of a license in Minnesota by reciprocity. If the individual has been the subject of disciplinary action, the applicant's request for licensure will be reviewed by the Board for potential eligibility.

How does reciprocity benefit the public?

1. The goal of HF 3822 is to *increase public access* to LPCCs, LPCs, and LADCs in Minnesota.
2. HF 3822 is particularly *important for the border regions* which often have individuals licensed in the surrounding states requesting to be licensed in Minnesota.
3. Sections 1 & 3 are *revenue neutral* on the budgets of the board and the state.

How does reciprocity benefit the license applicant?

1. HF 3822 is designed to *reduce barriers to obtaining licensure* by applicants from other states without impacting quality of service or protection to the citizens of Minnesota.
2. The bill is fashioned after similar bills in other states designed to move toward *increased portability* of LPCCs, LPCs, and LADCs from state to state. Portability is considered to be the future of licensure models across multiple mental health disciplines.



HF 3822 Summary Sheet

Section 2: Disclosure of Client Information in Duty to Warn Situations

What is the purpose of HF 3822 in relationship to the need to disclose client information?

HF 3822 expands the duty to warn provision of care to an individual who is under supervision as an intern or in post-degree supervised practice to become a Licensed Professional Clinical Counselor (LPCC) or a Licensed Professional Counselor (LPC) in the State of Minnesota.

What is *duty to warn*?

1. Duty to warn is a professional obligation granted by statute to certain professions to act in the best interest of clients if those individuals give the professional reasonable cause to believe that the client is potentially harmful to oneself or others.
2. Duty to warn allows for the disclosure of relevant information to relevant parties who can intervene with an individual determined by the professional to be potentially at risk.

Why is this provision being added to the licensure responsibilities of LPCCs and LPCs?

In 2016, the Minnesota Legislature added to the duty to warn language for interns and those in post-degree practice under supervision preparing for the practices of Psychology, Marriage and Family Therapy, and Alcohol and Drug Counseling (see Minnesota Statutes sections 148.975 [Psychology], 148B.1751 [Marriage and Family Therapy], 148E.240, subd. 6 [Social Work] and 148F.13 [Alcohol and Drug Counseling]). Licensed Professional Clinical Counselors and Licensed Professional Counselors are the only mental health providers missing from the duty to warn provisions.

How does this provision benefit the public?

1. Currently, supervised interns in programs to become LPCCs and LPCs and related counselor education programs are not specifically identified as individuals with duty to warn designation.
2. Unless this provision is changed, *only supervisors* of LPCC and LPC interns and those in post-degree practice are legally allowed to act in duty to warn instances, not the interns or supervisees alone.
3. Adding LPCC and LPC licensees, applicants, interns, and those in post-degree practice under supervision to the duty to warn designation allows the current oversight to be corrected and protects them from monetary liability arising out of good faith actions on behalf of their clients.
4. Section 2 is *revenue neutral* on the budgets of the board and the state.

FRAMEWORK FOR DESCRIBING AND EVALUATING SCOPE OF PRACTICE AND/OR NEW LICENSURE PROPOSALS FOR POLICYMAKERS

Introduction

This framework is designed to aide policymakers in the objective analysis of legislative proposals relating to scope of practice changes for regulated health professions/occupations.

The framework was developed for the State of Minnesota by a core team of professional health care associations, health licensing boards, state legislators, and the Minnesota Department of Health, Office of Rural Health and Primary Care in partnership with the National Governors Association and the National Conference of State Legislatures. The core team remains interested in the use and applicability of this framework. Please send any feedback on the framework and examples of its use to:

Nitika.moibi@state.mn.us. Thank you.

Using the Framework

The framework is organized into two parts:

- **Part 1 (Summary and Details):** This part is intended to summarize and organize key information about the scope of practice proposals to facilitate an objective review for legislators. **It is intended to be completed by the author(s) of the proposed statutory change.**

Part 1 includes two sections:

- **Section I (Proposal Summary/Overview):** This section is designed to provide an overview of the rationale for the proposal, including a summary (500-word count limit).
 - **Section II (Proposal Details):** This section includes a series of structured questions capturing and organizing key information on the proposed change and its impact on dimensions important to analyzing such changes. Proposal author(s) may complete only those questions relevant/pertinent to the proposal (not all questions will be applicable in all situations).
- **Part 2 (Legislator Review/Evaluation Tool):** This part is meant to support legislators in the process of reviewing and evaluating the proposed legislative changes. It includes a series of open-ended questions designed to provoke critical review of key information. **It is meant to be completed by the legislator(s) reviewing the proposal** and serve as a quick reference.

Part 1

Section 1- Proposal Summary/ Overview

To be completed by proposal sponsor. (500 Word Count Limit)

- 1) State the profession/occupation that is the subject of the proposal.

Licensed Professional Counseling (LPC)
Licensed Professional Clinical Counseling (LPCC)
Licensed Alcohol and Drug Counseling (LADC)

- 2) For existing professions, briefly describe the proposed statutory change or expansion and its intended outcomes, including a brief statement of importance. For currently unregulated or emerging professions, briefly describe the proposed scope of practice and/or other regulatory requirements.

This proposal would modify reciprocity licensure requirements for licensed professional counselors (LPCs), licensed professional clinical counselors (LPCCs), and licensed alcohol and drug counselors (LADCs). Persons licensed in other states for more than 5 years, with no disciplinary history, will qualify for licensure in Minnesota by reciprocity. This initiative supports license portability for qualified counselors who want to serve Minnesota citizens. Model language was provided by the American Association of State Counseling Boards (AASCB) and other national organizations (see excerpt below from AASCB website), and this initiative is Minnesota's response.

Statutes affected: 148B.56 and 148F.03.

EXCERPT: "During the last year [2016 to April 2017], representatives of the American Association of State Counseling Boards (AASCB), the Association for Counselor Education and Supervision (ACES), the American Mental Health Counselors Association (AMHCA), and the National Board for Certified Counselors (NBCC) worked together to create a Portability Task Force with one goal: a safe, clear, reasonable portability process for all current and future counselors. The task force agreed upon five (5) key tenets which informed each decision by the taskforce.

Specifically, a uniform licensure endorsement process must:

- I. Significantly increase public access to qualified care;
- II. Establish minimum standards for safe practice;
- III. Reduce administrative burdens for both state regulatory boards and licensees;
- IV. Create consistency in licensure standards across state lines; and
- V. Ensure protection of the public and the continued development of the profession."

Link to portability information from AASCB website: <http://www.aascb.org/aws/AASCB/pt/sp/licensure>

Section 2 – Proposal Details

To be completed by the proposal sponsor. Please respond to applicable questions. A response is not required for questions which do not pertain to the profession/occupation (may indicate “not applicable” or leave the response area blank). Where applicable, please provide supporting evidence (including source of information and citations, where appropriate). Please note, this section has been designed to provide more detailed information about the proposal. Some overlap with the summary provided in Section 1 is expected.

A. Public Safety and Well-Being

- 1) Describe, using evidence to the extent possible, how the proposed scope and regulation may improve or may harm the health, safety, and welfare of the public?

The goal of SF 1677/HF 3822 is to *increase public access* to LPCCs, LPCs, and LADCs in Minnesota. SF 1677/HF 3822 is particularly *important for the border regions* which often have individuals licensed in the surrounding states requesting to be licensed in Minnesota. The proposal is *revenue neutral* on the budgets of the Board and the State.

SF 1677/HF 3822 is designed to *reduce barriers to obtaining licensure* by applicants from other states without impacting quality of service or protection to the citizens of Minnesota. The bill is fashioned on model language provided to all 50 states and is designed to move toward *increased portability* of LPCCs, LPCs, and LADCs from state to state. Portability is considered to be the future of licensure models across multiple mental health disciplines.

- 2) Is there any research evidence that the proposed change(s) might have a risk to the public? Please cite.

None known.

- 3) Will a regulatory entity/board have authority to discipline practitioners?

Yes.

- 4) Describe any proposed disciplinary measures to safeguard against unethical/unfit professionals. How can consumers access this information?

Minnesota Statutes sections 148B.59 and 148F.09 set forth grounds for disciplinary actions and forms of discipline. The statutes are accessible to any interested party from a link on the Board’s website:

LPC and LPCC grounds for disciplinary action and forms of discipline:
<https://www.revisor.mn.gov/statutes/?id=148B.59>

LADC grounds for disciplinary action and forms of discipline: <https://www.revisor.mn.gov/statutes/?id=148F.09>

B. Access, Cost, Quality, Care Transformation Implications

- 1) Describe how the proposed change(s) will affect the availability, accessibility, cost, delivery, and quality of health care.

The proposal is intended to increase availability of and accessibility to both mental health counseling services and

substance use disorder counseling services to Minnesota citizens.

- 2) Describe the unmet health care needs of the population (including health disparities) that can be served under this proposal and how the proposal will contribute to meeting these needs.

Counselors licensed with the Board of Behavioral Health and Therapy are key providers to clients needing mental health and substance use disorder counseling services, including those clients with dual diagnoses/co-occurring disorders. Clients needing services for addiction to or abuse of opioids are among those served.

- 3) Please describe whether the proposed scope includes provisions to encourage or require practitioners to serve underserved populations.

The proposal does not contain specific language related to services for underserved populations.

- 4) Describe how this proposal is intended to contribute to an evolving health care delivery and payment system (e.g. interprofessional and collaborative practice, innovations in technology, ensuring cultural agility and competence in the profession, value based payment etc.)

SF 1677/HF 3822 is Minnesota's response to the uniform licensure endorsement (reciprocity/portability) goals noted above:

- I. Significantly increase public access to qualified care;
- II. Establish minimum standards for safe practice;
- III. Reduce administrative burdens for both state regulatory boards and licensees;
- IV. Create consistency in licensure standards across state lines; and
- V. Ensure protection of the public and the continued development of the profession.”

C. Regulation

- 1) If the services or individuals are currently unregulated, what is the proposed form of credentialing/regulation (licensure, certification, registration, etc.)? State the rationale for the proposed form/level of regulation.ⁱ If there is a lesser degree of regulation available, state why it was not selected.ⁱⁱ

The SF 1677/HF 3822 proposal relates to currently regulated persons.

- 2) Describe if a regulatory entity/board currently exists or will be proposed. Does/will it have statutory authority to develop rules related to a changed/expanded scope or emerging profession, determine standards for education and training programs, assessment of practitioners' competence levels? If not, why not?ⁱⁱⁱ

The Board of Behavioral Health and Therapy regulates the practices of professional counseling, professional clinical counseling, and alcohol and drug counseling in Minnesota. The Board currently has statutory authority for all listed items.

- 3) Is there model legislation for the profession available at the national level? If so, from what organization? Which states have adopted it? Briefly describe any relevant implementation information.

Yes. American Association of State Counseling Boards (AASCB), the Association for Counselor Education and Supervision (ACES), the American Mental Health Counselors Association (AMHCA), and the National Board for Certified Counselors (NBCC). Minnesota does not have information on the number of states that have adopted

portability language.

- 4) Does the proposal overlap with the current scope of practice for other professions/practitioners? If so, describe the areas of overlap. (This question is not intended to imply that overlap between professions is negative.)

No. The SF 1677/HF 3822 proposal has no effect on current scope of practice language already in law for counselors and other licensed providers.

D. Education and Professional Supervision

- 1) Describe the training, education, or experience that will be required for this professional based on this proposal, including plans for grandfathering in prior qualifications and/or experience where appropriate.

Not applicable to SF 1677/HF 3822. Reciprocity applicants have already met training, education, examination, and experience requirements in their respective states.

- 2) Is the education program available, or what is the plan to make it available? Is accreditation or other approval available or proposed for the education program? If yes, by whom?

Not applicable to SF 1677/HF 3822 proposal.

- 3) Do provisions exist or are they being proposed to ensure that practitioners maintain competency in the provision of services? ^{iv} If so, please describe.

SF 1677/HF 3822 is a proposal to expand reciprocity licensure in Minnesota. Once licensed in Minnesota, all licensees complete continuing education to maintain licensure. The purpose of mandatory continuing education is to: A) promote the health and well-being of the residents of Minnesota who receive services from licensees; and B) promote the professional development of providers of these services. The continued professional growth and maintenance of competence in providing counseling services are the ethical responsibilities of each licensee.

- 4) Is there a recommended level/type of supervision for this practitioner—independent practice, practice needing formal agreements or delegated authority, supervised practice? If this practitioner will be supervised, state by whom, the level, extent, nature, terms of supervision.^v

Not applicable to SF 1677/HF 3822. Scope of practice already exists in law. No change to current scope of practice language is being proposed.

E. Finance Issues – Reimbursement, Fiscal Impact to state, etc.

- 1) Describe how and by whom will the new or expanded services be compensated (e.g., Medical Assistance, health plans, etc.)? What costs and what savings would accrue and to whom (patients, insurers, payers, employers)?

Compensation to licensees under the proposed language in SF 1677/HF 3822 will be the same as it is for current licensees of the Board.

- 2) Describe whether reimbursement is available for these services in other states? Not applicable to SF 1677/HF 3822 proposal.^{vi}
- 3) What are the projected regulatory costs to the state government, and how does the proposal include revenue to offset those costs?

The SF 1677/HF 3822 proposal is budget neutral. There will be no increased costs to the Board or any other unit of state government to implement expansion of reciprocity licensure. Revenue from licensure fees already offsets the cost of regulation.

- 4) Do you anticipate a state fiscal impact of the proposed bill? NO
 No Yes

If, yes, describe briefly and complete table below to the extent possible:

Fund (specify)	FY2017	FY2018	FY2019	FY2020
Expenditure				

F. Workforce Impacts

- 1) Describe what is known about the projected supply/how many individuals are expected to practice under the proposed scope?^{vii} If possible, also note geographic availability of proposed providers/services. Cite any sources used.

As of March 5, 2018, the Board of Behavioral Health and Therapy has the following numbers of persons with an active license or permit to practice:

- 3275** Licensed Alcohol and Drug Counselors (**LADCs**)
- 219** Temporary Permit Holders for Alcohol and Drug Counseling Practice
- 462** License Professional Counselors (**LPCs**)
- 1618** Licensed Professional Clinical Counselors (**LPCCs**)

Grand Total: **5574** Licensed Providers

- 2) Describe, with evidence where possible, how the new/modified proposal will impact the overall supply of the proposed services with the current/projected demand for these services.

As noted above, SF 1677/HF 3822 is intended to eliminate some barriers to licensure and thereby reduce delays in the licensure process and increase the number of providers.

G. Proposal Supporters/Opponents

(Sponsor should understand and attempt to address the concerns of the opposition before submitting the document)

- 1) What organizations and groups have developed or reviewed the proposal?

Minnesota Association of Resources for Recovery and Chemical Health (MARRCH)
 Minnesota Counseling Association (MnCA)

- 2) Note any associations, organizations, boards, or groups representing the profession seeking regulation and the approximate number of members in each in Minnesota.^{viii}

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Grand Total: **5574** Licensed Providers

- 3) Please describe the anticipated or already documented position professional associations of the impacted professions (including opponents) will/have taken regarding the proposal.^{ix}

MARRCH and MnCA are in favor of the proposal to the best of the Board's knowledge. Neither organization has expressed any concerns about SF 1677/HF 3822.

- 4) State what actions have been undertaken to minimize or resolve any conflict or disagreement with those opposing/likely to oppose the proposal.^x

The professional associations noted above have been notified of the SF 1677/HF 3822 proposal, and Board staff appeared in person at the MARRCH Public Policy Committee Meeting on March 2, 2018 to explain the initiative. The proposal was well received (round of applause offered for working to increase the number of LADCs in Minnesota).

- 5) What consumer and advocacy groups support/oppose the proposal and why?

None known.

H. Report to the Legislature

- 1) Please describe any plans to submit a report to the legislature describing the progress made in the implementation and the subsequent impacts (if measurable) of the scope of practice changes for regulated health professions/occupations. Describe the proposed report's focus and timeline. Any proposed report schedule should provide sufficient time for the change to be implemented and for impacts to appear.

No report is planned or needed.

Part 2- Proposal Summary Notes

To be completed by legislators reviewing the proposal. This section serves as a companion to the information provided by authors (Part 1), and is designed for legislators to complete to serve as a guide/facilitate evaluation of proposed statutory changes.

Bill # (if introduced):

Title:

Author(s):

Proposal Summary Notes:

Public Safety and Well Being

Review Notes:

Access, Cost, Quality, Care Transformation Implications

Review Notes:

Regulation

Review Notes:

Education and Professional Supervision

Review Notes:

Finance Issues – Reimbursement, fiscal impacts to state government, etc.

Review Notes:

Fiscal impact of the proposed bill:

No

YEs

Fund (specify)	FY2017	FY2018	FY2019	FY2020
Expenditure				

If, yes, describe briefly:

Workforce Impacts

Review Notes:

Proposal Supporters and Opponents

Review Notes:

Reporting Requirements, if applicable:

Review Notes:

Other

Does the bill promote health equity?

Does the bill positively impact my constituents?

NOTES:

- ⁱ Minnesota Health Occupation Review Program. Manual of Procedures for use by Occupations submitting proposals to the Minnesota Council of Health Boards. 2002. Available in hard copy upon request. See discussion on Credentialing Policy Guidelines – Part 4.
- ⁱⁱ Minn Stat 214.002 Subd. 2. (3)
- ⁱⁱⁱ Federation of State Medical Boards. “Assessing Scope of Practice in Health Care Delivery: Critical Questions in assuring Public Access and Safety.” 2005
- ^{iv} Federation of State Medical Boards. “Assessing Scope of Practice in Health Care Delivery: Critical Questions in assuring Public Access and Safety.” 2005
- ^v Federation of State Medical Boards. “Assessing Scope of Practice in Health Care Delivery: Critical Questions in assuring Public Access and Safety.” 2005
- ^{vi} Minnesota Health Occupation Review Program. Manual of Procedures for use by Occupations submitting proposals to the Minnesota Council of Health Boards. 2002. Available in hard copy upon request
- ^{vii} Minnesota Health Occupation Review Program. Manual of Procedures for use by Occupations submitting proposals to the Minnesota Council of Health Boards. 2002. Available in hard copy upon request
- ^{viii} Minnesota Health Occupation Review Program. Manual of Procedures for use by Occupations submitting proposals to the Minnesota Council of Health Boards. 2002. Available in hard copy upon request
- ^{ix} Legislative Questionnaire for new or expanded regulation of health occupations. Submitted to the Minnesota Legislature by the Minnesota Advanced Practice Registered Nurse (APRN) in collaboration with the Minnesota Board of Nursing. January 29, 2014. This document includes more questions in addition to those required by Minn. Stat. 214.002. Only the new questions are included in the table.
- ^x Legislative Questionnaire for new or expanded regulation of health occupations. Submitted to the Minnesota Legislature by the Minnesota Advanced Practice Registered Nurse (APRN) in collaboration with the Minnesota Board of Nursing. January 29, 2014. This document includes more questions in addition to those required by Minn. Stat. 214.002. Only the new questions are included in the table.