

ASSEMBLY BILL

No. 1253

Introduced by Assembly Members Matthews and Thomson

February 23, 2001

An act to amend Section 1010 of the Evidence Code, to amend Section 13960 of the Government Code, to amend Sections 1373 and 1373.8 of the Health and Safety Code, and to amend Sections 10176 and 10177 of the Insurance Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1253, as introduced, Matthews. Nursing.

Existing law, the Nursing Practice Act, requires that a nurse satisfy specified requirements in order to practice as a clinical nurse specialist. Various other provisions of law include within their application a registered nurse with education or experience in psychiatric-mental health nursing.

This bill would recast those provisions, specifying that the registered nurse be certified as a clinical nurse specialist who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1010 of the Evidence Code is amended
- 2 to read:
- 3 1010. As used in this article, “psychotherapist” means:
- 4 (a) A person authorized, or reasonably believed by the patient
- 5 to be authorized, to practice medicine in any state or nation who

1 devotes, or is reasonably believed by the patient to devote, a
2 substantial portion of his or her time to the practice of psychiatry.

3 (b) A person licensed as a psychologist under Chapter 6.6
4 (commencing with Section 2900) of Division 2 of the Business and
5 Professions Code.

6 (c) A person licensed as a clinical social worker under Article
7 4 (commencing with Section 4996) of Chapter 14 of Division 2 of
8 the Business and Professions Code, when he or she is engaged in
9 applied psychotherapy of a nonmedical nature.

10 (d) A person who is serving as a school psychologist and holds
11 a credential authorizing that service issued by the state.

12 (e) A person licensed as a marriage, family, and child counselor
13 under Chapter 13 (commencing with Section 4980) of Division 2
14 of the Business and Professions Code.

15 (f) A person registered as a psychological assistant who is
16 under the supervision of a licensed psychologist or board certified
17 psychiatrist as required by Section 2913 of the Business and
18 Professions Code, or a person registered as a marriage, family, and
19 child counselor intern who is under the supervision of a licensed
20 marriage, family, and child counselor, a licensed clinical social
21 worker, a licensed psychologist, or a licensed physician certified
22 in psychiatry, as specified in Section 4980.44 of the Business and
23 Professions Code.

24 (g) A person registered as an associate clinical social worker
25 who is under the supervision of a licensed clinical social worker,
26 a licensed psychologist, or a board certified psychiatrist as
27 required by Section 4996.20 of the Business and Professions Code.

28 (h) A person exempt from the Psychology Licensing Law
29 pursuant to subdivision (d) of Section 2909 of the Business and
30 Professions Code who is under the supervision of a licensed
31 psychologist or board certified psychiatrist.

32 (i) A psychological intern as defined in Section 2911 of the
33 Business and Professions Code who is under the supervision of a
34 licensed psychologist or board certified psychiatrist.

35 (j) A trainee, as defined in subdivision (c) of Section 4980.03
36 of the Business and Professions Code, who is fulfilling his or her
37 supervised practicum required by subdivision (b) of Section
38 4980.40 of the Business and Professions Code and is supervised
39 by a licensed psychologist, board certified psychiatrist, a licensed



1 clinical social worker, or a licensed marriage, family, and child
2 counselor.

3 (k) ~~A person licensed as a~~ *An advanced practice* registered
4 nurse *who is certified as a clinical nurse specialist* pursuant to
5 *Article 9 (commencing with Section 2838) of Chapter 6*
6 ~~(commencing with Section 2700)~~ of Division 2 of the Business and
7 Professions Code, ~~who possesses a master's degree in psychiatric~~
8 ~~mental~~ *and who participates in expert clinical practice in the*
9 *specialty of psychiatric-mental health nursing.*

10 (l) A person rendering mental health treatment or counseling
11 services as authorized pursuant to Section 6924 of the Family
12 Code.

13 SEC. 2. Section 13960 of the Government Code, as added by
14 Section 1.4 of Chapter 895 of the Statutes of 1998, is amended to
15 read:

16 13960. As used in this article:

17 (a) (1) "Victim" means a resident of the State of California,
18 a member of the military stationed in California, or a family
19 member living with a member of the military stationed in
20 California who sustains injury or death as a direct result of a crime.

21 (2) "Derivative victim" means a resident of California who is
22 one of the following:

23 (A) At the time of the crime was the parent, sibling, spouse, or
24 child of the victim.

25 (B) At the time of the crime was living in the household of the
26 victim.

27 (C) A person who had previously lived in the household of the
28 victim for a period of not less than two years in a relationship
29 substantially similar to a relationship listed in subparagraph (A).

30 (D) Is another family member of the victim, including the
31 victim's fiancé, and witnessed the crime.

32 (b) "Injury" includes physical or emotional injury, or both.
33 However, this article does not apply to emotional injury unless that
34 injury is incurred by a victim who also sustains physical injury or
35 threat of physical injury. For purposes of this article, a victim of
36 a crime committed in violation of Section 261, 262, 271, 273a,
37 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c)
38 of Section 311.4, of the Penal Code, who sustains emotional injury
39 is presumed to have sustained physical injury. For purposes of this
40 article, a victim of a crime committed in violation of Section 270



1 of the Penal Code, as a result of conduct other than a failure to pay
2 child support, who sustains emotional injury is presumed to have
3 sustained physical injury if criminal charges were filed or a
4 prosecuting attorney expresses the opinion that the child is a victim
5 of that section.

6 (c) “Crime” means a crime or public offense that would
7 constitute a misdemeanor or a felony if committed in California by
8 a competent adult ~~which~~ *that* results in injury to a resident of this
9 state, including a crime or public offense, wherever it may take
10 place, when the resident is temporarily absent from the state.
11 “Crime” includes an act of terrorism, as defined in Section 2331
12 of Title 18 of the United States Code, committed against a resident
13 of the state, whether or not the act occurs within the state. No act
14 involving the operation of a motor vehicle, aircraft, or water
15 vehicle ~~which~~ *that* results in injury or death constitutes a crime for
16 the purposes of this article, except that a crime shall include any
17 of the following:

18 (1) Injury or death intentionally inflicted through the use of a
19 motor vehicle, aircraft, or water vehicle.

20 (2) Injury or death caused by a driver in violation of Section
21 20001 of the Vehicle Code.

22 (3) Injury or death caused by a person who is under the
23 influence of any alcoholic beverage or drug.

24 (4) Injury or death caused by a driver of a motor vehicle in the
25 immediate act of fleeing the scene of a crime in which he or she
26 knowingly and willingly participated.

27 For the purpose of the limitations imposed by this article, a
28 crime shall mean one act or series of related acts arising from the
29 same course of conduct with the same perpetrator or perpetrators.

30 (d) “Pecuniary loss” means the following expenses for which
31 the victim or derivative victim has not been and will not be
32 reimbursed from any other source:

33 (1) The amount of medical or medical-related expenses
34 incurred by the victim, including inpatient psychological or
35 psychiatric expenses, and including, but not limited to, eyeglasses,
36 hearing aids, dentures, or any prosthetic device taken, lost, or
37 destroyed during the commission of the crime, or the use of which
38 became necessary as a direct result of the crime.

39 (2) The amount of outpatient psychiatric, psychological, or
40 other mental health counseling related expenses ~~which~~ *that*



1 became necessary as a direct result of the crime. These counseling
2 services may only be reimbursed if provided by any of the
3 following individuals:

4 (A) A person licensed as a physician who is certified in
5 psychiatry by the American Board of Psychiatry and Neurology or
6 who has completed a residency in psychiatry.

7 (B) A person licensed as a psychologist under Chapter 6.6
8 (commencing with Section 2900) of Division 2 of the Business and
9 Professions Code.

10 (C) A person licensed as a clinical social worker under Article
11 4 (commencing with Section 4996) of Chapter 14 of Division 2 of
12 the Business and Professions Code.

13 (D) A person licensed as a marriage, family, and child
14 counselor under Chapter 13 (commencing with Section 4980) of
15 Division 2 of the Business and Professions Code.

16 (E) A person registered as a psychological assistant who is
17 under the supervision of a licensed psychologist or board certified
18 psychiatrist as required by Section 2913 of the Business and
19 Professions Code.

20 (F) A person registered with the Board of Psychology who is
21 providing services in a nonprofit community agency pursuant to
22 subdivision (d) of Section 2909 of the Business and Professions
23 Code.

24 (G) A person registered as a marriage, family, and child
25 counselor intern who is under the supervision of a licensed
26 marriage, family, and child counselor, a licensed clinical social
27 worker, a licensed psychologist, or a licensed physician certified
28 in psychiatry, as specified in Section 4980.44 of the Business and
29 Professions Code.

30 (H) A person registered as an associate clinical social worker,
31 as defined in Section 4996.18 of the Business and Professions
32 Code, who is under the supervision of a licensed clinical social
33 worker, a licensed psychologist, or a board certified psychiatrist.

34 (I) *An advanced practice registered nurse certified as a clinical*
35 *nurse specialist under Article 9 (commencing with Section 2838)*
36 *of Chapter 6 of Division 2 of the Business and Professions Code,*
37 *who participates in expert clinical practice in the specialty of*
38 *psychiatric-mental health nursing.*



1 (3) The loss of income that the victim or the loss of support that
 2 the derivative victim has incurred or will incur as a direct result of
 3 an injury or death.

4 (4) Pecuniary loss also includes nonmedical remedial care and
 5 treatment rendered in accordance with a religious method of
 6 healing recognized by state law.

7 (5) The amount of family psychiatric, psychological, or mental
 8 health counseling expenses necessary as a direct result of the crime
 9 for the successful treatment of the victim, provided to family
 10 members of the victim in the presence of the victim, whether or not
 11 the family member relationship existed at the time of the crime.

12 (e) “Board” means the State Board of Control.

13 (f) “Victim centers” means those centers as specified in
 14 Section 13835.2 of the Penal Code.

15 (g) “Peer counselor” means a provider of mental health
 16 counseling services who has completed a specialized course in
 17 rape crisis counseling skills development, participates in
 18 continuing education in rape crisis counseling skills development,
 19 and provides rape crisis counseling in consultation with a mental
 20 health practitioner licensed within the State of California.

21 (h) This section shall become operative on January 1, 2003.

22 SEC. 3. Section 13960 of the Government Code, as amended
 23 by Section 1.3 of Chapter 895 of the Statutes of 1998, is amended
 24 to read:

25 13960. As used in this article:

26 (a) (1) “Victim” means a resident of the State of California,
 27 a member of the military stationed in California, or a family
 28 member living with a member of the military stationed in
 29 California who sustains injury or death as a direct result of a crime.

30 (2) “Derivative victim” means a resident of California, or
 31 resident of another state, who is one of the following:

32 (A) At the time of the crime was the parent, sibling, spouse, or
 33 child of the victim.

34 (B) At the time of the crime was living in the household of the
 35 victim.

36 (C) A person who had previously lived in the household of the
 37 victim for a period of not less than two years in a relationship
 38 substantially similar to a relationship listed in subparagraph (A).

39 (D) Is another family member of the victim, including the
 40 victim’s fiancé or fiancée, and witnessed the crime.



1 (E) Is the primary caretaker of a minor victim, but was not the
2 primary caretaker at the time of the crime.

3 (b) (1) “Injury” includes physical or emotional injury, or
4 both. However, this article does not apply to emotional injury
5 unless that injury is incurred by a victim who also sustains physical
6 injury or threat of physical injury. For purposes of this article, a
7 victim of a crime committed in violation of Section 261, 262, 271,
8 273a, 273d, 278, 278.5, 285, 286, 288, 288a, 288.5, or 289, or
9 subdivision (b) or (c) of Section 311.4, of the Penal Code, who
10 sustains emotional injury is presumed to have sustained physical
11 injury. For purposes of this article, a victim of a crime committed
12 in violation of Section 270 of the Penal Code, as a result of conduct
13 other than a failure to pay child support, who sustains emotional
14 injury is presumed to have sustained physical injury if criminal
15 charges were filed. For purposes of this article, a victim of a crime
16 committed in violation of subdivision (d) of Section 261.5 of the
17 Penal Code, who sustains emotional injury, is presumed to have
18 sustained physical injury if felony charges were filed.

19 (2) It is the intent of the Legislature that in order for the
20 presumption set forth in paragraph (1) relating to a violation of
21 Section 278 or 278.5 of the Penal Code to apply, the deprivation
22 of custody as described in those sections shall have endured for not
23 less than 30 days. For the purposes of this paragraph, the child, and
24 not the nonoffending parent or other caretaker, shall be deemed the
25 victim.

26 (3) A child who has been the witness of a crime or crimes of
27 domestic violence may be presumed by the board to have sustained
28 physical injury.

29 (c) “Crime” means a crime or public offense that would
30 constitute a misdemeanor or a felony if committed in California by
31 a competent adult ~~which~~ that results in injury to a resident of this
32 state, including a crime or public offense, wherever it may take
33 place, when the resident is temporarily absent from the state.
34 “Crime” includes an act of terrorism, as defined in Section 2331
35 of Title 18 of the United States Code, committed against a resident
36 of the state, whether or not the act occurs within the state. No act
37 involving the operation of a motor vehicle, aircraft, or water
38 vehicle ~~which~~ that results in injury or death constitutes a crime for
39 the purposes of this article, except that a crime shall include any
40 of the following:



1 (1) Injury or death intentionally inflicted through the use of a
2 motor vehicle, aircraft, or water vehicle.

3 (2) Injury or death caused by a driver in violation of Section
4 20001 of the Vehicle Code.

5 (3) Injury or death caused by a person who is under the
6 influence of any alcoholic beverage or drug.

7 (4) Injury or death caused by a driver of a motor vehicle in the
8 immediate act of fleeing the scene of a crime in which he or she
9 knowingly and willingly participated.

10 (5) Injury or death caused by a person in violation of
11 subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

12 For the purpose of the limitations imposed by this article, a
13 crime shall mean one act or series of related acts arising from the
14 same course of conduct with the same perpetrator or perpetrators
15 against a victim.

16 (d) "Pecuniary loss" means the following expenses for which
17 the victim or derivative victim has not been and will not be
18 reimbursed from any other source:

19 (1) The amount of medical or medical-related expenses
20 incurred by the victim, including inpatient psychological or
21 psychiatric expenses, and including, but not limited to, eyeglasses,
22 hearing aids, dentures, or any prosthetic device taken, lost, or
23 destroyed during the commission of the crime, or the use of which
24 became necessary as a direct result of the crime.

25 (2) The amount of outpatient psychiatric, psychological, or
26 other mental health counseling related expenses ~~which~~ *that*
27 became necessary as a direct result of the crime. These counseling
28 services may only be reimbursed if provided by any of the
29 following individuals:

30 (A) A person licensed as a physician who is certified in
31 psychiatry by the American Board of Psychiatry and Neurology or
32 who has completed a residency in psychiatry.

33 (B) A person licensed as a psychologist under Chapter 6.6
34 (commencing with Section 2900) of Division 2 of the Business and
35 Professions Code.

36 (C) A person licensed as a clinical social worker under Article
37 4 (commencing with Section 4996) of Chapter 14 of Division 2 of
38 the Business and Professions Code.



1 (D) A person licensed as a marriage, family, and child
2 counselor under Chapter 13 (commencing with Section 4980) of
3 Division 2 of the Business and Professions Code.

4 (E) A person registered as a psychological assistant who is
5 under the supervision of a licensed psychologist or board certified
6 psychiatrist as required by Section 2913 of the Business and
7 Professions Code.

8 (F) A person registered with the Board of Psychology who is
9 providing services in a nonprofit community agency pursuant to
10 subdivision (d) of Section 2909 of the Business and Professions
11 Code.

12 (G) A person registered as a marriage, family, and child
13 counselor intern who is under the supervision of a licensed
14 marriage, family, and child counselor, a licensed clinical social
15 worker, a licensed psychologist, or a licensed physician certified
16 in psychiatry, as specified in Section 4980.44 of the Business and
17 Professions Code.

18 (H) A person registered as an associate clinical social worker,
19 as defined in Section 4996.18 of the Business and Professions
20 Code, who is under the supervision of a licensed clinical social
21 worker, a licensed psychologist, or a board certified psychiatrist.

22 (I) A person who qualifies as a psychology intern as described
23 in Section 2911 of the Business and Professions Code who is under
24 the supervision of a licensed mental health professional
25 (psychiatrist, psychologist, or social worker) in a university
26 hospital or university medical school clinic or a person who has
27 completed the qualifications described in Section 2911 of the
28 Business and Professions Code who is pursuing a postdoctoral and
29 training in a university or university medical school clinic under
30 the supervision of a licensed mental health professional
31 (psychiatrist, psychologist, or social worker) for the purpose of
32 achieving higher clinical competency.

33 (J) *An advanced practice registered nurse certified as a clinical
34 nurse specialist under Article 9 (commencing with Section 2838)
35 of Chapter 6 of Division 2 of the Business and Professions Code,
36 who participates in expert clinical practice in the specialty of
37 psychiatric-mental health nursing.*

38 (3) The loss of income that the victim or the loss of support that
39 the derivative victim has incurred or will incur as a direct result of
40 an injury or death.



1 (4) Pecuniary loss also includes nonmedical remedial care and
2 treatment rendered in accordance with a religious method of
3 healing recognized by state law.

4 (5) The amount of family psychiatric, psychological, or mental
5 health counseling expenses necessary as a direct result of the crime
6 for the successful treatment of the victim, provided to family
7 members of the victim in the presence of the victim, whether or not
8 the family member relationship existed at the time of the crime.

9 (e) “Board” means the State Board of Control.

10 (f) “Victim centers” means those centers as specified in
11 Section 13835.2 of the Penal Code.

12 (g) “Peer counselor” means a provider of mental health
13 counseling services who has completed a specialized course in
14 rape crisis counseling skills development, participates in
15 continuing education in rape crisis counseling skills development,
16 and provides rape crisis counseling in consultation with a mental
17 health practitioner licensed within the State of California.

18 (h) This section shall remain in effect only until January 1,
19 2003, and as of that date is repealed, unless a later enacted statute,
20 that is enacted before January 1, 2003, deletes or extends that date.

21 SEC. 4. Section 13960 of the Government Code, as added by
22 Section 2.7 of Chapter 697 of the Statutes of 1998, is amended to
23 read:

24 13960. As used in this article:

25 (a) (1) “Victim” means a resident of the State of California,
26 a member of the military stationed in California, or a family
27 member living with a member of the military stationed in
28 California who sustains injury or death as a direct result of a crime.

29 (2) “Derivative victim” means a resident of California who is
30 one of the following:

31 (A) At the time of the crime was the parent, sibling, spouse, or
32 child of the victim.

33 (B) At the time of the crime was living in the household of the
34 victim.

35 (C) A person who had previously lived in the household of the
36 victim for a period of not less than two years in a relationship
37 substantially similar to a relationship listed in subparagraph (A).

38 (D) Is another family member of the victim, including the
39 victim’s fiancé, and witnessed the crime.



1 (b) “Injury” includes physical or emotional injury, or both.
2 However, this article does not apply to emotional injury unless that
3 injury is incurred by a victim who also sustains physical injury or
4 threat of physical injury. For purposes of this article, a victim of
5 a crime committed in violation of Section 261, 262, 271, 273a,
6 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c)
7 of Section 311.4, of the Penal Code, who sustains emotional injury
8 is presumed to have sustained physical injury. For purposes of this
9 article, a victim of a crime committed in violation of Section 270
10 of the Penal Code, as a result of conduct other than a failure to pay
11 child support, who sustains emotional injury is presumed to have
12 sustained physical injury if criminal charges were filed or a
13 prosecuting attorney expresses the opinion that the child is a victim
14 of that section.

15 (c) “Crime” means a crime or public offense that would
16 constitute a misdemeanor or a felony if committed in California by
17 a competent adult ~~which~~ *that* results in injury to a resident of this
18 state, including a crime or public offense, wherever it may take
19 place, when the resident is temporarily absent from the state.
20 “Crime” includes an act of terrorism, as defined in Section 2331
21 of Title 18 of the United States Code, committed against a resident
22 of the state, whether or not the act occurs within the state. No act
23 involving the operation of a motor vehicle, aircraft, or water
24 vehicle ~~which~~ *that* results in injury or death constitutes a crime for
25 the purposes of this article, except that a crime shall include any
26 of the following:

27 (1) Injury or death intentionally inflicted through the use of a
28 motor vehicle, aircraft, or water vehicle.

29 (2) Injury or death caused by a driver in violation of Section
30 20001 of the Vehicle Code.

31 (3) Injury or death caused by a person who is under the
32 influence of any alcoholic beverage or drug.

33 (4) Injury or death caused by a driver of a motor vehicle in the
34 immediate act of fleeing the scene of a crime in which he or she
35 knowingly and willingly participated.

36 For the purpose of the limitations imposed by this article, a
37 crime shall mean one act or series of related acts arising from the
38 same course of conduct with the same perpetrator or perpetrators.



1 (d) “Pecuniary loss” means the following expenses for which
2 the victim or derivative victim has not been and will not be
3 reimbursed from any other source:

4 (1) The amount of medical or medical-related expenses
5 incurred by the victim, including inpatient psychological or
6 psychiatric expenses, and including, but not limited to, eyeglasses,
7 hearing aids, dentures, or any prosthetic device taken, lost, or
8 destroyed during the commission of the crime, or the use of which
9 became necessary as a direct result of the crime.

10 (2) The amount of outpatient psychiatric, psychological, or
11 other mental health counseling related expenses ~~which~~ *that*
12 became necessary as a direct result of the crime. These counseling
13 services may only be reimbursed if provided by any of the
14 following individuals:

15 (A) A person licensed as a physician who is certified in
16 psychiatry by the American Board of Psychiatry and Neurology or
17 who has completed a residency in psychiatry.

18 (B) A person licensed as a psychologist under Chapter 6.6
19 (commencing with Section 2900) of Division 2 of the Business and
20 Professions Code.

21 (C) A person licensed as a clinical social worker under Article
22 4 (commencing with Section 4996) of Chapter 14 of Division 2 of
23 the Business and Professions Code.

24 (D) A person licensed as a marriage, family, and child
25 counselor under Chapter 13 (commencing with Section 4980) of
26 Division 2 of the Business and Professions Code.

27 (E) A person registered as a psychological assistant who is
28 under the supervision of a licensed psychologist or board certified
29 psychiatrist as required by Section 2913 of the Business and
30 Professions Code.

31 (F) A person registered with the Board of Psychology who is
32 providing services in a nonprofit community agency pursuant to
33 subdivision (d) of Section 2909 of the Business and Professions
34 Code.

35 (G) A person registered as a marriage, family, and child
36 counselor intern who is under the supervision of a licensed
37 marriage, family, and child counselor, a licensed clinical social
38 worker, a licensed psychologist, or a licensed physician certified
39 in psychiatry, as specified in Section 4980.44 of the Business and
40 Professions Code.



1 (H) A person registered as an associate clinical social worker,
2 as defined in Section 4996.18 of the Business and Professions
3 Code, who is under the supervision of a licensed clinical social
4 worker, a licensed psychologist, or a board certified psychiatrist.

5 (I) *An advanced practice registered nurse certified as a clinical*
6 *nurse specialist under Article 9 (commencing with Section 2838)*
7 *of Chapter 6 of Division 2 of the Business and Professions Code,*
8 *who participates in expert clinical practice in the specialty of*
9 *psychiatric-mental health nursing.*

10 (3) The loss of income that the victim or the loss of support that
11 the derivative victim has incurred or will incur as a direct result of
12 an injury or death.

13 (4) Pecuniary loss also includes nonmedical remedial care and
14 treatment rendered in accordance with a religious method of
15 healing recognized by state law.

16 (5) The amount of family psychiatric, psychological, or mental
17 health counseling expenses necessary as a direct result of the crime
18 for the successful treatment of the victim, provided to family
19 members of the victim in the presence of the victim, whether or not
20 the family member relationship existed at the time of the crime.

21 (e) “Board” means the State Board of Control.

22 (f) “Victim centers” means those centers as specified in
23 Section 13835.2 of the Penal Code.

24 (g) “Peer counselor” means a provider of mental health
25 counseling services who has completed a specialized course in
26 rape crisis counseling skills development, participates in
27 continuing education in rape crisis counseling skills development,
28 and provides rape crisis counseling in consultation with a mental
29 health practitioner licensed within the State of California.

30 (h) This section shall become operative on January 1, 2003.

31 SEC. 5. Section 1373 of the Health and Safety Code is
32 amended to read:

33 1373. (a) A plan contract may not provide an exception for
34 other coverage ~~where~~ *if* the other coverage is entitlement to
35 Medi-Cal benefits under Chapter 7 (commencing with Section
36 14000) or Chapter 8 (commencing with Section 14200) of Part 3
37 of Division 9 of the Welfare and Institutions Code, or medicaid
38 benefits under Subchapter 19 (commencing with Section 1396) of
39 Chapter 7 of Title 42 of the United States Code.



1 Each plan contract shall be interpreted not to provide an
2 exception for the Medi-Cal or medicaid benefits.

3 A plan contract shall not provide an exemption for enrollment
4 because of an applicant’s entitlement to Medi-Cal benefits under
5 Chapter 7 (commencing with Section 14000) or Chapter 8
6 (commencing with Section 14200) of Part 3 of Division 9 of the
7 Welfare and Institutions Code, or medicaid benefits under
8 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
9 Title 42 of the United States Code.

10 A plan contract may not provide that the benefits payable
11 thereunder are subject to reduction if the individual insured has
12 entitlement to the Medi-Cal or medicaid benefits.

13 (b) A plan contract that provides coverage, whether by specific
14 benefit or by the effect of general wording, for sterilization
15 operations or procedures shall not impose any disclaimer,
16 restriction on, or limitation of, coverage relative to the covered
17 individual’s reason for sterilization.

18 As used in this section, “sterilization operations or procedures”
19 shall have the same meaning as that specified in Section 10120 of
20 the Insurance Code.

21 (c) Every plan contract that provides coverage to the spouse or
22 dependents of the subscriber or spouse shall grant immediate
23 accident and sickness coverage, from and after the moment of
24 birth, to each newborn infant of any subscriber or spouse covered
25 and to each minor child placed for adoption from and after the date
26 on which the adoptive child’s birth parent or other appropriate
27 legal authority signs a written document, including, but not limited
28 to, a health facility minor release report, a medical authorization
29 form, or a relinquishment form, granting the subscriber or spouse
30 the right to control health care for the adoptive child or, absent this
31 written document, on the date there exists evidence of the
32 subscriber’s or spouse’s right to control the health care of the child
33 placed for adoption. No such plan may be entered into or amended
34 if it contains any disclaimer, waiver, or other limitation of
35 coverage relative to the coverage or insurability of newborn
36 infants of, or children placed for adoption with, a subscriber or
37 spouse covered as required by this subdivision.

38 (d) Every plan contract that provides that coverage of a
39 dependent child of a subscriber shall terminate upon attainment of
40 the limiting age for dependent children specified in the plan, shall



1 also provide in substance that attainment of the limiting age shall
2 not operate to terminate the coverage of the child while the child
3 is and continues to be both (1) incapable of self-sustaining
4 employment by reason of mental retardation or physical handicap
5 and (2) chiefly dependent upon the subscriber for support and
6 maintenance, provided proof of the incapacity and dependency is
7 furnished to the plan by the member within 31 days of the request
8 for the information by the plan or group plan contractholder and
9 subsequently as may be required by the plan or group plan
10 contractholder, but not more frequently than annually after the
11 two-year period following the child's attainment of the limiting
12 age.

13 (e) A plan contract ~~which~~ *that* provides coverage, whether by
14 specific benefit or by the effect of general wording, for both an
15 employee and one or more covered persons dependent upon the
16 employee and provides for an extension of the coverage for any
17 period following a termination of employment of the employee
18 shall also provide that this extension of coverage shall apply to
19 dependents upon the same terms and conditions precedent as
20 applied to the covered employee, for the same period of time,
21 subject to payment of premiums, if any, as required by the terms
22 of the policy and subject to any applicable collective bargaining
23 agreement.

24 (f) A group contract shall not discriminate against handicapped
25 persons or against groups containing handicapped persons.
26 Nothing in this subdivision shall preclude reasonable provisions
27 in a plan contract against liability for services or reimbursement
28 of the handicap condition or conditions relating thereto, as may be
29 allowed by rules of the director.

30 (g) Every group contract shall set forth the terms and
31 conditions under which subscribers and enrollees may remain in
32 the plan in the event the group ceases to exist, the group contract
33 is terminated or an individual subscriber leaves the group, or the
34 enrollees' eligibility status changes.

35 (h) (1) A health care service plan or specialized health care
36 service plan may provide for coverage of, or for payment for,
37 professional mental health services, or vision care services, or for
38 the exclusion of these services. If the terms and conditions include
39 coverage for services provided in a general acute care hospital or
40 an acute psychiatric hospital as defined in Section 1250 and do not



1 restrict or modify the choice of providers, the coverage shall
2 extend to care provided by a psychiatric health facility as defined
3 in Section 1250.2 operating pursuant to licensure by the State
4 Department of Mental Health. A health care service plan that
5 offers outpatient mental health services but does not cover these
6 services in all of its group contracts shall communicate to
7 prospective group contractholders as to the availability of
8 outpatient coverage for the treatment of mental or nervous
9 disorders.

10 (2) No plan shall prohibit the member from selecting any
11 psychologist who is licensed pursuant to the Psychology Licensing
12 Law (Chapter 6.6 (commencing with Section 2900) of Division 2
13 of the Business and Professions Code), any optometrist who is the
14 holder of a certificate issued pursuant to Chapter 7 (commencing
15 with Section 3000) of Division 2 of the Business and Professions
16 Code or, upon referral by a physician and surgeon licensed
17 pursuant to the Medical Practice Act (Chapter 5 (commencing
18 with Section 2000) of Division 2 of the Business and Professions
19 Code), (i) any marriage, family, and child counselor who is the
20 holder of a license under Section 4980.50 of the Business and
21 Professions Code, (ii) any licensed clinical social worker who is
22 the holder of a license under Section 4996 of the Business and
23 Professions Code, or (iii) any *advanced practice* registered nurse
24 ~~licensed certified as a clinical nurse specialist~~ pursuant to Article
25 9 (commencing with Section 2838) of Chapter 6 (~~commencing~~
26 ~~with Section 2700~~) of Division 2 of the Business and Professions
27 Code who ~~possesses a master's degree in~~ *participates in expert*
28 *clinical practice in the specialty of* psychiatric-mental health
29 nursing ~~and two years of supervised experience in~~
30 ~~psychiatric-mental health nursing, at the time that the State Board~~
31 ~~of Registered Nurses produces and maintains a list of those~~
32 ~~psychiatric-mental health nurses who possess a master's degree in~~
33 ~~psychiatric-mental health nursing and two years of supervised~~
34 ~~experience in psychiatric-mental health nursing, to perform the~~
35 particular services covered under the terms of the plan, and the
36 certificate holder is expressly authorized by law to perform these
37 services.

38 (3) Nothing in this section shall be construed to allow any
39 certificate holder or licensee enumerated in this section to perform
40 professional mental health services beyond his or her field or fields



1 of competence as established by his or her education, training and
2 experience.

3 (4) For the purposes of this section, “marriage, family, and
4 child counselor” means a licensed marriage, family, and child
5 counselor who has received specific instruction in assessment,
6 diagnosis, prognosis, and counseling, and psychotherapeutic
7 treatment of premarital, marriage, family, and child relationship
8 dysfunctions which is equivalent to the instruction required for
9 licensure on January 1, 1981.

10 (5) Nothing in this section shall be construed to allow a member
11 to select and obtain mental health or psychological or vision care
12 services from a certificate or licenseholder who is not directly
13 affiliated with or under contract to the health care service plan or
14 specialized health care service plan to which the member belongs.
15 All health care service plans and individual practice associations
16 that offer mental health benefits shall make reasonable efforts to
17 make available to their members the services of licensed
18 psychologists. However, a failure of a plan or association to
19 comply with the requirements of the preceding sentence shall not
20 constitute a misdemeanor.

21 (6) As used in this subdivision, “individual practice
22 association” means an entity as defined in subsection (5) of
23 Section 1307 of the federal Public Health Service Act (42 U.S.C.
24 Sec. 300e-1, subsec. (5)).

25 (7) Health care service plan coverage for professional mental
26 health services may include community residential treatment
27 services that are alternatives to inpatient care and ~~which~~ *that* are
28 directly affiliated with the plan or to which enrollees are referred
29 by providers affiliated with the plan.

30 (i) If the plan utilizes arbitration to settle disputes, the plan
31 contracts shall set forth the type of disputes subject to arbitration,
32 the process to be utilized, and how it is to be initiated.

33 (j) A plan contract ~~which~~ *that* provides benefits that accrue
34 after a certain time of confinement in a health care facility shall
35 specify what constitutes a day of confinement or the number of
36 consecutive hours of confinement that are requisite to the
37 commencement of benefits.

38 SEC. 6. Section 1373.8 of the Health and Safety Code is
39 amended to read:



1 1373.8. A health care service plan contract where the plan is
2 licensed to do business in this state and the plan provides coverage
3 ~~which that~~ includes California residents but ~~which that~~ may be
4 written or issued for delivery outside of California and where
5 benefits are provided within the scope of practice of a licensed
6 clinical social worker, ~~a~~ *an advanced practice* registered nurse
7 ~~licensed who is certified as a clinical nurse specialist~~ pursuant to
8 Article 9 (~~commencing with Section 2700~~ *commencing with Section 2838*) of Chapter 6
9 (~~commencing with Section 2700~~) of Division 2 of the Business and
10 Professions Code who ~~possesses a master's degree in~~ *participates*
11 *in expert clinical practice in the specialty of* psychiatric-mental
12 health nursing ~~and two years of supervised experience in~~
13 ~~psychiatric-mental health nursing~~, or a marriage, family, and child
14 counselor who is the holder of a license under Section ~~17805~~
15 *4980.50* of the Business and Professions Code, shall not be deemed
16 to prohibit persons covered under the contract from selecting those
17 licensed persons in California to perform the services in California
18 ~~which that~~ are within the terms of the contract even though the
19 licensees are not licensed in the state where the contract is written
20 or issued for delivery.

21 It is the intent of the Legislature in amending this section in the
22 1984 portion of the 1983–84 Legislative Session that persons
23 covered by the contract and those providers of health care
24 specified in this section who are licensed in California should be
25 entitled to the benefits provided by the plan for services of those
26 providers rendered to those persons.

27 SEC. 7. Section 10176 of the Insurance Code is amended to
28 read:

29 10176. In disability insurance, the policy may provide for
30 payment of medical, surgical, chiropractic, physical therapy,
31 speech pathology, audiology, acupuncture, professional mental
32 health, dental, hospital, or optometric expenses upon a
33 reimbursement basis, or for the exclusion of any of those services,
34 and provision may be made therein for payment of all or a portion
35 of the amount of charge for these services without requiring that
36 the insured first pay the expenses. No such policy shall prohibit the
37 insured from selecting any psychologist or other person who is the
38 holder of a certificate or license under Section 1000, 1634, 2050,
39 2472, 2553, 2630, 2948, 3055, or 4938 of the Business and
40 Professions Code, to perform the particular services covered under



1 the terms of the policy, the certificate holder or licensee being
2 expressly authorized by law to perform those services.

3 If the insured selects any person who is a holder of a certificate
4 under Section 4938 of the Business and Professions Code, a
5 disability insurer or nonprofit hospital service plan shall pay the
6 bona fide claim of an acupuncturist holding a certificate pursuant
7 to Section 4938 of the Business and Professions Code for the
8 treatment of an insured person only if the insured's policy or
9 contract expressly includes acupuncture as a benefit and includes
10 coverage for the injury or illness treated. Unless the policy or
11 contract expressly includes acupuncture as a benefit, no person
12 who is the holder of any license or certificate set forth in this
13 section shall be paid or reimbursed under the policy for
14 acupuncture.

15 Nor shall any such policy prohibit the insured, upon referral by
16 a physician and surgeon licensed under Section 2050 of the
17 Business and Professions Code, from selecting any licensed
18 clinical social worker who is the holder of a license issued under
19 Section 4996 of the Business and Professions Code or any
20 occupational therapist as specified in Section ~~2570~~ 2570.2 of the
21 Business and Professions Code, or any marriage, family and child
22 counselor who is the holder of a license under Section 4980.50 of
23 the Business and Professions Code, to perform the particular
24 services covered under the terms of the policy, or from selecting
25 any ~~speech~~ *speech-language* pathologist or audiologist licensed
26 under Section ~~2530~~ 2532 of the Business and Professions Code or
27 any *advanced practice* registered nurse ~~licensed~~ *certified as a*
28 *clinical nurse specialist* pursuant to Article 9 (*commencing with*
29 *Section 2838*) of Chapter 6 (~~commencing with Section 2700~~) of
30 Division 2 of the Business and Professions Code who ~~possesses~~
31 ~~a master's degree in~~ *participates in expert clinical practice in the*
32 *specialty of* psychiatric-mental health nursing ~~and two years of~~
33 ~~supervised experience in psychiatric-mental health nursing, at~~
34 ~~such time as the State Board of Registered Nurses produces and~~
35 ~~maintains a list of those psychiatric-mental health nurses who~~
36 ~~possess a master's degree in psychiatric-mental health nursing and~~
37 ~~two years of supervised experience in psychiatric-mental health~~
38 ~~nursing~~, or any respiratory care practitioner certified pursuant to
39 Chapter 8.3 (*commencing with Section 3700*) of Division 2 of the
40 Business and Professions Code to perform services deemed



1 necessary by the referring physician, that certificate holder,
2 licensee or otherwise regulated person, being expressly authorized
3 by law to perform the services.

4 Nothing in this section shall be construed to allow any
5 certificate holder or licensee enumerated in this section to perform
6 professional mental health services beyond his or her field or fields
7 of competence as established by his or her education, training, and
8 experience. For the purposes of this section, “marriage, family and
9 child counselor” means a licensed marriage, family and child
10 counselor who has received specific instruction in assessment,
11 diagnosis, prognosis, and counseling, and psychotherapeutic
12 treatment of premarital, marriage, family, and child relationship
13 dysfunctions ~~which~~ *that* is equivalent to the instruction required
14 for licensure on January 1, 1981.

15 An individual disability insurance policy, which is issued,
16 renewed, or amended on or after January 1, 1988, which includes
17 mental health services coverage may not include a lifetime waiver
18 for that coverage with respect to any applicant. The lifetime waiver
19 of coverage provision shall be deemed unenforceable.

20 SEC. 8. Section 10177 of the Insurance Code is amended to
21 read:

22 10177. A self-insured employee welfare benefit plan may
23 provide for payment of professional mental health expenses upon
24 a reimbursement basis, or for the exclusion of ~~such~~ *those* services,
25 and provision may be made therein for payment of all or a portion
26 of the amount of charge for ~~such~~ *those* services without requiring
27 that the employee first pay such expenses. No such plan shall
28 prohibit the employee from selecting any psychologist who is the
29 holder of a certificate issued under Section 2948 of the Business
30 and Professions Code or, upon referral by a physician and surgeon
31 licensed under Section 2135 of the Business and Professions Code,
32 any licensed clinical social worker who is the holder of a license
33 issued under Section 4996 of the Business and Professions Code
34 or any marriage, family, and child counselor who is the holder of
35 a certificate or license under Section 4980.50 of the Business and
36 Professions Code, or any *advanced practice* registered nurse
37 ~~licensed~~ *certified as a clinical nurse specialist* pursuant to Article
38 9 (*commencing with Section 2838*) of Chapter 6 (~~commencing~~
39 ~~with Section 2700~~) of Division 2 of the Business and Professions
40 Code who possesses a ~~master's degree in~~ *participates in expert*



1 *clinical practice in the specialty of psychiatric-mental health*
2 ~~nursing and two years of supervised experience in~~
3 ~~psychiatric-mental health nursing, at such time as the State Board~~
4 ~~of Registered Nurses produces and maintains a list of those~~
5 ~~psychiatric-mental health nurses who possess a master's degree in~~
6 ~~psychiatric-mental health nursing and two years of supervised~~
7 ~~experience in psychiatric-mental health nursing, to perform the~~
8 particular services covered under the terms of the plan, such
9 certificate or license holder being expressly authorized by law to
10 perform such services.

11 Nothing in this section shall be construed to allow any
12 certificate holder or licensee enumerated in this section to perform
13 professional services beyond his or her field or fields of
14 competence as established by his or her education, training, and
15 experience. For the purposes of this section, "marriage, family,
16 and child counselor" shall mean a licensed marriage, family, and
17 child counselor who has received specific instruction in
18 assessment, diagnosis, prognosis, and counseling, and
19 psychotherapeutic treatment of premarital, marriage, family, and
20 child relationship dysfunctions which is equivalent to the
21 instruction required for licensure on January 1, 1981.

22 A self-insured employee welfare benefit plan, which is issued,
23 renewed, or amended on or after January 1, 1988, ~~which that~~
24 includes mental health services coverage in nongroup contracts
25 may not include a lifetime waiver for that coverage with respect
26 to any employee. The lifetime waiver of coverage provision shall
27 be deemed unenforceable.

