

AMENDED IN SENATE APRIL 11, 2011

SENATE BILL

No. 274

Introduced by Senator Wyland

February 14, 2011

An act to amend ~~Section 4999.54~~ of *Sections 4980.10 and 4999.47 of*, and to add *Sections 4989.13, 4991.1, and 4999.13* to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 274, as amended, Wyland. ~~Professional—clinical counselors.~~*Healing arts.*

Existing law, *the Marriage and Family Therapist Act*, provides for the licensure and regulation of marriage and family therapists by the Board of Behavioral Sciences. Existing law, *the Educational Psychologist Practice Act*, provides for the licensure and regulation of educational psychologists by the Board of Behavioral Sciences. Existing law, *the Clinical Social Worker Practice Act*, provides for the licensure and regulation of social workers. Existing law, *the Licensed Professional Clinical Counselor Act*, provides for the licensure and regulation of professional clinical counselors by the Board of Behavioral Sciences. Existing law ~~authorizes the board to issue a license to any person submitting an application between January 1, 2011, and June 30, 2011, if that applicant meets specified requirements~~ *also governs the regulation of clinical counselor trainees and interns. Existing law allows clinical counselor trainees, interns, and applicants to perform services as an employee or as a volunteer, but not as an independent contractor.*

This bill would ~~make a nonsubstantive, technical change to that provision~~ *set forth provisions that would provide that a person engages in the practice of marriage and family therapy, educational psychology,*

clinical social work, or professional clinical counseling when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations. The bill would revise and recast the provision relating to clinical counselor trainees, interns, and applicants, and instead provide that experience shall not be gained by clinical counselor interns or trainees as an independent contractor. The bill would require a clinical counselor intern when applying for licensure as a professional clinical counselor to show proof of his or her employment as an employee or volunteer by providing to the board copies of his or her W-2 tax forms or a letter from an employer verifying employment as a volunteer for each year of experience claimed.

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

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

- 1 *SECTION 1. Section 4980.10 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 4980.10. A person engages in the practice of marriage and
- 4 family therapy ~~who~~ *when he or she performs or offers to perform*
- 5 *or holds himself or herself out as able to perform this service for*
- 6 *remuneration in any form, including donations.*
- 7 *SEC. 2. Section 4989.13 is added to the Business and*
- 8 *Professions Code, to read:*
- 9 4989.13. A person engages in the practice of educational
- 10 *psychology when he or she performs or offers to perform or holds*
- 11 *himself or herself out as able to perform this service for*
- 12 *remuneration in any form, including donations.*
- 13 *SEC. 3. Section 4991.1 is added to the Business and Professions*
- 14 *Code, to read:*
- 15 4991.1. A person engages in the practice of clinical social
- 16 *work when he or she performs or offers to perform or holds himself*
- 17 *or herself out as able to perform this service for remuneration in*
- 18 *any form, including donations.*
- 19 *SEC. 4. Section 4999.13 is added to the Business and*
- 20 *Professions Code, to read:*
- 21 4999.13. A person engages in the practice of professional
- 22 *clinical counseling when he or she performs or offers to perform*

1 *or holds himself or herself out as able to perform this service for*
2 *remuneration in any form, including donations.*

3 *SEC. 5. Section 4999.47 of the Business and Professions Code*
4 *is amended to read:*

5 4999.47. (a) Clinical counselor trainees, interns, and applicants
6 shall perform services as an employee or as a volunteer, ~~not as an~~
7 ~~independent contractor.~~

8 The requirements of this chapter regarding gaining hours of
9 clinical mental health experience and supervision are applicable
10 equally to employees and volunteers. *Experience shall not be*
11 *gained by clinical counselor interns or trainees as an independent*
12 *contractor.*

13 (1) *If employed, a clinical counselor intern shall provide the*
14 *board with copies of the corresponding W-2 tax forms for each*
15 *year of experience claimed upon application for licensure as a*
16 *professional clinical counselor.*

17 (2) *If volunteering, a clinical counselor intern shall provide the*
18 *board with a letter from his or her employer verifying the intern's*
19 *employment as a volunteer upon application for licensure as a*
20 *professional clinical counselor.*

21 (b) Clinical counselor trainees, interns, and applicants shall not
22 receive any remuneration from patients or clients, and shall only
23 be paid by their employers.

24 (c) While an intern may be either a paid employee or a volunteer,
25 employers are encouraged to provide fair remuneration.

26 (d) Clinical counselor trainees, interns, and applicants who
27 provide voluntary services or other services, and who receive no
28 more than a total, from all work settings, of five hundred dollars
29 (\$500) per month as reimbursement for expenses actually incurred
30 by those clinical counselor trainees, interns, and applicants for
31 services rendered in any lawful work setting other than a private
32 practice shall be considered an employee and not an independent
33 contractor.

34 (e) The board may audit an intern or applicant who receives
35 reimbursement for expenses and the intern or applicant shall have
36 the burden of demonstrating that the payments received were for
37 reimbursement of expenses actually incurred.

38 (f) Clinical counselor trainees, interns, and applicants shall only
39 perform services at the place where their employer regularly
40 conducts business and services, which may include other locations,

1 as long as the services are performed under the direction and
2 control of the employer and supervisor in compliance with the
3 laws and regulations pertaining to supervision. Clinical counselor
4 trainees, interns, and applicants shall have no proprietary interest
5 in the employer’s business.

6 (g) Each educational institution preparing applicants for
7 licensure pursuant to this chapter shall consider requiring, and
8 shall encourage, its students to undergo individual, marital or
9 conjoint, family, or group counseling or psychotherapy, as
10 appropriate. Each supervisor shall consider, advise, and encourage
11 his or her interns and clinical counselor trainees regarding the
12 advisability of undertaking individual, marital or conjoint, family,
13 or group counseling or psychotherapy, as appropriate. Insofar as
14 it is deemed appropriate and is desired by the applicant, the
15 educational institution and supervisors are encouraged to assist
16 the applicant in locating that counseling or psychotherapy at a
17 reasonable cost.

18 ~~SECTION 1. Section 4999.54 of the Business and Professions~~
19 ~~Code is amended to read:~~

20 ~~4999.54. (a) Notwithstanding Section 4999.50, the board may~~
21 ~~issue a license to any person who submits an application for a~~
22 ~~license between January 1, 2011, and June 30, 2011, provided that~~
23 ~~all documentation is submitted within 12 months of the board’s~~
24 ~~evaluation of the application, and provided he or she meets one of~~
25 ~~the following sets of criteria:~~

26 ~~(1) He or she meets all of the following requirements:~~
27 ~~(A) Has a master’s or doctoral degree from a school, college,~~
28 ~~or university as specified in Section 4999.32, that is counseling or~~
29 ~~psychotherapy in content. If the person’s degree does not include~~
30 ~~all the graduate coursework in all nine core content areas as~~
31 ~~required by paragraph (1) of subdivision (c) of Section 4999.32,~~
32 ~~a person shall provide documentation that he or she has completed~~
33 ~~the required coursework prior to licensure pursuant to this chapter.~~
34 ~~Except as specified in clause (ii), a qualifying degree must include~~
35 ~~the supervised practicum or field study experience as required in~~
36 ~~paragraph (3) of subdivision (c) of Section 4999.32.~~

37 ~~(i) A counselor educator whose degree contains at least seven~~
38 ~~of the nine required core content areas shall be given credit for~~
39 ~~coursework not contained in the degree if the counselor educator~~
40 ~~provides documentation that he or she has taught the equivalent~~

1 of the required core content areas in a graduate program in
2 counseling or a related area.

3 (ii) Degrees issued prior to 1996 shall include a minimum of
4 30 semester units or 45 quarter units and at least six of the nine
5 required core content areas specified in paragraph (1) of subdivision
6 (e) of Section 4999.32 and three semester units or four and one-half
7 quarter units of supervised practicum or field study experience.
8 The total number of units shall be no less than 48 semester units
9 or 72 quarter units.

10 (iii) Degrees issued in 1996 and after shall include a minimum
11 of 48 semester units or 72 quarter units and at least seven of the
12 nine core content areas specified in paragraph (1) of subdivision
13 (e) of Section 4999.32.

14 (B) Has completed all of the coursework or training specified
15 in subdivision (e) of Section 4999.32.

16 (C) Has at least two years, full-time or the equivalent, of
17 postdegree counseling experience, that includes at least 1,700 hours
18 of experience in a clinical setting supervised by a licensed marriage
19 and family therapist, a licensed clinical social worker, a licensed
20 psychologist, a licensed physician and surgeon specializing in
21 psychiatry, or a master's level counselor or therapist who is
22 certified by a national certifying or registering organization,
23 including, but not limited to, the National Board for Certified
24 Counselors or the Commission on Rehabilitation Counselor
25 Certification.

26 (D) Has a passing score on all of the following examinations:

27 (i) The National Counselor Examination for Licensure and
28 Certification or the Certified Rehabilitation Counselor
29 Examination.

30 (ii) The National Clinical Mental Health Counselor Examination.

31 (iii) A California jurisprudence and ethics examination, when
32 developed by the board.

33 (2) Is currently licensed as a marriage and family therapist in
34 the State of California, meets the coursework requirements
35 described in subparagraph (A) of paragraph (1), and passes the
36 examination described in subdivision (b).

37 (3) Is currently licensed as a clinical social worker in the State
38 of California, meets the coursework requirements described in
39 subparagraph (A) of paragraph (1), and passes the examination
40 described in subdivision (b).

1 ~~(b) (1) The board and the Office of Professional Examination~~
2 ~~Services shall jointly develop an examination on the differences,~~
3 ~~if any differences exist, between the following:~~
4 ~~(A) The practice of professional clinical counseling and the~~
5 ~~practice of marriage and family therapy.~~
6 ~~(B) The practice of professional clinical counseling and the~~
7 ~~practice of clinical social work.~~
8 ~~(2) If the board, in consultation with the Office of Professional~~
9 ~~Examination Services, determines that an examination is necessary~~
10 ~~pursuant to this subdivision, an applicant described in paragraphs~~
11 ~~(2) and (3) of subdivision (a) shall pass the examination as a~~
12 ~~condition of licensure.~~
13 ~~(c) Nothing in this section shall be construed to expand or~~
14 ~~constrict the scope of practice of professional clinical counseling,~~
15 ~~as defined in Section 4999.20.~~