

AMENDED IN ASSEMBLY JUNE 3, 2011

AMENDED IN SENATE APRIL 11, 2011

**SENATE BILL**

**No. 274**

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**Introduced by Senator Wyland**

February 14, 2011

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An act to amend Sections 4980.10 and, 4999.47, 4999.54, 4999.102, and 4999.104 of, and to add Sections 4989.13, 4991.1, and 4999.13 to, and to repeal Sections 4999.56 and 4999.101 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 274, as amended, Wyland. 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 by the Board of Behavioral Sciences. 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 professional clinical counselor license to any person submitting an application between January 1, 2011, and June 30, 2011, if that applicant meets specified requirements. Existing law makes these licenses valid for 6 years, specifies that such a license expires one year from the date of issuance, and prescribes a specified renewal procedure. Existing law provides that other professional clinical licenses expire

*no more than 24 months after the date of issuance and may be renewed within 3 years of expiration.* Existing law 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 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 authorize the board to issue a professional clinical counselor license to any person submitting an application between January 1, 2011, and June 30, 2011, if that applicant meets specified requirements. The bill would provide that all licenses issued expire no more than 24 months after the issuance date and that all of these licenses would be eligible for renewal within 3 years of expiration.* 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.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: 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 when he or she performs or offers to perform or
- 5 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:

1 4989.13. A person engages in the practice of educational  
2 psychology when he or she performs or offers to perform or holds  
3 himself or herself out as able to perform this service for  
4 remuneration in any form, including donations.

5 SEC. 3. Section 4991.1 is added to the Business and Professions  
6 Code, to read:

7 4991.1. A person engages in the practice of clinical social work  
8 when he or she performs or offers to perform or holds himself or  
9 herself out as able to perform this service for remuneration in any  
10 form, including donations.

11 SEC. 4. Section 4999.13 is added to the Business and  
12 Professions Code, to read:

13 4999.13. A person engages in the practice of professional  
14 clinical counseling when he or she performs or offers to perform  
15 or holds himself or herself out as able to perform this service for  
16 remuneration in any form, including donations.

17 SEC. 5. Section 4999.47 of the Business and Professions Code  
18 is amended to read:

19 4999.47. (a) Clinical counselor trainees, interns, and applicants  
20 shall perform services as an employee or as a volunteer.

21 The requirements of this chapter regarding gaining hours of  
22 clinical mental health experience and supervision are applicable  
23 equally to employees and volunteers. Experience shall not be  
24 gained by clinical counselor interns or trainees as an independent  
25 contractor.

26 (1) If employed, a clinical counselor intern shall provide the  
27 board with copies of the corresponding W-2 tax forms for each  
28 year of experience claimed upon application for licensure as a  
29 professional clinical counselor.

30 (2) If volunteering, a clinical counselor intern shall provide the  
31 board with a letter from his or her employer verifying the intern's  
32 employment as a volunteer upon application for licensure as a  
33 professional clinical counselor.

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

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

39 (d) Clinical counselor trainees, interns, and applicants who  
40 provide voluntary services or other services, and who receive no

1 more than a total, from all work settings, of five hundred dollars  
 2 (\$500) per month as reimbursement for expenses actually incurred  
 3 by those clinical counselor trainees, interns, and applicants for  
 4 services rendered in any lawful work setting other than a private  
 5 practice shall be considered an employee and not an independent  
 6 contractor.

7 (e) The board may audit an intern or applicant who receives  
 8 reimbursement for expenses and the intern or applicant shall have  
 9 the burden of demonstrating that the payments received were for  
 10 reimbursement of expenses actually incurred.

11 (f) Clinical counselor trainees, interns, and applicants shall only  
 12 perform services at the place where their employer regularly  
 13 conducts business and services, which may include other locations,  
 14 as long as the services are performed under the direction and  
 15 control of the employer and supervisor in compliance with the  
 16 laws and regulations pertaining to supervision. Clinical counselor  
 17 trainees, interns, and applicants shall have no proprietary interest  
 18 in the employer’s business.

19 (g) Each educational institution preparing applicants for  
 20 licensure pursuant to this chapter shall consider requiring, and  
 21 shall encourage, its students to undergo individual, marital or  
 22 conjoint, family, or group counseling or psychotherapy, as  
 23 appropriate. Each supervisor shall consider, advise, and encourage  
 24 his or her interns and clinical counselor trainees regarding the  
 25 advisability of undertaking individual, marital or conjoint, family,  
 26 or group counseling or psychotherapy, as appropriate. Insofar as  
 27 it is deemed appropriate and is desired by the applicant, the  
 28 educational institution and supervisors are encouraged to assist  
 29 the applicant in locating that counseling or psychotherapy at a  
 30 reasonable cost.

31 *SEC. 6. Section 4999.54 of the Business and Professions Code*  
 32 *is amended to read:*

33 4999.54. (a) Notwithstanding Section 4999.50, the board may  
 34 issue a license to any person who submits an application for a  
 35 license between January 1, 2011, and ~~June 30, 2011~~ *December 31,*  
 36 *2011*, provided that all documentation is submitted within 12  
 37 months of the board’s evaluation of the application, and provided  
 38 he or she meets one of the following sets of criteria:

- 39 (1) He or she meets all of the following requirements:

1 (A) Has a master's or doctoral degree from a school, college,  
2 or university as specified in Section 4999.32, that is counseling or  
3 psychotherapy in content. If the person's degree does not include  
4 all the graduate coursework in all nine core content areas as  
5 required by paragraph (1) of subdivision (c) of Section 4999.32,  
6 a person shall provide documentation that he or she has completed  
7 the required coursework prior to licensure pursuant to this chapter.  
8 Except as specified in clause (ii), a qualifying degree must include  
9 the supervised practicum or field study experience as required in  
10 paragraph (3) of subdivision (c) of Section 4999.32.

11 (i) A counselor educator whose degree contains at least seven  
12 of the nine required core content areas shall be given credit for  
13 coursework not contained in the degree if the counselor educator  
14 provides documentation that he or she has taught the equivalent  
15 of the required core content areas in a graduate program in  
16 counseling or a related area.

17 (ii) Degrees issued prior to 1996 shall include a minimum of  
18 30 semester units or 45 quarter units and at least six of the nine  
19 required core content areas specified in paragraph (1) of subdivision  
20 (c) of Section 4999.32 and three semester units or four and one-half  
21 quarter units of supervised practicum or field study experience.  
22 The total number of units shall be no less than 48 semester units  
23 or 72 quarter units.

24 (iii) Degrees issued in 1996 and after shall include a minimum  
25 of 48 semester units or 72 quarter units and at least seven of the  
26 nine core content areas specified in paragraph (1) of subdivision  
27 (c) of Section 4999.32.

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

30 (C) Has at least two years, full-time or the equivalent, of  
31 postdegree counseling experience, that includes at least 1,700 hours  
32 of experience in a clinical setting supervised by a licensed marriage  
33 and family therapist, a licensed clinical social worker, a licensed  
34 psychologist, a licensed physician and surgeon specializing in  
35 psychiatry, or a master's level counselor or therapist who is  
36 certified by a national certifying or registering organization,  
37 including, but not limited to, the National Board for Certified  
38 Counselors or the Commission on Rehabilitation Counselor  
39 Certification.

40 (D) Has a passing score on the following examinations:

1 (i) The National Counselor Examination for Licensure and  
2 Certification or the Certified Rehabilitation Counselor  
3 Examination.

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

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

7 (2) Is currently licensed as a marriage and family therapist in  
8 the State of California, meets the coursework requirements  
9 described in subparagraph (A) of paragraph (1), and passes the  
10 examination described in subdivision (b).

11 (3) Is currently licensed as a clinical social worker in the State  
12 of California, meets the coursework requirements described in  
13 subparagraph (A) of paragraph (1), and passes the examination  
14 described in subdivision (b).

15 (b) (1) The board and the Office of Professional Examination  
16 Services shall jointly develop an examination on the differences,  
17 if any differences exist, between the following:

18 (A) The practice of professional clinical counseling and the  
19 practice of marriage and family therapy.

20 (B) The practice of professional clinical counseling and the  
21 practice of clinical social work.

22 (2) If the board, in consultation with the Office of Professional  
23 Examination Services, determines that an examination is necessary  
24 pursuant to this subdivision, an applicant described in paragraphs  
25 (2) and (3) of subdivision (a) shall pass the examination as a  
26 condition of licensure.

27 (c) Nothing in this section shall be construed to expand or  
28 constrict the scope of practice of professional clinical counseling,  
29 as defined in Section 4999.20.

30 *SEC. 7. Section 4999.56 of the Business and Professions Code*  
31 *is repealed.*

32 ~~4999.56. (a) A license issued under paragraph (1) of~~  
33 ~~subdivision (a) of Section 4999.54 shall be valid for six years from~~  
34 ~~the issuance date of the initial license provided that the license is~~  
35 ~~annually renewed during that period pursuant to Section 4999.101.~~  
36 ~~After this six-year period, it shall be canceled unless the licensee~~  
37 ~~does both of the following within the next renewal period:~~

38 ~~(1) Obtains a licensure renewal as provided in Section 4999.101.~~

39 ~~(2) Passes the examinations required for licensure on or after~~  
40 ~~January 1, 2012, as required by the board pursuant to Section~~

1 4999.52, or documents that he or she has already passed those  
2 examinations.

3 (b) Upon failure to meet the requirements set forth in this  
4 section, a license issued pursuant to paragraph (1) of subdivision  
5 (a) of Section 4999.54 shall be canceled and the person shall be  
6 required to meet the requirements listed in Section 4999.50 to  
7 obtain a new license.

8 (c) This section shall remain in effect only until January 1, 2018,  
9 and as of that date is repealed, unless a later enacted statute, that  
10 is enacted before January 1, 2018, deletes or extends that date.

11 *SEC. 8. Section 4999.101 of the Business and Professions Code*  
12 *is repealed.*

13 4999.101. (a) A license issued under paragraph (1) of  
14 subdivision (a) of Section 4999.54 shall expire one year from the  
15 last day of the month during which it was issued.

16 (b) To renew an unexpired license described in subdivision (a),  
17 the licensee, on or before the expiration date of the license, shall  
18 do all of the following:

- 19 (1) Apply for renewal on a form prescribed by the board.
- 20 (2) Pay a renewal fee prescribed by the board.
- 21 (3) Certify compliance with the continuing education  
22 requirements set forth in Section 4999.76.
- 23 (4) Notify the board whether he or she has been convicted, as  
24 defined in Section 490, of a misdemeanor or felony, or whether  
25 any disciplinary action has been taken by any regulatory or  
26 licensing board in this or any other state, subsequent to the  
27 licensee's last renewal.

28 (c) The board shall begin accepting applications for licensure  
29 renewal on January 1, 2012.

30 (d) If a license issued under paragraph (1) of subdivision (a) of  
31 Section 4999.54 is not renewed on or before the expiration date  
32 of the license, the license shall be canceled and the person shall  
33 be required to meet the requirements set forth in Section 4999.50  
34 in order to obtain a new license.

35 (e) This section shall remain in effect only until January 1, 2018,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before January 1, 2018, deletes or extends that date.

38 *SEC. 9. Section 4999.102 of the Business and Professions Code*  
39 *is amended to read:*

1 4999.102. (a) Licenses issued under ~~Section 4999.50,~~  
2 ~~paragraph (2) or (3) of subdivision (a) of Section 4999.54,~~  
3 ~~subdivision (b) of Section 4999.58, or Section 4999.60 and, on~~  
4 ~~and after January 1, 2018, licenses issued under paragraph (1) of~~  
5 ~~subdivision (a) of Section 4999.54~~ *this chapter* shall expire no  
6 more than 24 months after the issue date. The expiration date of  
7 the original license shall be set by the board.

8 (b) To renew an unexpired license described in subdivision (a),  
9 the licensee, on or before the expiration date of the license, shall  
10 do all of the following:

- 11 (1) Apply for a renewal on a form prescribed by the board.
- 12 (2) Pay a two-year renewal fee prescribed by the board.
- 13 (3) Certify compliance with the continuing education  
14 requirements set forth in Section 4999.76.
- 15 (4) Notify the board whether he or she has been convicted, as  
16 defined in Section 490, of a misdemeanor or felony, or whether  
17 any disciplinary action has been taken by any regulatory or  
18 licensing board in this or any other state, subsequent to the  
19 licensee's last renewal.

20 *SEC. 10. Section 4999.104 of the Business and Professions*  
21 *Code is amended to read:*

22 4999.104. Licenses issued under ~~Section 4999.50, paragraph~~  
23 ~~(2) or (3) of subdivision (a) of Section 4999.54, subdivision (b) of~~  
24 ~~Section 4999.58, or Section 4999.60 and, on and after January 1,~~  
25 ~~2018, licenses issued under paragraph (1) of subdivision (a) of~~  
26 ~~Section 4999.54~~ *this chapter* that have expired may be renewed  
27 at any time within three years of expiration. To renew an expired  
28 license described in this section, the licensee shall do all of the  
29 following:

- 30 (a) File an application for renewal on a form prescribed by the  
31 board.
- 32 (b) Pay all fees that would have been paid if the license had not  
33 become delinquent.
- 34 (c) Pay all delinquency fees.
- 35 (d) Certify compliance with the continuing education  
36 requirements set forth in Section 4999.76.
- 37 (e) Notify the board whether he or she has been convicted, as  
38 defined in Section 490, of a misdemeanor or felony, or whether  
39 any disciplinary action has been taken by any regulatory or

1 licensing board in this or any other state, subsequent to the  
2 licensee's last renewal.

3 *SEC. 11. This act is an urgency statute necessary for the*  
4 *immediate preservation of the public peace, health, or safety within*  
5 *the meaning of Article IV of the Constitution and shall go into*  
6 *immediate effect. The facts constituting the necessity are:*

7 *In order to make necessary changes to the practices of marriage*  
8 *and family therapy, educational psychology, clinical social work,*  
9 *and professional clinical counseling that are governed by the*  
10 *Board of Behavioral Sciences as soon as possible, including, to*  
11 *ensure that the grandparenting path is still an available option to*  
12 *licensed professional clinical counselor applicants for a six-month*  
13 *time period, and to preserve the intent of Senate Bill 788 (Chapter*  
14 *619 fo the Statutes of 2009) that authorized the licensure of*  
15 *licensed professional clinical counselors, it is necessary for this*  
16 *act to take effect immediately.*

O