

AMENDED IN ASSEMBLY JULY 7, 2011

AMENDED IN ASSEMBLY JUNE 3, 2011

AMENDED IN SENATE APRIL 11, 2011

SENATE BILL

No. 274

Introduced by Senator Wyland

February 14, 2011

An act to amend Sections 4980.10, 4999.47, 4999.54, 4999.102, and 4999.104 of, 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, *including the requirement that the applicant have at least 2 years of postdegree counseling experience*

that includes specified hours of experience in a clinical setting supervised by a marriage and family therapist, clinical social worker, psychologist, physician and surgeon specializing in psychiatry, or master's level counselor or therapist, as specified. 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~~ December 31, 2011, if that applicant meets specified requirements, *and would add a professional clinical counselor and a person who is licensed out-of-state to independently practice professional clinical counseling to the list of persons who an applicant may have supervise his or her hours of experience in a clinical setting.* 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

SECTION 1. Section 4980.10 of the Business and Professions Code is amended to read:

4980.10. A person engages in the practice of marriage and family therapy 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.

SEC. 2. Section 4989.13 is added to the Business and Professions Code, to read:

4989.13. A person engages in the practice of educational psychology 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.

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

4991.1. A person engages in the practice of clinical social work 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.

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

4999.13. A person engages in the practice of 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.

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

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

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

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

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

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

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

10 (d) Clinical counselor trainees, interns, and applicants who
11 provide voluntary services or other services, and who receive no
12 more than a total, from all work settings, of five hundred dollars
13 (\$500) per month as reimbursement for expenses actually incurred
14 by those clinical counselor trainees, interns, and applicants for
15 services rendered in any lawful work setting other than a private
16 practice shall be considered an employee and not an independent
17 contractor.

18 (e) The board may audit an intern or applicant who receives
19 reimbursement for expenses and the intern or applicant shall have
20 the burden of demonstrating that the payments received were for
21 reimbursement of expenses actually incurred.

22 (f) Clinical counselor trainees, interns, and applicants shall only
23 perform services at the place where their employer regularly
24 conducts business and services, which may include other locations,
25 as long as the services are performed under the direction and
26 control of the employer and supervisor in compliance with the
27 laws and regulations pertaining to supervision. Clinical counselor
28 trainees, interns, and applicants shall have no proprietary interest
29 in the employer's business.

30 (g) Each educational institution preparing applicants for
31 licensure pursuant to this chapter shall consider requiring, and
32 shall encourage, its students to undergo individual, marital or
33 conjoint, family, or group counseling or psychotherapy, as
34 appropriate. Each supervisor shall consider, advise, and encourage
35 his or her interns and clinical counselor trainees regarding the
36 advisability of undertaking individual, marital or conjoint, family,
37 or group counseling or psychotherapy, as appropriate. Insofar as
38 it is deemed appropriate and is desired by the applicant, the
39 educational institution and supervisors are encouraged to assist

1 the applicant in locating that counseling or psychotherapy at a
2 reasonable cost.

3 SEC. 6. Section 4999.54 of the Business and Professions Code
4 is amended to read:

5 4999.54. (a) Notwithstanding Section 4999.50, the board may
6 issue a license to any person who submits an application for a
7 license between January 1, 2011, and December 31, 2011, provided
8 that all documentation is submitted within 12 months of the board's
9 evaluation of the application, and provided he or she meets one of
10 the following sets of criteria:

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

12 (A) Has a master's or doctoral degree from a school, college,
13 or university as specified in Section 4999.32, that is counseling or
14 psychotherapy in content. If the person's degree does not include
15 all the graduate coursework in all nine core content areas as
16 required by paragraph (1) of subdivision (c) of Section 4999.32,
17 a person shall provide documentation that he or she has completed
18 the required coursework prior to licensure pursuant to this chapter.
19 Except as specified in clause (ii), a qualifying degree must include
20 the supervised practicum or field study experience as required in
21 paragraph (3) of subdivision (c) of Section 4999.32.

22 (i) A counselor educator whose degree contains at least seven
23 of the nine required core content areas shall be given credit for
24 coursework not contained in the degree if the counselor educator
25 provides documentation that he or she has taught the equivalent
26 of the required core content areas in a graduate program in
27 counseling or a related area.

28 (ii) Degrees issued prior to 1996 shall include a minimum of
29 30 semester units or 45 quarter units and at least six of the nine
30 required core content areas specified in paragraph (1) of subdivision
31 (c) of Section 4999.32 and three semester units or four and one-half
32 quarter units of supervised practicum or field study experience.
33 The total number of units shall be no less than 48 semester units
34 or 72 quarter units.

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

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

(C) Has at least two years, full-time or the equivalent, of postdegree counseling experience, that includes at least 1,700 hours of experience in a clinical setting supervised by a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed physician and surgeon specializing in psychiatry, *a professional clinical counselor or a person who is licensed in another state to independently practice professional clinical counseling, as defined in Section 4999.20*, or a master's level counselor or therapist who is certified by a national certifying or registering organization, including, but not limited to, the National Board for Certified Counselors or the Commission on Rehabilitation Counselor Certification.

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

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

(ii) The National Clinical Mental Health Counselor Examination.

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

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

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

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

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

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

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

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

4 SEC. 7. Section 4999.56 of the Business and Professions Code
5 is repealed.

6 SEC. 8. Section 4999.101 of the Business and Professions
7 Code is repealed.

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

10 4999.102. (a) Licenses issued under this chapter shall expire
11 no more than 24 months after the issue date. The expiration date
12 of the original license shall be set by the board.

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

16 (1) Apply for a renewal on a form prescribed by the board.

17 (2) Pay a two-year renewal fee prescribed by the board.

18 (3) Certify compliance with the continuing education
19 requirements set forth in Section 4999.76.

20 (4) Notify the board whether he or she has been convicted, as
21 defined in Section 490, of a misdemeanor or felony, or whether
22 any disciplinary action has been taken by any regulatory or
23 licensing board in this or any other state, subsequent to the
24 licensee's last renewal.

25 SEC. 10. Section 4999.104 of the Business and Professions
26 Code is amended to read:

27 4999.104. Licenses issued under this chapter that have expired
28 may be renewed at any time within three years of expiration. To
29 renew an expired license described in this section, the licensee
30 shall do all of the following:

31 (a) File an application for renewal on a form prescribed by the
32 board.

33 (b) Pay all fees that would have been paid if the license had not
34 become delinquent.

35 (c) Pay all delinquency fees.

36 (d) Certify compliance with the continuing education
37 requirements set forth in Section 4999.76.

38 (e) Notify the board whether he or she has been convicted, as
39 defined in Section 490, of a misdemeanor or felony, or whether
40 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 Board
10 of Behavioral Sciences as soon as possible, including, to ensure
11 that the grandparenting path is still an available option to licensed
12 professional clinical counselor applicants for a six-month time
13 period, and to preserve the intent of Senate Bill 788 (Chapter 619
14 ~~to~~ of the Statutes of 2009) that authorized the licensure of licensed
15 professional clinical counselors, it is necessary for this act to take
16 effect immediately.