

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY MAY 11, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 250

Introduced by Assembly Member Obernolte

February 9, 2015

An act to amend ~~Section~~ *Sections 2290.5 and 4980.43* of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 250, as amended, Obernolte. Telehealth: marriage and family therapist interns and trainees.

Under existing law, "telehealth" is defined as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant ~~site~~. *site, and "health care provider" is defined as a person who is licensed under specified provisions of law relating to healing arts.* Existing law requires a health care provider prior to the delivery of health care services via telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth. ~~For these purposes, existing law defines a health care provider as a healing arts licensee.~~ Existing law, the Licensed Marriage and Family Therapist Act, provides for the registration of marriage and family therapist interns and regulates marriage and family therapist trainees. Existing law requires applicants

for a marriage and family therapist license to complete specified experience subject to certain limitations, including no more than a certain number of hours providing counseling services via telehealth. Existing law requires all marriage and family therapist trainees and registrants to be supervised at all times by a supervisor, as defined, responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised. Existing law requires the supervisor to be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy.

This bill would, ~~notwithstanding a specified section of law,~~ *expand the definition of health care provider to include a marriage and family therapist intern or trainee, as specified.* The bill would also authorize a marriage and family therapist intern and trainee to provide services via telehealth if he or she is supervised as required by the act, and is acting within the scope authorized by the act and in accordance with any regulations governing the use of telehealth promulgated by the Board of Behavioral Sciences.

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 2290.5 of the Business and Professions
- 2 Code is amended to read:
- 3 2290.5. (a) For purposes of this division, the following
- 4 definitions shall apply:
- 5 (1) “Asynchronous store and forward” means the transmission
- 6 of a patient’s medical information from an originating site to the
- 7 health care provider at a distant site without the presence of the
- 8 patient.
- 9 (2) “Distant site” means a site where a health care provider who
- 10 provides health care services is located while providing these
- 11 services via a telecommunications system.
- 12 (3) “Health care provider” means ~~a person who is licensed under~~
- 13 ~~this division.~~ *either of the following:*
- 14 (A) A person who is licensed under this division.
- 15 (B) A marriage and family therapist intern or trainee functioning
- 16 pursuant to Section 4980.43.

1 (4) “Originating site” means a site where a patient is located at
2 the time health care services are provided via a telecommunications
3 system or where the asynchronous store and forward service
4 originates.

5 (5) “Synchronous interaction” means a real-time interaction
6 between a patient and a health care provider located at a distant
7 site.

8 (6) “Telehealth” means the mode of delivering health care
9 services and public health via information and communication
10 technologies to facilitate the diagnosis, consultation, treatment,
11 education, care management, and self-management of a patient’s
12 health care while the patient is at the originating site and the health
13 care provider is at a distant site. Telehealth facilitates patient
14 self-management and caregiver support for patients and includes
15 synchronous interactions and asynchronous store and forward
16 transfers.

17 (b) Prior to the delivery of health care via telehealth, the health
18 care provider initiating the use of telehealth shall inform the patient
19 about the use of telehealth and obtain verbal or written consent
20 from the patient for the use of telehealth as an acceptable mode of
21 delivering health care services and public health. The consent shall
22 be documented.

23 (c) Nothing in this section shall preclude a patient from receiving
24 in-person health care delivery services during a specified course
25 of health care and treatment after agreeing to receive services via
26 telehealth.

27 (d) The failure of a health care provider to comply with this
28 section shall constitute unprofessional conduct. Section 2314 shall
29 not apply to this section.

30 (e) This section shall not be construed to alter the scope of
31 practice of any health care provider or authorize the delivery of
32 health care services in a setting, or in a manner, not otherwise
33 authorized by law.

34 (f) All laws regarding the confidentiality of health care
35 information and a patient’s rights to his or her medical information
36 shall apply to telehealth interactions.

37 (g) This section shall not apply to a patient under the jurisdiction
38 of the Department of Corrections and Rehabilitation or any other
39 correctional facility.

1 (h) (1) Notwithstanding any other provision of law and for
 2 purposes of this section, the governing body of the hospital whose
 3 patients are receiving the telehealth services may grant privileges
 4 to, and verify and approve credentials for, providers of telehealth
 5 services based on its medical staff recommendations that rely on
 6 information provided by the distant-site hospital or telehealth
 7 entity, as described in Sections 482.12, 482.22, and 485.616 of
 8 Title 42 of the Code of Federal Regulations.

9 (2) By enacting this subdivision, it is the intent of the Legislature
 10 to authorize a hospital to grant privileges to, and verify and approve
 11 credentials for, providers of telehealth services as described in
 12 paragraph (1).

13 (3) For the purposes of this subdivision, “telehealth” shall
 14 include “telemedicine” as the term is referenced in Sections 482.12,
 15 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

16 ~~SECTION 4.~~

17 *SEC. 2.* Section 4980.43 of the Business and Professions Code
 18 is amended to read:

19 4980.43. (a) Prior to applying for licensure examinations, each
 20 applicant shall complete experience that shall comply with the
 21 following:

22 (1) A minimum of 3,000 hours completed during a period of at
 23 least 104 weeks.

24 (2) Not more than 40 hours in any seven consecutive days.

25 (3) Not less than 1,700 hours of supervised experience
 26 completed subsequent to the granting of the qualifying master’s
 27 or doctoral degree.

28 (4) Not more than 1,300 hours of supervised experience obtained
 29 prior to completing a master’s or doctoral degree.

30 The applicant shall not be credited with more than 750 hours of
 31 counseling and direct supervisor contact prior to completing the
 32 master’s or doctoral degree.

33 (5) No hours of experience may be gained prior to completing
 34 either 12 semester units or 18 quarter units of graduate instruction
 35 and becoming a trainee except for personal psychotherapy.

36 (6) No hours of experience may be gained more than six years
 37 prior to the date the application for examination eligibility was
 38 filed, except that up to 500 hours of clinical experience gained in
 39 the supervised practicum required by subdivision (c) of Section

1 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d)
2 of Section 4980.36 shall be exempt from this six-year requirement.

3 (7) Not more than a combined total of 1,000 hours of experience
4 in the following:

5 (A) Direct supervisor contact.

6 (B) Professional enrichment activities. For purposes of this
7 chapter, “professional enrichment activities” include the following:

8 (i) Workshops, seminars, training sessions, or conferences
9 directly related to marriage and family therapy attended by the
10 applicant that are approved by the applicant’s supervisor. An
11 applicant shall have no more than 250 hours of verified attendance
12 at these workshops, seminars, training sessions, or conferences.

13 (ii) Participation by the applicant in personal psychotherapy,
14 which includes group, marital or conjoint, family, or individual
15 psychotherapy by an appropriately licensed professional. An
16 applicant shall have no more than 100 hours of participation in
17 personal psychotherapy. The applicant shall be credited with three
18 hours of experience for each hour of personal psychotherapy.

19 (8) Not more than 500 hours of experience providing group
20 therapy or group counseling.

21 (9) For all hours gained on or after January 1, 2012, not more
22 than 500 hours of experience in the following:

23 (A) Experience administering and evaluating psychological
24 tests, writing clinical reports, writing progress notes, or writing
25 process notes.

26 (B) Client centered advocacy.

27 (10) Not less than 500 total hours of experience in diagnosing
28 and treating couples, families, and children. For up to 150 hours
29 of treating couples and families in conjoint therapy, the applicant
30 shall be credited with two hours of experience for each hour of
31 therapy provided.

32 (11) Not more than 375 hours of experience providing personal
33 psychotherapy, crisis counseling, or other counseling services via
34 telehealth in accordance with Section 2290.5.

35 (12) It is anticipated and encouraged that hours of experience
36 will include working with elders and dependent adults who have
37 physical or mental limitations that restrict their ability to carry out
38 normal activities or protect their rights.

39 This subdivision shall only apply to hours gained on and after
40 January 1, 2010.

1 (b) All applicants, trainees, and registrants shall be at all times
2 under the supervision of a supervisor who shall be responsible for
3 ensuring that the extent, kind, and quality of counseling performed
4 is consistent with the training and experience of the person being
5 supervised, and who shall be responsible to the board for
6 compliance with all laws, rules, and regulations governing the
7 practice of marriage and family therapy. Supervised experience
8 shall be gained by interns and trainees only as an employee or as
9 a volunteer. The requirements of this chapter regarding gaining
10 hours of experience and supervision are applicable equally to
11 employees and volunteers. Experience shall not be gained by
12 interns or trainees as an independent contractor.

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

16 (2) If volunteering, an intern shall provide the board with a letter
17 from his or her employer verifying the intern’s employment as a
18 volunteer upon application for licensure.

19 (c) Except for experience gained pursuant to subparagraph (B)
20 of paragraph (7) of subdivision (a), supervision shall include at
21 least one hour of direct supervisor contact in each week for which
22 experience is credited in each work setting, as specified:

23 (1) A trainee shall receive an average of at least one hour of
24 direct supervisor contact for every five hours of client contact in
25 each setting. No more than six hours of supervision, whether
26 individual or group, shall be credited during any single week.

27 (2) An individual supervised after being granted a qualifying
28 degree shall receive at least one additional hour of direct supervisor
29 contact for every week in which more than 10 hours of client
30 contact is gained in each setting. No more than six hours of
31 supervision, whether individual or group, shall be credited during
32 any single week.

33 (3) For purposes of this section, “one hour of direct supervisor
34 contact” means one hour per week of face-to-face contact on an
35 individual basis or two hours per week of face-to-face contact in
36 a group.

37 (4) Direct supervisor contact shall occur within the same week
38 as the hours claimed.

1 (5) Direct supervisor contact provided in a group shall be
2 provided in a group of not more than eight supervisees and in
3 segments lasting no less than one continuous hour.

4 (6) Notwithstanding paragraph (3), an intern working in a
5 governmental entity, a school, a college, or a university, or an
6 institution that is both nonprofit and charitable may obtain the
7 required weekly direct supervisor contact via two-way, real-time
8 videoconferencing. The supervisor shall be responsible for ensuring
9 that client confidentiality is upheld.

10 (7) All experience gained by a trainee shall be monitored by the
11 supervisor as specified by regulation.

12 (8) The six hours of supervision that may be credited during
13 any single week pursuant to paragraphs (1) and (2) shall apply to
14 supervision hours gained on or after January 1, 2009.

15 (d) (1) A trainee may be credited with supervised experience
16 completed in any setting that meets all of the following:

17 (A) Lawfully and regularly provides mental health counseling
18 or psychotherapy.

19 (B) Provides oversight to ensure that the trainee's work at the
20 setting meets the experience and supervision requirements set forth
21 in this chapter and is within the scope of practice for the profession
22 as defined in Section 4980.02.

23 (C) Is not a private practice owned by a licensed marriage and
24 family therapist, a licensed professional clinical counselor, a
25 licensed psychologist, a licensed clinical social worker, a licensed
26 physician and surgeon, or a professional corporation of any of
27 those licensed professions.

28 (2) Experience may be gained by the trainee solely as part of
29 the position for which the trainee volunteers or is employed.

30 (e) (1) An intern may be credited with supervised experience
31 completed in any setting that meets both of the following:

32 (A) Lawfully and regularly provides mental health counseling
33 or psychotherapy.

34 (B) Provides oversight to ensure that the intern's work at the
35 setting meets the experience and supervision requirements set forth
36 in this chapter and is within the scope of practice for the profession
37 as defined in Section 4980.02.

38 (2) An applicant shall not be employed or volunteer in a private
39 practice, as defined in subparagraph (C) of paragraph (1) of
40 subdivision (d), until registered as an intern.

1 (3) While an intern may be either a paid employee or a
2 volunteer, employers are encouraged to provide fair remuneration
3 to interns.

4 (4) Except for periods of time during a supervisor's vacation or
5 sick leave, an intern who is employed or volunteering in private
6 practice shall be under the direct supervision of a licensee that has
7 satisfied the requirements of subdivision (g) of Section 4980.03.
8 The supervising licensee shall either be employed by and practice
9 at the same site as the intern's employer, or shall be an owner or
10 shareholder of the private practice. Alternative supervision may
11 be arranged during a supervisor's vacation or sick leave if the
12 supervision meets the requirements of this section.

13 (5) Experience may be gained by the intern solely as part of the
14 position for which the intern volunteers or is employed.

15 (f) Except as provided in subdivision (g), all persons shall
16 register with the board as an intern in order to be credited for
17 postdegree hours of supervised experience gained toward licensure.

18 (g) Except when employed in a private practice setting, all
19 postdegree hours of experience shall be credited toward licensure
20 so long as the applicant applies for the intern registration within
21 90 days of the granting of the qualifying master's or doctoral
22 degree and is thereafter granted the intern registration by the board.

23 (h) Trainees, interns, and applicants shall not receive any
24 remuneration from patients or clients, and shall only be paid by
25 their employers.

26 (i) Trainees, interns, and applicants shall only perform services
27 at the place where their employers regularly conduct business,
28 which may include performing services at other locations, so long
29 as the services are performed under the direction and control of
30 their employer and supervisor, and in compliance with the laws
31 and regulations pertaining to supervision. ~~Notwithstanding~~ *For*
32 *purposes of paragraph (3) of subdivision (a) of Section 2290.5,*
33 interns and trainees working under licensed supervision, consistent
34 with subdivision (b), may provide services via telehealth within
35 the scope authorized by this chapter and in accordance with any
36 regulations governing the use of telehealth promulgated by the
37 board. Trainees and interns shall have no proprietary interest in
38 their employers' businesses and shall not lease or rent space, pay
39 for furnishings, equipment, or supplies, or in any other way pay
40 for the obligations of their employers.

1 (j) Trainees, interns, or applicants who provide volunteered
2 services or other services, and who receive no more than a total,
3 from all work settings, of five hundred dollars (\$500) per month
4 as reimbursement for expenses actually incurred by those trainees,
5 interns, or applicants for services rendered in any lawful work
6 setting other than a private practice shall be considered an
7 employee and not an independent contractor. The board may audit
8 applicants who receive reimbursement for expenses, and the
9 applicants shall have the burden of demonstrating that the payments
10 received were for reimbursement of expenses actually incurred.

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

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