

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1253**

**Introduced by Assembly Members Matthews and Thomson**

February 23, 2001

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An act to amend Section 1010 of the Evidence Code, to ~~amend Section 13960 of~~ *add Section 13960.7 to* 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 amended, 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:

1 1010. As used in this article, “psychotherapist” means:

2 (a) A person authorized, or reasonably believed by the patient  
3 to be authorized, to practice medicine in any state or nation who  
4 devotes, or is reasonably believed by the patient to devote, a  
5 substantial portion of his or her time to the practice of psychiatry.

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

9 (c) A person licensed as a clinical social worker under Article  
10 4 (commencing with Section 4996) of Chapter 14 of Division 2 of  
11 the Business and Professions Code, when he or she is engaged in  
12 applied psychotherapy of a nonmedical nature.

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

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

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

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

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

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

38 (j) A trainee, as defined in subdivision (c) of Section 4980.03  
39 of the Business and Professions Code, who is fulfilling his or her  
40 supervised practicum required by subdivision (b) of Section



1 4980.40 of the Business and Professions Code and is supervised  
2 by a licensed psychologist, board certified psychiatrist, a licensed  
3 clinical social worker, or a licensed marriage, family, and child  
4 counselor.

5 (k) An advanced practice registered nurse who is certified as  
6 a clinical nurse specialist pursuant to Article 9 (commencing with  
7 Section 2838) of Chapter 6 of Division 2 of the Business and  
8 Professions Code and who participates in expert clinical practice  
9 in the 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 (e) ~~“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 that results in injury to a resident of this state,~~  
9 ~~including a crime or public offense, wherever it may take place,~~  
10 ~~when the resident is temporarily absent from the state. “Crime”~~  
11 ~~includes an act of terrorism, as defined in Section 2331 of Title 18~~  
12 ~~of the United States Code, committed against a resident of the~~  
13 ~~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 that results in injury or death constitutes a crime for the~~  
16 ~~purposes of this article, except that a crime shall include any of the~~  
17 ~~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 that became~~



1 necessary as a direct result of the crime. These counseling services  
2 may only be reimbursed if provided by any of the following  
3 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 ~~(e) “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 that results in injury to a resident of this state,~~  
32 ~~including a crime or public offense, wherever it may take place,~~  
33 ~~when the resident is temporarily absent from the state. “Crime”~~  
34 ~~includes an act of terrorism, as defined in Section 2331 of Title 18~~  
35 ~~of the United States Code, committed against a resident of the~~  
36 ~~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 that results in injury or death constitutes a crime for the~~  
39 ~~purposes of this article, except that a crime shall include any of the~~  
40 ~~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 (e) 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 that became~~  
27 ~~necessary as a direct result of the crime. These counseling services~~  
28 ~~may only be reimbursed if provided by any of the following~~  
29 ~~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 that results in injury to a resident of this state,~~  
18 ~~including a crime or public offense, wherever it may take place,~~  
19 ~~when the resident is temporarily absent from the state. “Crime”~~  
20 ~~includes an act of terrorism, as defined in Section 2331 of Title 18~~  
21 ~~of the United States Code, committed against a resident of the~~  
22 ~~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 that results in injury or death constitutes a crime for the~~  
25 ~~purposes of this article, except that a crime shall include any of the~~  
26 ~~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 that became~~  
12 ~~necessary as a direct result of the crime. These counseling services~~  
13 ~~may only be reimbursed if provided by any of the following~~  
14 ~~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.~~

32 *SEC. 2. Section 13960.7 is added to the Government Code, to*  
33 *read:*

34 *13960.7. As used in this article, "pecuniary loss" also means*  
35 *the amount of counseling related expenses as specified in*  
36 *paragraph (2) of subdivision (d) of Section 13960, provided by an*  
37 *advanced practice registered nurse certified as a clinical nurse*  
38 *specialist under Article 9 (commencing with Section 2838) of*  
39 *Chapter 6 of Division 2 of the Business and Professions Code, who*  
40 *participates in expert clinical practice in the specialty of*



1 *psychiatric-mental health nursing, for which the victim or*  
2 *derivative victim has not been and will not be reimbursed from any*  
3 *other source.*

4 SEC. 3. Section 1373 of the Health and Safety Code is  
5 amended to read:

6 1373. (a) A plan contract may not provide an exception for  
7 other coverage if the other coverage is entitlement to Medi-Cal  
8 benefits under Chapter 7 (commencing with Section 14000) or  
9 Chapter 8 (commencing with Section 14200) of Part 3 of Division  
10 9 of the Welfare and Institutions Code, or medicaid benefits under  
11 Subchapter 19 (commencing with Section 1396) of Chapter 7 of  
12 Title 42 of the United States Code.

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

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

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

25 (b) A plan contract that provides coverage, whether by specific  
26 benefit or by the effect of general wording, for sterilization  
27 operations or procedures shall not impose any disclaimer,  
28 restriction on, or limitation of, coverage relative to the covered  
29 individual's reason for sterilization.

30 As used in this section, "sterilization operations or procedures"  
31 shall have the same meaning as that specified in Section 10120 of  
32 the Insurance Code.

33 (c) Every plan contract that provides coverage to the spouse or  
34 dependents of the subscriber or spouse shall grant immediate  
35 accident and sickness coverage, from and after the moment of  
36 birth, to each newborn infant of any subscriber or spouse covered  
37 and to each minor child placed for adoption from and after the date  
38 on which the adoptive child's birth parent or other appropriate  
39 legal authority signs a written document, including, but not limited  
40 to, a health facility minor release report, a medical authorization



1 form, or a relinquishment form, granting the subscriber or spouse  
2 the right to control health care for the adoptive child or, absent this  
3 written document, on the date there exists evidence of the  
4 subscriber's or spouse's right to control the health care of the child  
5 placed for adoption. No ~~such~~ plan may be entered into or amended  
6 if it contains any disclaimer, waiver, or other limitation of  
7 coverage relative to the coverage or insurability of newborn  
8 infants of, or children placed for adoption with, a subscriber or  
9 spouse covered as required by this subdivision.

10 (d) Every plan contract that provides that coverage of a  
11 dependent child of a subscriber shall terminate upon attainment of  
12 the limiting age for dependent children specified in the plan, shall  
13 also provide in substance that attainment of the limiting age shall  
14 not operate to terminate the coverage of the child while the child  
15 is and continues to be both (1) incapable of self-sustaining  
16 employment by reason of mental retardation or physical handicap  
17 and (2) chiefly dependent upon the subscriber for support and  
18 maintenance, provided proof of the incapacity and dependency is  
19 furnished to the plan by the member within 31 days of the request  
20 for the information by the plan or group plan contractholder and  
21 subsequently as may be required by the plan or group plan  
22 contractholder, but not more frequently than annually after the  
23 two-year period following the child's attainment of the limiting  
24 age.

25 (e) A plan contract that provides coverage, whether by specific  
26 benefit or by the effect of general wording, for both an employee  
27 and one or more covered persons dependent upon the employee  
28 and provides for an extension of the coverage for any period  
29 following a termination of employment of the employee shall also  
30 provide that this extension of coverage shall apply to dependents  
31 upon the same terms and conditions precedent as applied to the  
32 covered employee, for the same period of time, subject to payment  
33 of premiums, if any, as required by the terms of the policy and  
34 subject to any applicable collective bargaining agreement.

35 (f) A group contract shall not discriminate against handicapped  
36 persons or against groups containing handicapped persons.  
37 Nothing in this subdivision shall preclude reasonable provisions  
38 in a plan contract against liability for services or reimbursement  
39 of the handicap condition or conditions relating thereto, as may be  
40 allowed by rules of the director.



1 (g) Every group contract shall set forth the terms and  
2 conditions under which subscribers and enrollees may remain in  
3 the plan in the event the group ceases to exist, the group contract  
4 is terminated or an individual subscriber leaves the group, or the  
5 enrollees' eligibility status changes.

6 (h) (1) A health care service plan or specialized health care  
7 service plan may provide for coverage of, or for payment for,  
8 professional mental health services, or vision care services, or for  
9 the exclusion of these services. If the terms and conditions include  
10 coverage for services provided in a general acute care hospital or  
11 an acute psychiatric hospital as defined in Section 1250 and do not  
12 restrict or modify the choice of providers, the coverage shall  
13 extend to care provided by a psychiatric health facility as defined  
14 in Section 1250.2 operating pursuant to licensure by the State  
15 Department of Mental Health. A health care service plan that  
16 offers outpatient mental health services but does not cover these  
17 services in all of its group contracts shall communicate to  
18 prospective group contractholders as to the availability of  
19 outpatient coverage for the treatment of mental or nervous  
20 disorders.

21 (2) No plan shall prohibit the member from selecting any  
22 psychologist who is licensed pursuant to the Psychology Licensing  
23 Law (Chapter 6.6 (commencing with Section 2900) of Division 2  
24 of the Business and Professions Code), any optometrist who is the  
25 holder of a certificate issued pursuant to Chapter 7 (commencing  
26 with Section 3000) of Division 2 of the Business and Professions  
27 Code or, upon referral by a physician and surgeon licensed  
28 pursuant to the Medical Practice Act (Chapter 5 (commencing  
29 with Section 2000) of Division 2 of the Business and Professions  
30 Code), (i) any marriage, family, and child counselor who is the  
31 holder of a license under Section 4980.50 of the Business and  
32 Professions Code, (ii) any licensed clinical social worker who is  
33 the holder of a license under Section 4996 of the Business and  
34 Professions Code, or (iii) any advanced practice registered nurse  
35 certified as a clinical nurse specialist pursuant to Article 9  
36 (commencing with Section 2838) of Chapter 6 of Division 2 of the  
37 Business and Professions Code who participates in expert clinical  
38 practice in the specialty of psychiatric-mental health nursing, to  
39 perform the particular services covered under the terms of the plan,



1 and the certificate holder is expressly authorized by law to perform  
2 these services.

3 (3) Nothing in this section shall be construed to allow any  
4 certificate holder or licensee enumerated in this section to perform  
5 professional mental health services beyond his or her field or fields  
6 of competence as established by his or her education, training and  
7 experience.

8 (4) 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 is equivalent to the instruction required for  
14 licensure on January 1, 1981.

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

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

30 (7) Health care service plan coverage for professional mental  
31 health services may include community residential treatment  
32 services that are alternatives to inpatient care and that are directly  
33 affiliated with the plan or to which enrollees are referred by  
34 providers affiliated with the plan.

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

38 (j) A plan contract that provides benefits that accrue after a  
39 certain time of confinement in a health care facility shall specify  
40 what constitutes a day of confinement or the number of



1 consecutive hours of confinement that are requisite to the  
2 commencement of benefits.

3 ~~SEC. 6.~~

4 *SEC. 4.* Section 1373.8 of the Health and Safety Code is  
5 amended to read:

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

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

29 ~~SEC. 7.~~

30 *SEC. 5.* Section 10176 of the Insurance Code is amended to  
31 read:

32 10176. In disability insurance, the policy may provide for  
33 payment of medical, surgical, chiropractic, physical therapy,  
34 speech pathology, audiology, acupuncture, professional mental  
35 health, dental, hospital, or optometric expenses upon a  
36 reimbursement basis, or for the exclusion of any of those services,  
37 and provision may be made therein for payment of all or a portion  
38 of the amount of charge for these services without requiring that  
39 the insured first pay the expenses. ~~No such~~ *The policy shall not*  
40 prohibit the insured from selecting any psychologist or other



1 person who is the holder of a certificate or license under Section  
2 1000, 1634, 2050, 2472, 2553, 2630, 2948, 3055, or 4938 of the  
3 Business and Professions Code, to perform the particular services  
4 covered under the terms of the policy, the certificate holder or  
5 licensee being expressly authorized by law to perform those  
6 services.

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

19 Nor shall ~~any such~~ *the* policy prohibit the insured, upon referral  
20 by a physician and surgeon licensed under Section 2050 of the  
21 Business and Professions Code, from selecting any licensed  
22 clinical social worker who is the holder of a license issued under  
23 Section 4996 of the Business and Professions Code or any  
24 occupational therapist as specified in Section 2570.2 of the  
25 Business and Professions Code, or any marriage, family and child  
26 counselor who is the holder of a license under Section 4980.50 of  
27 the Business and Professions Code, to perform the particular  
28 services covered under the terms of the policy, or from selecting  
29 any speech-language pathologist or audiologist licensed under  
30 Section 2532 of the Business and Professions Code or any  
31 advanced practice registered nurse certified as a clinical nurse  
32 specialist pursuant to Article 9 (commencing with Section 2838)  
33 of Chapter 6 of Division 2 of the Business and Professions Code  
34 who participates in expert clinical practice in the specialty of  
35 psychiatric-mental health nursing, or any respiratory care  
36 practitioner certified pursuant to Chapter 8.3 (commencing with  
37 Section 3700) of Division 2 of the Business and Professions Code  
38 to perform services deemed necessary by the referring physician,  
39 that certificate holder, licensee or otherwise regulated person,  
40 being expressly authorized by law to perform the services.



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

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

17 ~~SEC. 8.~~

18 *SEC. 6.* Section 10177 of the Insurance Code is amended to  
19 read:

20 10177. A self-insured employee welfare benefit plan may  
21 provide for payment of professional mental health expenses upon  
22 a reimbursement basis, or for the exclusion of those services, and  
23 provision may be made therein for payment of all or a portion of  
24 the amount of charge for those services without requiring that the  
25 employee first pay ~~such~~ *those* expenses. ~~No such~~ *The* plan shall  
26 *not* prohibit the employee from selecting any psychologist who is  
27 the holder of a certificate issued under Section 2948 of the  
28 Business and Professions Code or, upon referral by a physician and  
29 surgeon licensed under Section 2135 of the Business and  
30 Professions Code, any licensed clinical social worker who is the  
31 holder of a license issued under Section 4996 of the Business and  
32 Professions Code or any marriage, family, and child counselor  
33 who is the holder of a certificate or license under Section 4980.50  
34 of the Business and Professions Code, or any advanced practice  
35 registered nurse certified as a clinical nurse specialist pursuant to  
36 Article 9 (commencing with Section 2838) of Chapter 6 of  
37 Division 2 of the Business and Professions Code who participates  
38 in expert clinical practice in the specialty of psychiatric-mental  
39 health nursing, to perform the particular services covered under



1 the terms of the plan, ~~such~~ *the* certificate or license holder being  
2 expressly authorized by law to perform ~~such~~ *these* services.

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

14 A self-insured employee welfare benefit plan, which is issued,  
15 renewed, or amended on or after January 1, 1988, that includes  
16 mental health services coverage in nongroup contracts may not  
17 include a lifetime waiver for that coverage with respect to any  
18 employee. The lifetime waiver of coverage provision shall be  
19 deemed unenforceable.

