

AMENDED IN ASSEMBLY MAY 2, 2001
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

An act to amend Section 1010 of the Evidence Code, to 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, *and declaring the urgency thereof, to take effect immediately.*

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~~ *including within their application an advanced practice registered nurse* certified as a clinical nurse specialist who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

This bill would declare that its provisions would become effective immediately as an urgency statute.

Vote: ~~majority~~ 2/3. 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:
3 1010. As used in this article, “psychotherapist” means:
4 (a) A person authorized, or reasonably believed by the patient
5 to be authorized, to practice medicine in any state or nation who
6 devotes, or is reasonably believed by the patient to devote, a
7 substantial portion of his or her time to the practice of psychiatry.
8 (b) A person licensed as a psychologist under Chapter 6.6
9 (commencing with Section 2900) of Division 2 of the Business and
10 Professions Code.
11 (c) A person licensed as a clinical social worker under Article
12 4 (commencing with Section 4996) of Chapter 14 of Division 2 of
13 the Business and Professions Code, when he or she is engaged in
14 applied psychotherapy of a nonmedical nature.
15 (d) A person who is serving as a school psychologist and holds
16 a credential authorizing that service issued by the state.
17 (e) A person licensed as a marriage, family, and child counselor
18 under Chapter 13 (commencing with Section 4980) of Division 2
19 of the Business and Professions Code.
20 (f) A person registered as a psychological assistant who is
21 under the supervision of a licensed psychologist or board certified
22 psychiatrist as required by Section 2913 of the Business and
23 Professions Code, or a person registered as a marriage, family, and
24 child counselor intern who is under the supervision of a licensed
25 marriage, family, and child counselor, a licensed clinical social
26 worker, a licensed psychologist, or a licensed physician certified
27 in psychiatry, as specified in Section 4980.44 of the Business and
28 Professions Code.
29 (g) A person registered as an associate clinical social worker
30 who is under the supervision of a licensed clinical social worker,
31 a licensed psychologist, or a board certified psychiatrist as
32 required by Section 4996.20 of the Business and Professions Code.
33 (h) A person exempt from the Psychology Licensing Law
34 pursuant to subdivision (d) of Section 2909 of the Business and



1 Professions Code who is under the supervision of a licensed
2 psychologist or board certified psychiatrist.

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

6 (j) A trainee, as defined in subdivision (c) of Section 4980.03
7 of the Business and Professions Code, who is fulfilling his or her
8 supervised practicum required by subdivision (b) of Section
9 4980.40 of the Business and Professions Code and is supervised
10 by a licensed psychologist, board certified psychiatrist, a licensed
11 clinical social worker, or a licensed marriage, family, and child
12 counselor.

13 (k) ~~An~~ *A person licensed as a registered nurse pursuant to*
14 *Chapter 6 (commencing with Section 2700) of Division 2 of the*
15 *Business and Professions Code, who possesses a master's degree*
16 *in psychiatric-mental health nursing and is listed as a*
17 *psychiatric-mental health nurse by the Board of Registered*
18 *Nursing.*

19 (l) *An advanced practice registered nurse who is certified as a*
20 *clinical nurse specialist pursuant to Article 9 (commencing with*
21 *Section 2838) of Chapter 6 of Division 2 of the Business and*
22 *Professions Code and who participates in expert clinical practice*
23 *in the specialty of psychiatric-mental health nursing.*

24 ~~(t)~~

25 (m) *A person rendering mental health treatment or counseling*
26 *services as authorized pursuant to Section 6924 of the Family*
27 *Code.*

28 SEC. 2. Section 13960.7 is added to the Government Code, to
29 read:

30 13960.7. As used in this article, "pecuniary loss" also means
31 the amount of counseling related expenses as specified in
32 paragraph (2) of subdivision (d) of Section 13960, provided by ~~an~~
33 *either of the following for which the victim or derivative victim has*
34 *not been and will not be reimbursed from any other source:*

35 (a) *A person licensed as a registered nurse pursuant to Chapter*
36 *6 (commencing with Section 2700) of Division 2 of the Business*
37 *and Professions Code, who possesses a master's degree in*
38 *psychiatric-mental health nursing and is listed as a*
39 *psychiatric-mental health nurse by the Board of Registered*
40 *Nursing.*



1 (b) An advanced practice registered nurse certified as a clinical
2 nurse specialist under Article 9 (commencing with Section 2838)
3 of Chapter 6 of Division 2 of the Business and Professions Code,
4 who participates in expert clinical practice in the specialty of
5 ~~psychiatric-mental health nursing, for which the victim or~~
6 ~~derivative victim has not been and will not be reimbursed from any~~
7 ~~other source.~~ *psychiatric-mental health nursing.*

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

10 1373. (a) A plan contract may not provide an exception for
11 other coverage if the other coverage is entitlement to Medi-Cal
12 benefits under Chapter 7 (commencing with Section 14000) or
13 Chapter 8 (commencing with Section 14200) of Part 3 of Division
14 9 of the Welfare and Institutions Code, or medicaid benefits under
15 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
16 Title 42 of the United States Code.

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

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

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

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

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

37 (c) Every plan contract that provides coverage to the spouse or
38 dependents of the subscriber or spouse shall grant immediate
39 accident and sickness coverage, from and after the moment of
40 birth, to each newborn infant of any subscriber or spouse covered



1 and to each minor child placed for adoption from and after the date
2 on which the adoptive child's birth parent or other appropriate
3 legal authority signs a written document, including, but not limited
4 to, a health facility minor release report, a medical authorization
5 form, or a relinquishment form, granting the subscriber or spouse
6 the right to control health care for the adoptive child or, absent this
7 written document, on the date there exists evidence of the
8 subscriber's or spouse's right to control the health care of the child
9 placed for adoption. No plan may be entered into or amended if it
10 contains any disclaimer, waiver, or other limitation of coverage
11 relative to the coverage or insurability of newborn infants of, or
12 children placed for adoption with, a subscriber or spouse covered
13 as required by this subdivision.

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

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

39 (f) A group contract shall not discriminate against handicapped
40 persons or against groups containing handicapped persons.



1 Nothing in this subdivision shall preclude reasonable provisions
2 in a plan contract against liability for services or reimbursement
3 of the handicap condition or conditions relating thereto, as may be
4 allowed by rules of the director.

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

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

25 (2) No plan shall prohibit the member from selecting any
26 psychologist who is licensed pursuant to the Psychology Licensing
27 Law (Chapter 6.6 (commencing with Section 2900) of Division 2
28 of the Business and Professions Code), any optometrist who is the
29 holder of a certificate issued pursuant to Chapter 7 (commencing
30 with Section 3000) of Division 2 of the Business and Professions
31 Code or, upon referral by a physician and surgeon licensed
32 pursuant to the Medical Practice Act (Chapter 5 (commencing
33 with Section 2000) of Division 2 of the Business and Professions
34 Code), (i) any marriage, family, and child counselor who is the
35 holder of a license under Section 4980.50 of the Business and
36 Professions Code, (ii) any licensed clinical social worker who is
37 the holder of a license under Section 4996 of the Business and
38 Professions Code, ~~or~~ (iii) *any registered nurse licensed pursuant
39 to Chapter 6 (commencing with Section 2700) of Division 2 of the
40 Business and Professions Code, who possesses a master's degree*



1 *in psychiatric-mental health nursing and is listed as a*
2 *psychiatric-mental health nurse by the Board of Registered*
3 *Nursing, or (iv) any advanced practice registered nurse certified as*
4 *a clinical nurse specialist pursuant to Article 9 (commencing with*
5 *Section 2838) of Chapter 6 of Division 2 of the Business and*
6 *Professions Code who participates in expert clinical practice in the*
7 *specialty of psychiatric-mental health nursing, to perform the*
8 *particular services covered under the terms of the plan, and the*
9 *certificate holder is expressly authorized by law to perform these*
10 *services.*

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

16 (4) For the purposes of this section, “marriage, family, and
17 child counselor” means a licensed marriage, family, and child
18 counselor who has received specific instruction in assessment,
19 diagnosis, prognosis, and counseling, and psychotherapeutic
20 treatment of premarital, marriage, family, and child relationship
21 dysfunctions which is equivalent to the instruction required for
22 licensure on January 1, 1981.

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

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

38 (7) Health care service plan coverage for professional mental
39 health services may include community residential treatment
40 services that are alternatives to inpatient care and that are directly



1 affiliated with the plan or to which enrollees are referred by
2 providers affiliated with the plan.

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

6 (j) A plan contract that provides benefits that accrue after a
7 certain time of confinement in a health care facility shall specify
8 what constitutes a day of confinement or the number of
9 consecutive hours of confinement that are requisite to the
10 commencement of benefits.

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

13 1373.8. A health care service plan contract where the plan is
14 licensed to do business in this state and the plan provides coverage
15 that includes California residents but that may be written or issued
16 for delivery outside of California and where benefits are provided
17 within the scope of practice of a licensed clinical social worker, *a*
18 *registered nurse licensed pursuant to Chapter 6 (commencing with*
19 *Section 2700) of Division 2 of the Business and Professions Code,*
20 *who possesses a master's degree in psychiatric-mental health*
21 *nursing and is listed as a psychiatric-mental health nurse by the*
22 *Board of Registered Nursing, an advanced practice registered*
23 *nurse who is certified as a clinical nurse specialist pursuant to*
24 *Article 9 (commencing with Section 2838) of Chapter 6 of*
25 *Division 2 of the Business and Professions Code who participates*
26 *in expert clinical practice in the specialty of psychiatric-mental*
27 *health nursing, or a marriage, family, and child counselor who is*
28 *the holder of a license under Section 4980.50 of the Business and*
29 *Professions Code, shall not be deemed to prohibit persons covered*
30 *under the contract from selecting those licensed persons in*
31 *California to perform the services in California that are within the*
32 *terms of the contract even though the licensees are not licensed in*
33 *the state where the contract is written or issued for delivery.*

34 It is the intent of the Legislature in amending this section in the
35 1984 portion of the 1983–84 Legislative Session that persons
36 covered by the contract and those providers of health care
37 specified in this section who are licensed in California should be
38 entitled to the benefits provided by the plan for services of those
39 providers rendered to those persons.



1 SEC. 5. Section 10176 of the Insurance Code is amended to
2 read:

3 10176. In disability insurance, the policy may provide for
4 payment of medical, surgical, chiropractic, physical therapy,
5 speech pathology, audiology, acupuncture, professional mental
6 health, dental, hospital, or optometric expenses upon a
7 reimbursement basis, or for the exclusion of any of those services,
8 and provision may be made therein for payment of all or a portion
9 of the amount of charge for these services without requiring that
10 the insured first pay the expenses. The policy shall not prohibit the
11 insured from selecting any psychologist or other person who is the
12 holder of a certificate or license under Section 1000, 1634, 2050,
13 2472, 2553, 2630, 2948, 3055, or 4938 of the Business and
14 Professions Code, to perform the particular services covered under
15 the terms of the policy, the certificate holder or licensee being
16 expressly authorized by law to perform those services.

17 If the insured selects any person who is a holder of a certificate
18 under Section 4938 of the Business and Professions Code, a
19 disability insurer or nonprofit hospital service plan shall pay the
20 bona fide claim of an acupuncturist holding a certificate pursuant
21 to Section 4938 of the Business and Professions Code for the
22 treatment of an insured person only if the insured's policy or
23 contract expressly includes acupuncture as a benefit and includes
24 coverage for the injury or illness treated. Unless the policy or
25 contract expressly includes acupuncture as a benefit, no person
26 who is the holder of any license or certificate set forth in this
27 section shall be paid or reimbursed under the policy for
28 acupuncture.

29 Nor shall the policy prohibit the insured, upon referral by a
30 physician and surgeon licensed under Section 2050 of the Business
31 and Professions Code, from selecting any licensed clinical social
32 worker who is the holder of a license issued under Section 4996
33 of the Business and Professions Code or any occupational therapist
34 as specified in Section 2570.2 of the Business and Professions
35 Code, or any marriage, family and child counselor who is the
36 holder of a license under Section 4980.50 of the Business and
37 Professions Code, to perform the particular services covered under
38 the terms of the policy, or from selecting any speech-language
39 pathologist or audiologist licensed under Section 2532 of the
40 Business and Professions Code or any *registered nurse licensed*



1 *pursuant to Chapter 6 (commencing with Section 2700) of*
2 *Division 2 of the Business and Professions Code, who possesses a*
3 *master's degree in psychiatric-mental health nursing and is listed*
4 *as a psychiatric-mental health nurse by the Board of Registered*
5 *Nursing or any advanced practice registered nurse certified as a*
6 *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 who participates in expert clinical practice in the*
9 *specialty of psychiatric-mental health nursing, or any respiratory*
10 *care practitioner certified pursuant to Chapter 8.3 (commencing*
11 *with Section 3700) of Division 2 of the Business and Professions*
12 *Code to perform services deemed necessary by the referring*
13 *physician, that certificate holder, licensee or otherwise regulated*
14 *person, being expressly authorized by law to perform the services.*

15 Nothing in this section shall be construed to allow any
16 certificate holder or licensee enumerated in this section to perform
17 professional mental health services beyond his or her field or fields
18 of competence as established by his or her education, training, and
19 experience. For the purposes of this section, "marriage, family and
20 child counselor" means a licensed marriage, family and child
21 counselor who has received specific instruction in assessment,
22 diagnosis, prognosis, and counseling, and psychotherapeutic
23 treatment of premarital, marriage, family, and child relationship
24 dysfunctions that is equivalent to the instruction required for
25 licensure on January 1, 1981.

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

31 SEC. 6. Section 10177 of the Insurance Code is amended to
32 read:

33 10177. A self-insured employee welfare benefit plan may
34 provide for payment of professional mental health expenses upon
35 a reimbursement basis, or for the exclusion of those services, and
36 provision may be made therein for payment of all or a portion of
37 the amount of charge for those services without requiring that the
38 employee first pay those expenses. The plan shall not prohibit the
39 employee from selecting any psychologist who is the holder of a
40 certificate issued under Section 2948 of the Business and



1 Professions Code or, upon referral by a physician and surgeon
2 licensed under Section 2135 of the Business and Professions Code,
3 any licensed clinical social worker who is the holder of a license
4 issued under Section 4996 of the Business and Professions Code
5 or any marriage, family, and child counselor who is the holder of
6 a certificate or license under Section 4980.50 of the Business and
7 Professions Code, or any *registered nurse licensed pursuant to*
8 *Chapter 6 (commencing with Section 2700) of Division 2 of the*
9 *Business and Professions Code, who possesses a master's degree*
10 *in psychiatric-mental health nursing and is listed as a*
11 *psychiatric-mental health nurse by the Board of Registered*
12 *Nursing or any advanced practice registered nurse certified as a*
13 *clinical nurse specialist pursuant to Article 9 (commencing with*
14 *Section 2838) of Chapter 6 of Division 2 of the Business and*
15 *Professions Code who participates in expert clinical practice in the*
16 *specialty of psychiatric-mental health nursing, to perform the*
17 *particular services covered under the terms of the plan, the*
18 *certificate or license holder being expressly authorized by law to*
19 *perform these services.*

20 Nothing in this section shall be construed to allow any
21 certificate holder or licensee enumerated in this section to perform
22 professional services beyond his or her field or fields of
23 competence as established by his or her education, training, and
24 experience. For the purposes of this section, "marriage, family,
25 and child counselor" shall mean a licensed marriage, family, and
26 child counselor who has received specific instruction in
27 assessment, diagnosis, prognosis, and counseling, and
28 psychotherapeutic treatment of premarital, marriage, family, and
29 child relationship dysfunctions which is equivalent to the
30 instruction required for licensure on January 1, 1981.

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

37 *SEC. 7. This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety*
39 *within the meaning of Article IV of the Constitution and shall go*
40 *into immediate effect. The facts constituting the necessity are:*



1 *The current shortage of registered nurses licensed to practice in*
2 *this state requires the expansion of the scope of the description of*
3 *this profession to include all nurses who are able to provide the*
4 *services described in this act.*

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