

AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 788

Introduced by Senators Wyland and Steinberg

February 27, 2009

~~An act to add Chapter 16 (commencing with Section 4999.10) to Division 2 of the Business and Professions Code, relating to mental health professionals. An act to amend Sections 728, 805, and 4990 of, to add Chapter 16 (commencing with Section 4999.10) to Division 2 of, and to repeal Sections 4999.32, 4999.56, 4999.58, and 4999.101 of, the Business and Professions Code, relating to professional clinical counselors.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 788, as amended, Wyland. ~~Mental health professionals. Licensed professional clinical counselors.~~

Existing law provides for the licensure and regulation of marriage and family therapists and clinical social workers by the Board of Behavioral Sciences, in the Department of Consumer Affairs. Under existing law, the board consists of 11 members.

This bill would provide for the licensure, registration, and regulation of licensed professional clinical counselors and interns by the board and would add 4 additional members to the board, to be appointed by the Governor, as specified. The bill would enact various provisions concerning the practice of licensed professional clinical counselors, interns, and clinical counselor trainees, including, but not limited to, practice requirements, and enforcement specifications. The bill would

authorize the board to begin accepting applications for intern registration on January 1, 2011, and for professional clinical counselor licensure on January 1, 2012, but would authorize the board to issue licenses to individuals meeting certain criteria who apply between January 1, 2011, and June 30, 2011. The bill would authorize the board to impose specified fees on licensed professional clinical counselors and interns which would be deposited in the Behavioral Sciences Fund to carry out the provisions of the bill. The bill would require that the startup costs of the program be funded by a loan from the Behavioral Sciences Fund, upon appropriation by the Legislature. The bill would provide that a violation of its provisions is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides for the licensure and regulation of marriage and family therapists, educational psychologists, and clinical social workers by the Board of Behavioral Sciences, in the Department of Consumer Affairs.~~

~~This bill would prohibit a person from holding himself or herself out to the public by any title or description of mental health services not authorized by law or licensed by that board, except as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: ~~no~~yes.

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

- 1 SECTION 1. Section 728 of the Business and Professions Code
- 2 is amended to read:
- 3 728. (a) Any psychotherapist or employer of a psychotherapist
- 4 who becomes aware through a patient that the patient had alleged
- 5 sexual intercourse or alleged sexual contact with a previous
- 6 psychotherapist during the course of a prior treatment, shall provide
- 7 to the patient a brochure promulgated by the department that
- 8 delineates the rights of, and remedies for, patients who have been
- 9 involved sexually with their psychotherapist. Further, the

1 psychotherapist or employer shall discuss with the patient the
2 brochure prepared by the department.

3 (b) Failure to comply with this section constitutes unprofessional
4 conduct.

5 (c) For the purpose of this section, the following definitions
6 apply:

7 (1) "Psychotherapist" means a physician and surgeon
8 specializing in the practice of psychiatry or practicing
9 psychotherapy, a psychologist, a clinical social worker, a marriage
10 and family therapist, *a licensed professional clinical counselor*, a
11 psychological assistant, *a marriage and family therapist registered*
12 *intern or trainee, an intern or clinical counselor trainee, as*
13 *specified in Chapter 16 (commencing with Section 4999.10), or*
14 *an associate clinical social worker.*

15 (2) "Sexual contact" means the touching of an intimate part of
16 another person.

17 (3) "Intimate part" and "touching" have the same meaning as
18 defined in subdivisions (f) and (d), respectively, of Section 243.4
19 of the Penal Code.

20 (4) "The course of a prior treatment" means the period of time
21 during which a patient first commences treatment for services that
22 a psychotherapist is authorized to provide under his or her scope
23 of practice, or that the psychotherapist represents to the patient as
24 being within his or her scope of practice, until the
25 psychotherapist-patient relationship is terminated.

26 *SEC. 2. Section 805 of the Business and Professions Code is*
27 *amended to read:*

28 805. (a) As used in this section, the following terms have the
29 following definitions:

30 (1) "Peer review body" includes:

31 (A) A medical or professional staff of any health care facility
32 or clinic licensed under Division 2 (commencing with Section
33 1200) of the Health and Safety Code or of a facility certified to
34 participate in the federal Medicare Program as an ambulatory
35 surgical center.

36 (B) A health care service plan registered under Chapter 2.2
37 (commencing with Section 1340) of Division 2 of the Health and
38 Safety Code or a disability insurer that contracts with licentiates
39 to provide services at alternative rates of payment pursuant to
40 Section 10133 of the Insurance Code.

1 (C) Any medical, psychological, marriage and family therapy,
2 social work, *licensed professional clinical counseling*, dental, or
3 podiatric professional society having as members at least 25 percent
4 of the eligible licentiates in the area in which it functions (which
5 must include at least one county), which is not organized for profit
6 and which has been determined to be exempt from taxes pursuant
7 to Section 23701 of the Revenue and Taxation Code.

8 (D) A committee organized by any entity consisting of or
9 employing more than 25 licentiates of the same class that functions
10 for the purpose of reviewing the quality of professional care
11 provided by members or employees of that entity.

12 (2) “Licentiate” means a physician and surgeon, doctor of
13 podiatric medicine, clinical psychologist, marriage and family
14 therapist, clinical social worker, *licensed professional clinical*
15 *counselor*, or dentist. “Licentiate” also includes a person authorized
16 to practice medicine pursuant to Section 2113.

17 (3) “Agency” means the relevant state licensing agency having
18 regulatory jurisdiction over the licentiates listed in paragraph (2).

19 (4) “Staff privileges” means any arrangement under which a
20 licentiate is allowed to practice in or provide care for patients in
21 a health facility. Those arrangements shall include, but are not
22 limited to, full staff privileges, active staff privileges, limited staff
23 privileges, auxiliary staff privileges, provisional staff privileges,
24 temporary staff privileges, courtesy staff privileges, locum tenens
25 arrangements, and contractual arrangements to provide professional
26 services, including, but not limited to, arrangements to provide
27 outpatient services.

28 (5) “Denial or termination of staff privileges, membership, or
29 employment” includes failure or refusal to renew a contract or to
30 renew, extend, or reestablish any staff privileges, if the action is
31 based on medical disciplinary cause or reason.

32 (6) “Medical disciplinary cause or reason” means that aspect
33 of a licentiate’s competence or professional conduct that is
34 reasonably likely to be detrimental to patient safety or to the
35 delivery of patient care.

36 (7) “805 report” means the written report required under
37 subdivision (b).

38 (b) The chief of staff of a medical or professional staff or other
39 chief executive officer, medical director, or administrator of any
40 peer review body and the chief executive officer or administrator

1 of any licensed health care facility or clinic shall file an 805 report
2 with the relevant agency within 15 days after the effective date of
3 any of the following that occur as a result of an action of a peer
4 review body:

5 (1) A licentiate's application for staff privileges or membership
6 is denied or rejected for a medical disciplinary cause or reason.

7 (2) A licentiate's membership, staff privileges, or employment
8 is terminated or revoked for a medical disciplinary cause or reason.

9 (3) Restrictions are imposed, or voluntarily accepted, on staff
10 privileges, membership, or employment for a cumulative total of
11 30 days or more for any 12-month period, for a medical disciplinary
12 cause or reason.

13 (c) The chief of staff of a medical or professional staff or other
14 chief executive officer, medical director, or administrator of any
15 peer review body and the chief executive officer or administrator
16 of any licensed health care facility or clinic shall file an 805 report
17 with the relevant agency within 15 days after any of the following
18 occur after notice of either an impending investigation or the denial
19 or rejection of the application for a medical disciplinary cause or
20 reason:

21 (1) Resignation or leave of absence from membership, staff, or
22 employment.

23 (2) The withdrawal or abandonment of a licentiate's application
24 for staff privileges or membership.

25 (3) The request for renewal of those privileges or membership
26 is withdrawn or abandoned.

27 (d) For purposes of filing an 805 report, the signature of at least
28 one of the individuals indicated in subdivision (b) or (c) on the
29 completed form shall constitute compliance with the requirement
30 to file the report.

31 (e) An 805 report shall also be filed within 15 days following
32 the imposition of summary suspension of staff privileges,
33 membership, or employment, if the summary suspension remains
34 in effect for a period in excess of 14 days.

35 (f) A copy of the 805 report, and a notice advising the licentiate
36 of his or her right to submit additional statements or other
37 information pursuant to Section 800, shall be sent by the peer
38 review body to the licentiate named in the report.

39 The information to be reported in an 805 report shall include the
40 name and license number of the licentiate involved, a description

1 of the facts and circumstances of the medical disciplinary cause
2 or reason, and any other relevant information deemed appropriate
3 by the reporter.

4 A supplemental report shall also be made within 30 days
5 following the date the licentiate is deemed to have satisfied any
6 terms, conditions, or sanctions imposed as disciplinary action by
7 the reporting peer review body. In performing its dissemination
8 functions required by Section 805.5, the agency shall include a
9 copy of a supplemental report, if any, whenever it furnishes a copy
10 of the original 805 report.

11 If another peer review body is required to file an 805 report, a
12 health care service plan is not required to file a separate report
13 with respect to action attributable to the same medical disciplinary
14 cause or reason. If the Medical Board of California or a licensing
15 agency of another state revokes or suspends, without a stay, the
16 license of a physician and surgeon, a peer review body is not
17 required to file an 805 report when it takes an action as a result of
18 the revocation or suspension.

19 (g) The reporting required by this section shall not act as a
20 waiver of confidentiality of medical records and committee reports.
21 The information reported or disclosed shall be kept confidential
22 except as provided in subdivision (c) of Section 800 and Sections
23 803.1 and 2027, provided that a copy of the report containing the
24 information required by this section may be disclosed as required
25 by Section 805.5 with respect to reports received on or after
26 January 1, 1976.

27 (h) The Medical Board of California, the Osteopathic Medical
28 Board of California, and the Dental Board of California shall
29 disclose reports as required by Section 805.5.

30 (i) An 805 report shall be maintained by an agency for
31 dissemination purposes for a period of three years after receipt.

32 (j) No person shall incur any civil or criminal liability as the
33 result of making any report required by this section.

34 (k) A willful failure to file an 805 report by any person who is
35 designated or otherwise required by law to file an 805 report is
36 punishable by a fine not to exceed one hundred thousand dollars
37 (\$100,000) per violation. The fine may be imposed in any civil or
38 administrative action or proceeding brought by or on behalf of any
39 agency having regulatory jurisdiction over the person regarding
40 whom the report was or should have been filed. If the person who

1 is designated or otherwise required to file an 805 report is a
2 licensed physician and surgeon, the action or proceeding shall be
3 brought by the Medical Board of California. The fine shall be paid
4 to that agency but not expended until appropriated by the
5 Legislature. A violation of this subdivision may constitute
6 unprofessional conduct by the licensee. A person who is alleged
7 to have violated this subdivision may assert any defense available
8 at law. As used in this subdivision, “willful” means a voluntary
9 and intentional violation of a known legal duty.

10 (l) Except as otherwise provided in subdivision (k), any failure
11 by the administrator of any peer review body, the chief executive
12 officer or administrator of any health care facility, or any person
13 who is designated or otherwise required by law to file an 805
14 report, shall be punishable by a fine that under no circumstances
15 shall exceed fifty thousand dollars (\$50,000) per violation. The
16 fine may be imposed in any civil or administrative action or
17 proceeding brought by or on behalf of any agency having
18 regulatory jurisdiction over the person regarding whom the report
19 was or should have been filed. If the person who is designated or
20 otherwise required to file an 805 report is a licensed physician and
21 surgeon, the action or proceeding shall be brought by the Medical
22 Board of California. The fine shall be paid to that agency but not
23 expended until appropriated by the Legislature. The amount of the
24 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
25 violation, shall be proportional to the severity of the failure to
26 report and shall differ based upon written findings, including
27 whether the failure to file caused harm to a patient or created a
28 risk to patient safety; whether the administrator of any peer review
29 body, the chief executive officer or administrator of any health
30 care facility, or any person who is designated or otherwise required
31 by law to file an 805 report exercised due diligence despite the
32 failure to file or whether they knew or should have known that an
33 805 report would not be filed; and whether there has been a prior
34 failure to file an 805 report. The amount of the fine imposed may
35 also differ based on whether a health care facility is a small or
36 rural hospital as defined in Section 124840 of the Health and Safety
37 Code.

38 (m) A health care service plan registered under Chapter 2.2
39 (commencing with Section 1340) of Division 2 of the Health and
40 Safety Code or a disability insurer that negotiates and enters into

1 a contract with licentiates to provide services at alternative rates
2 of payment pursuant to Section 10133 of the Insurance Code, when
3 determining participation with the plan or insurer, shall evaluate,
4 on a case-by-case basis, licentiates who are the subject of an 805
5 report, and not automatically exclude or deselect these licentiates.

6 *SEC. 3. Section 4990 of the Business and Professions Code is*
7 *amended to read:*

8 4990. (a) There is in the Department of Consumer Affairs, a
9 Board of Behavioral Sciences that consists of ~~44~~ 15 members
10 composed as follows:

11 (1) Two state licensed clinical social workers.

12 (2) One state licensed educational psychologist.

13 (3) Two state licensed marriage and family therapists.

14 (4) *Commencing January 1, 2012, two state licensed*
15 *professional clinical counselors.*

16 ~~(4) Six~~

17 (5) *Eight* public members.

18 (b) Each member, except the ~~six~~ *eight* public members, shall
19 have at least two years of experience in his or her profession.

20 (c) Each member shall reside in the State of California.

21 (d) The Governor shall appoint ~~four~~ *six* of the public members
22 and the ~~five~~ *seven* licensed members with the advice and consent
23 of the Senate. The Senate Committee on Rules and the Speaker of
24 the Assembly shall each appoint a public member.

25 (e) Each member of the board shall be appointed for a term of
26 four years. A member appointed by the Speaker of the Assembly
27 or the Senate Committee on Rules shall hold office until the
28 appointment and qualification of his or her successor or until one
29 year from the expiration date of the term for which he or she was
30 appointed, whichever first occurs. Pursuant to Section 1774 of the
31 Government Code, a member appointed by the Governor shall
32 hold office until the appointment and qualification of his or her
33 successor or until 60 days from the expiration date of the term for
34 which he or she was appointed, whichever first occurs.

35 (f) A vacancy on the board shall be filled by appointment for
36 the unexpired term by the authority who appointed the member
37 whose membership was vacated.

38 (g) Not later than the first of June of each calendar year, the
39 board shall elect a chairperson and a vice chairperson from its
40 membership.

1 (h) Each member of the board shall receive a per diem and
2 reimbursement of expenses as provided in Section 103.

3 (i) This section shall remain in effect only until January 1, 2011,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2011, deletes or extends that date.

6 SEC. 4. Chapter 16 (commencing with Section 4999.10) is
7 added to Division 2 of the Business and Professions Code, to read:

8
9 CHAPTER 16. LICENSED PROFESSIONAL CLINICAL COUNSELORS

10
11 Article 1. Administration

12
13 4999.10. This chapter constitutes, and may be cited as, the
14 Licensed Professional Clinical Counselor Act.

15 4999.11. In enacting this chapter, the Legislature recognizes
16 that licensed professional clinical counselors practice a separate
17 and distinct profession from the profession practiced by licensed
18 marriage and family therapists and licensed clinical social
19 workers. As such, the Legislature recognizes the need to
20 appropriately test licensed marriage and family therapists and
21 clinical social workers seeking to become licensed professional
22 clinical counselors on the difference in practice between the
23 professions.

24 4999.12. For purposes of this chapter, the following terms
25 have the following meanings:

26 (a) "Board" means the Board of Behavioral Sciences.

27 (b) "Accredited" means a school, college, or university
28 accredited by the Western Association of Schools and Colleges,
29 or its equivalent regional accrediting association.

30 (c) "Approved" means a school, college, or university that
31 possessed unconditional approval by the Bureau for Private
32 Postsecondary and Vocational Education at the time of the
33 applicant's graduation from the school, college, or university.

34 (d) "Applicant" means an unlicensed person who has completed
35 a master's or doctoral degree program, as specified in Section
36 4999.32 or 4999.33, as applicable, and whose application for
37 registration as an intern is pending or who is in the examination
38 process, or an unlicensed person who has completed the
39 requirements for licensure specified in this chapter, is no longer

1 registered with the board as an intern, and is currently in the
2 examination process.

3 (e) “Licensed professional clinical counselor” or “LPCC”
4 means a person licensed under this chapter to practice professional
5 clinical counseling, as defined in Section 4999.20.

6 (f) “Intern” means an unlicensed person who meets the
7 requirements of Section 4999.42 and is registered with the board.

8 (g) “Clinical counselor trainee” means an unlicensed person
9 who is currently enrolled in a master’s or doctoral degree
10 program, as specified in Section 4999.32 or 4999.33, as applicable,
11 that is designed to qualify him or her for licensure under this
12 chapter, and who has completed no less than 12 semester units or
13 18 quarter units of coursework in any qualifying degree program.

14 (h) “Approved supervisor” means an individual who meets the
15 following requirements:

16 (1) Has documented two years of clinical experience as a
17 licensed professional clinical counselor, licensed marriage and
18 family therapist, licensed clinical psychologist, licensed clinical
19 social worker, or licensed physician and surgeon who is certified
20 in psychiatry by the American Board of Psychiatry and Neurology.

21 (2) Has received professional training in supervision.

22 (3) Has not provided therapeutic services to the clinical
23 counselor trainee or intern.

24 (4) Has a current and valid license that is not under suspension
25 or probation.

26 (i) “Professional enrichment activities” includes the following:

27 (1) Workshops, seminars, training sessions, or conferences
28 directly related to professional clinical counseling attended by the
29 applicant and approved by the applicant’s supervisor.

30 (2) Participation by the applicant in group, marital or conjoint,
31 family, or individual psychotherapy by an appropriately licensed
32 professional.

33 (j) “Advertising” or “advertise” includes, but is not limited to,
34 the issuance of any card, sign, or device to any person, or the
35 causing, permitting, or allowing of any sign or marking on, or in,
36 any building or structure, or in any newspaper or magazine or in
37 any directory, or any printed matter whatsoever, with or without
38 any limiting qualification. It also includes business solicitations
39 communicated by radio or television broadcasting. Signs within
40 church buildings or notices in church bulletins mailed to a

1 congregation shall not be construed as advertising within the
2 meaning of this chapter.

3 (k) "Referral" means evaluating and identifying the needs of a
4 client to determine whether it is advisable to refer the client to
5 other specialists, informing the client of that judgment, and
6 communicating that determination as requested or deemed
7 appropriate to referral sources.

8 (l) "Research" means a systematic effort to collect, analyze,
9 and interpret quantitative and qualitative data that describes how
10 social characteristics, behavior, emotion, cognitions, disabilities,
11 mental disorders, and interpersonal transactions among individuals
12 and organizations interact.

13 (m) "Supervision" includes the following:

14 (1) Ensuring that the extent, kind, and quality of counseling
15 performed is consistent with the education, training, and experience
16 of the person being supervised.

17 (2) Reviewing client or patient records, monitoring and
18 evaluating assessment, diagnosis, and treatment decisions of the
19 clinical counselor trainee.

20 (3) Monitoring and evaluating the ability of the intern or clinical
21 counselor trainee to provide services to the particular clientele at
22 the site or sites where he or she will be practicing.

23 (4) Ensuring compliance with laws and regulations governing
24 the practice of licensed professional clinical counseling.

25 (5) That amount of direct observation, or review of audio or
26 videotapes of counseling or therapy, as deemed appropriate by
27 the supervisor.

28 4999.14. The board shall do all of the following:

29 (a) Communicate information about its activities, the
30 requirements and qualifications for licensure, and the practice of
31 professional clinical counseling to the relevant educational
32 institutions, supervisors, professional associations, applicants,
33 clinical counselor trainees, interns, and the public.

34 (b) Develop policies and procedures to assist educational
35 institutions in meeting the educational qualifications of Sections
36 4999.32 and 4999.33.

Article 2. Scope of Practice

4999.20. (a) (1) “Professional clinical counseling” means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. “Professional clinical counseling” includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions.

(2) “Professional clinical counseling” is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. For purposes of this paragraph, “nonclinical” means nonmental health.

(3) “Professional clinical counseling” does not include the assessment or treatment of couples or families unless the professional clinical counselor has completed all of the following additional training and education, beyond the minimum training and education required for licensure:

(A) One of the following:

(i) Six semester units or nine quarter units specifically focused on the theory and application of marriage and family therapy.

(ii) A named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family and child counseling; or couples and family therapy.

(B) No less than 500 hours of documented supervised experience working directly with couples, families, or children.

(C) A minimum of six hours of continuing education specific to marriage and family therapy, completed in each license renewal cycle.

(b) “Counseling interventions and psychotherapeutic techniques” means the application of cognitive, affective, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and maladjustment that reflect a pluralistic society. These interventions and techniques are

1 specifically implemented in the context of a professional clinical
2 counseling relationship and use a variety of counseling theories
3 and approaches.

4 (c) “Assessment” means selecting, administering, scoring, and
5 interpreting tests, instruments, and other tools and methods
6 designed to measure an individual’s attitudes, abilities, aptitudes,
7 achievements, interests, personal characteristics, disabilities, and
8 mental, emotional, and behavioral concerns and development and
9 the use of methods and techniques for understanding human
10 behavior in relation to coping with, adapting to, or ameliorating
11 changing life situations, as part of the counseling process.
12 “Assessment” shall not include the use of projective techniques
13 in the assessment of personality, individually administered
14 intelligence tests, neuropsychological testing, or utilization of a
15 battery of three or more tests to determine the presence of
16 psychosis, dementia, amnesia, cognitive impairment, or criminal
17 behavior.

18 (d) Professional clinical counselors shall refer clients to other
19 licensed health care professionals when they identify issues beyond
20 their own scope of education, training, and experience.

21 4999.22. (a) Nothing in this chapter shall prevent qualified
22 persons from doing work of a psychosocial nature consistent with
23 the standards and ethics of their respective professions. However,
24 these qualified persons shall not hold themselves out to the public
25 by any title or description of services incorporating the words
26 “licensed professional clinical counselor” and shall not state that
27 they are licensed to practice professional clinical counseling,
28 unless they are otherwise licensed to provide professional clinical
29 counseling services.

30 (b) Nothing in this chapter shall be construed to constrict, limit,
31 or withdraw provisions of the Medical Practice Act, the Clinical
32 Social Worker Practice Act, the Nursing Practice Act, the
33 Psychology Licensing Law, or the Marriage and Family Therapy
34 licensing laws.

35 (c) This chapter shall not apply to any priest, rabbi, or minister
36 of the gospel of any religious denomination who performs
37 counseling services as part of his or her pastoral or professional
38 duties, or to any person who is admitted to practice law in this
39 state, or who is licensed to practice medicine, who provides
40 counseling services as part of his or her professional practice.

1 (d) This chapter shall not apply to an employee of a
2 governmental entity or a school, college, or university, or of an
3 institution both nonprofit and charitable, if his or her practice is
4 performed solely under the supervision of the entity, school,
5 college, university, or institution by which he or she is employed,
6 and if he or she performs those functions as part of the position
7 for which he or she is employed.

8 (e) All persons registered as interns or licensed under this
9 chapter shall not be exempt from this chapter or the jurisdiction
10 of the board.

11 4999.24. Nothing in this chapter shall restrict or prevent
12 activities of a psychotherapeutic or counseling nature on the part
13 of persons employed by accredited or state-approved academic
14 institutions, public schools, government agencies, or nonprofit
15 institutions engaged in the training of graduate students or clinical
16 counselor trainees pursuing a course of study leading to a degree
17 that qualifies for professional clinical counselor licensure at an
18 accredited or state-approved college or university, or working in
19 a recognized training program, provided that these activities and
20 services constitute a part of a supervised course of study and that
21 those persons are designated by a title such as “clinical counselor
22 trainee” or other title clearly indicating the training status
23 appropriate to the level of training.

24 Article 3. Licensure

25
26
27 4999.30. Except as otherwise provided in this chapter, a person
28 shall not practice or advertise the performance of professional
29 clinical counseling services without a license issued by the board,
30 and shall pay the license fee required by this chapter.

31 4999.32. (a) This section shall apply to applicants for licensure
32 or registration who begin graduate study before August 1, 2012,
33 and complete that study on or before December 31, 2018. Those
34 applicants may alternatively qualify under paragraph (2) of
35 subdivision (a) of Section 4999.33.

36 (b) To qualify for a license or registration, applicants shall
37 possess a master’s or doctoral degree that is counseling or
38 psychotherapy in content and that meets the requirements of this
39 section, obtained from an accredited or approved institution, as
40 defined in Section 4999.12. For purposes of this subdivision, a

1 degree is “counseling or psychotherapy in content” if it contains
2 the supervised practicum or field study experience described in
3 paragraph (3) of subdivision (c) and, except as provided in
4 subdivision (d), the coursework in the core content areas listed in
5 subparagraphs (A) to (I), inclusive, of paragraph (1) of subdivision
6 (c).

7 (c) The degree described in subdivision (b) shall contain not
8 less than 48 graduate semester or 72 graduate quarter units of
9 instruction, which shall, except as provided in subdivision (d),
10 include all of the following:

11 (1) The equivalent of at least three semester units or four and
12 one-half quarter units of graduate study in each of following core
13 content areas:

14 (A) Counseling and psychotherapeutic theories and techniques,
15 including the counseling process in a multicultural society, an
16 orientation to wellness and prevention, counseling theories to
17 assist in selection of appropriate counseling interventions, models
18 of counseling consistent with current professional research and
19 practice, development of a personal model of counseling, and
20 multidisciplinary responses to crises, emergencies, and disasters.

21 (B) Human growth and development across the lifespan,
22 including normal and abnormal behavior and an understanding
23 of developmental crises, disability, psychopathology, and
24 situational and environmental factors that affect both normal and
25 abnormal behavior.

26 (C) Career development theories and techniques, including
27 career development decisionmaking models and interrelationships
28 among and between work, family, and other life roles and factors,
29 including the role of multicultural issues in career development.

30 (D) Group counseling theories and techniques, including
31 principles of group dynamics, group process components,
32 developmental stage theories, therapeutic factors of group work,
33 group leadership styles and approaches, pertinent research and
34 literature, group counseling methods, and evaluation of
35 effectiveness.

36 (E) Assessment, appraisal, and testing of individuals, including
37 basic concepts of standardized and nonstandardized testing and
38 other assessment techniques, norm-referenced and
39 criterion-referenced assessment, statistical concepts, social and
40 cultural factors related to assessment and evaluation of individuals

1 and groups, and ethical strategies for selecting, administering,
2 and interpreting assessment instruments and techniques in
3 counseling.

4 (F) Multicultural counseling theories and techniques, including
5 counselors' roles in developing cultural self-awareness, identity
6 development, promoting cultural social justice, individual and
7 community strategies for working with and advocating for diverse
8 populations, and counselors' roles in eliminating biases and
9 prejudices, and processes of intentional and unintentional
10 oppression and discrimination.

11 (G) Principles of the diagnostic process, including differential
12 diagnosis, and the use of current diagnostic tools, such as the
13 current edition of the Diagnostic and Statistical Manual, the impact
14 of co-occurring substance use disorders on medical psychological
15 disorders, established diagnostic criteria for mental or emotional
16 disorders, and the treatment modalities and placement criteria
17 within the continuum of care.

18 (H) Research and evaluation, including studies that provide an
19 understanding of research methods, statistical analysis, the use
20 of research to inform evidence-based practice, the importance of
21 research in advancing the profession of counseling, and statistical
22 methods used in conducting research, needs assessment, and
23 program evaluation.

24 (I) Professional orientation, ethics, and law in counseling,
25 including professional ethical standards and legal considerations,
26 licensing law and process, regulatory laws that delineate the
27 profession's scope of practice, counselor-client privilege,
28 confidentiality, the client dangerous to self or others, treatment of
29 minors with or without parental consent, relationship between
30 practitioner's sense of self and human values, functions and
31 relationships with other human service providers, strategies for
32 collaboration, and advocacy processes needed to address
33 institutional and social barriers that impede access, equity, and
34 success for clients.

35 (2) In addition to the course requirements described in
36 paragraph (1), a minimum of 12 semester units or 18 quarter units
37 of advanced coursework to develop knowledge of specific treatment
38 issues, special populations, application of counseling constructs,
39 assessment and treatment planning, clinical interventions,
40 therapeutic relationships, psychopathology, or other clinical topics.

1 (3) Not less than six semester units or nine quarter units of
2 supervised practicum or field study experience, or the equivalent,
3 in a clinical setting that provides a range of professional clinical
4 counseling experience, including the following:

5 (A) Applied psychotherapeutic techniques.

6 (B) Assessment.

7 (C) Diagnosis.

8 (D) Prognosis.

9 (E) Treatment.

10 (F) Issues of development, adjustment, and maladjustment.

11 (G) Health and wellness promotion.

12 (H) Other recognized counseling interventions.

13 (I) A minimum of 150 hours of face-to-face supervised clinical
14 experience counseling individuals, families, or groups.

15 (d) (1) An applicant whose degree is deficient in no more than
16 two of the required areas of study listed in subparagraphs (A) to
17 (I), inclusive, of paragraph (1) of subdivision (c) may satisfy the
18 requirements by successfully completing post-master's or
19 postdoctoral degree coursework at an accredited or approved
20 institution, as defined in Section 4999.12.

21 (2) Coursework taken to meet deficiencies in the required areas
22 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
23 (1) of subdivision (c) shall be the equivalent of three semester units
24 or four and one-half quarter units of study.

25 (3) The board shall make the final determination as to whether
26 a degree meets all requirements, including, but not limited to,
27 course requirements, regardless of accreditation.

28 (e) In addition to the degree described in this section, or as part
29 of that degree, an applicant shall complete the following
30 coursework or training prior to registration as an intern:

31 (1) A minimum of 15 contact hours of instruction in alcoholism
32 and other chemical substance abuse dependency, as specified by
33 regulation.

34 (2) A minimum of 10 contact hours of training or coursework
35 in human sexuality as specified in Section 25, and any regulations
36 promulgated thereunder.

37 (3) A two semester unit or three quarter unit survey course in
38 psychopharmacology.

39 (4) A minimum of 15 contact hours of instruction in spousal or
40 partner abuse assessment, detection, and intervention strategies,

1 including knowledge of community resources, cultural factors,
2 and same gender abuse dynamics.

3 (5) A minimum of seven contact hours of training or coursework
4 in child abuse assessment and reporting as specified in Section 28
5 and any regulations adopted thereunder.

6 (6) A minimum of 18 contact hours of instruction in California
7 law and professional ethics for professional clinical counselors.
8 When coursework in a master's or doctoral degree program is
9 acquired to satisfy this requirement, it shall be considered as part
10 of the 48 semester unit or 72 quarter unit requirement in
11 subdivision (c).

12 (7) A minimum of 10 contact hours of instruction in aging and
13 long-term care, which may include, but is not limited to, the
14 biological, social, and psychological aspects of aging.

15 (8) A minimum of 15 contact hours of instruction in crisis or
16 trauma counseling, including multidisciplinary responses to crises,
17 emergencies, or disasters, and brief, intermediate, and long-term
18 approaches.

19 (f) This section shall remain in effect only until January 1, 2019,
20 and as of that date is repealed, unless a later enacted statute that
21 is enacted before January 1, 2019, deletes or extends that date.

22 4999.33. (a) This section shall apply to the following:

23 (1) Applicants for licensure or registration who begin graduate
24 study before August 1, 2012, and do not complete that study on or
25 before December 31, 2018.

26 (2) Applicants for licensure or registration who begin graduate
27 study before August 1, 2012, and who graduate from a degree
28 program that meets the requirements of this section.

29 (3) Applicants for licensure or registration who begin graduate
30 study on or after August 1, 2012.

31 (b) To qualify for a license or registration, applicants shall
32 possess a master's or doctoral degree that is counseling or
33 psychotherapy in content and that meets the requirements of this
34 section, obtained from an accredited or approved institution, as
35 defined in Section 4999.12. For purposes of this subdivision, a
36 degree is "counseling or psychotherapy in content" if it contains
37 the supervised practicum or field study experience described in
38 paragraph (3) of subdivision (c) and, except as provided in
39 subdivision (f), the coursework in the core content areas listed in

1 subparagraphs (A) to (M), inclusive, of paragraph (1) of
2 subdivision (c).

3 (c) The degree described in subdivision (b) shall contain not
4 less than 60 graduate semester or 90 graduate quarter units of
5 instruction, which shall, except as provided in subdivision (f),
6 include all of the following:

7 (1) The equivalent of at least three semester units or four and
8 one-half quarter units of graduate study in all of the following
9 core content areas:

10 (A) Counseling and psychotherapeutic theories and techniques,
11 including the counseling process in a multicultural society, an
12 orientation to wellness and prevention, counseling theories to
13 assist in selection of appropriate counseling interventions, models
14 of counseling consistent with current professional research and
15 practice, development of a personal model of counseling, and
16 multidisciplinary responses to crises, emergencies, and disasters.

17 (B) Human growth and development across the lifespan,
18 including normal and abnormal behavior and an understanding
19 of developmental crises, disability, psychopathology, and
20 situational and environmental factors that affect both normal and
21 abnormal behavior.

22 (C) Career development theories and techniques, including
23 career development decisionmaking models and interrelationships
24 among and between work, family and other life roles and factors,
25 including the role of multicultural issues in career development.

26 (D) Group counseling theories and techniques, including
27 principles of group dynamics, group process components, group
28 developmental stage theories, therapeutic factors of group work,
29 group leadership styles and approaches, pertinent research and
30 literature, group counseling methods, and evaluation of
31 effectiveness.

32 (E) Assessment, appraisal, and testing of individuals, including
33 basic concepts of standardized and nonstandardized testing and
34 other assessment techniques, norm-referenced and
35 criterion-referenced assessment, statistic concepts, social and
36 cultural factors related to assessment and evaluation of individuals
37 and groups, and ethical strategies for selecting, administering,
38 and interpreting assessment instruments and techniques in
39 counseling.

1 (F) Multicultural counseling theories and techniques, including
2 counselors' roles in developing cultural self-awareness, identity
3 development, promoting cultural social justice, individual and
4 community strategies for working with and advocating for diverse
5 populations, and counselors' roles in eliminating biases and
6 prejudices, and processes of intentional and unintentional
7 oppression and discrimination.

8 (G) Principles of the diagnostic process, including differential
9 diagnosis, and the use of current diagnostic tools, such as the
10 current edition of the Diagnostic and Statistical Manual, the impact
11 of co-occurring substance use disorders on medical psychological
12 disorders, established diagnostic criteria for mental or emotional
13 disorders, and the treatment modalities and placement criteria
14 within the continuum of care.

15 (H) Research and evaluation, including studies that provide an
16 understanding of research methods, statistical analysis, the use
17 of research to inform evidence-based practice, the importance of
18 research in advancing the profession of counseling, and statistical
19 methods used in conducting research, needs assessment, and
20 program evaluation.

21 (I) Professional orientation, ethics, and law in counseling,
22 including professional ethical standards and legal considerations,
23 licensing law and process, regulatory laws that delineate the
24 profession's scope of practice, counselor-client privilege,
25 confidentiality, the client dangerous to self or others, treatment of
26 minors with or without parental consent, relationship between
27 practitioner's sense of self and human values, functions and
28 relationships with other human service providers, strategies for
29 collaboration, and advocacy processes needed to address
30 institutional and social barriers that impede access, equity, and
31 success for clients.

32 (J) Psychopharmacology, including the biological bases of
33 behavior, basic classifications, indications, and contraindications
34 of commonly prescribed psychopharmacological medications so
35 that appropriate referrals can be made for medication evaluations
36 and so that the side effects of those medications can be identified.

37 (K) Addictions counseling, including substance abuse,
38 co-occurring disorders, and addiction, major approaches to
39 identification, evaluation, treatment, and prevention of substance
40 abuse and addiction, legal and medical aspects of substance abuse,

1 *populations at risk, the role of support persons, support systems,*
2 *and community resources.*

3 *(L) Crisis or trauma counseling, including crisis theory;*
4 *multidisciplinary responses to crises, emergencies, or disasters;*
5 *cognitive, affective, behavioral, and neurological effects associated*
6 *with trauma; brief, intermediate and long-term approaches; and*
7 *assessment strategies for clients in crisis and principles of*
8 *intervention for individuals with mental or emotional disorders*
9 *during times of crisis, emergency, or disaster.*

10 *(M) Advanced counseling and psychotherapeutic theories and*
11 *techniques, including the application of counseling constructs,*
12 *assessment and treatment planning, clinical interventions,*
13 *therapeutic relationships, psychopathology, or other clinical topics.*

14 *(2) In addition to the course requirements described in*
15 *paragraph (1), 15 semester units or 22.5 quarter units of advanced*
16 *coursework and experience to develop knowledge of specific*
17 *treatment issues or special populations.*

18 *(3) Not less than six semester units or nine quarter units of*
19 *supervised practicum or field study experience, or the equivalent,*
20 *in a clinical setting that provides a range of professional clinical*
21 *counseling experience, including the following:*

22 *(A) Applied psychotherapeutic techniques.*

23 *(B) Assessment.*

24 *(C) Diagnosis.*

25 *(D) Prognosis.*

26 *(E) Treatment.*

27 *(F) Issues of development, adjustment, and maladjustment.*

28 *(G) Health and wellness promotion.*

29 *(H) Professional writing including documentation of services,*
30 *treatment plans, and progress notes.*

31 *(I) How to find and use resources.*

32 *(J) Other recognized counseling interventions.*

33 *(K) A minimum of 280 hours of face-to-face supervised clinical*
34 *experience counseling individuals, families, or groups.*

35 *(d) The 60 graduate semester units or 90 graduate quarter units*
36 *of instruction required pursuant to subdivision (c) shall, in addition*
37 *to meeting the requirements of subdivision (c), include instruction*
38 *in all of the following:*

1 (1) The understanding of human behavior within the social
2 context of socioeconomic status and other contextual issues
3 affecting social position.

4 (2) The understanding of human behavior within the social
5 context of a representative variety of the cultures found within
6 California.

7 (3) Cultural competency and sensitivity, including a familiarity
8 with the racial, cultural, linguistic, and ethnic backgrounds of
9 persons living in California.

10 (4) An understanding of the effects of socioeconomic status on
11 treatment and available resources.

12 (5) Multicultural development and cross-cultural interaction,
13 including experiences of race, ethnicity, class, spirituality, sexual
14 orientation, gender, and disability and their incorporation into
15 the psychotherapeutic process.

16 (6) Case management, systems of care for the severely mentally
17 ill, public and private services for the severely mentally ill,
18 community resources for victims of abuse, disaster and trauma
19 response, advocacy for the severely mentally ill and collaborative
20 treatment. The instruction required in this paragraph may be
21 provided either in credit level coursework or through extension
22 programs offered by the degree-granting institution.

23 (7) Human sexuality, including the study of the physiological,
24 psychological, and social cultural variables associated with sexual
25 behavior, gender identity, and the assessment and treatment of
26 psychosexual dysfunction.

27 (8) Spousal or partner abuse assessment, detection, intervention
28 strategies, and same-gender abuse dynamics.

29 (9) Child abuse assessment and reporting.

30 (10) Aging and long-term care, including biological, social,
31 cognitive, and psychological aspects of aging.

32 (e) A degree program that qualifies for licensure under this
33 section shall do all of the following:

34 (1) Integrate the principles of mental health recovery-oriented
35 care and methods of service delivery in recovery-oriented practice
36 environments.

37 (2) Integrate an understanding of various cultures and the social
38 and psychological implications of socioeconomic position.

39 (3) Provide the opportunity for students to meet with various
40 consumers and family members of consumers of mental health

1 services to enhance understanding of their experience of mental
2 illness, treatment, and recovery.

3 (f) (1) An applicant whose degree is deficient in no more than
4 three of the required areas of study listed in subparagraphs (A)
5 to (M), inclusive, of paragraph (1) of subdivision (c) may satisfy
6 the requirements by successfully completing post-master's or
7 postdoctoral degree coursework at an accredited or approved
8 institution, as defined in Section 4999.12.

9 (2) Coursework taken to meet deficiencies in the required areas
10 of study listed in subparagraphs (A) to (M), inclusive, of paragraph
11 (1) of subdivision (c) shall be the equivalent of three semester units
12 or four and one-half quarter units of study.

13 (3) The board shall make the final determination as to whether
14 a degree meets all requirements, including, but not limited to,
15 course requirements, regardless of accreditation.

16 4999.34. A clinical counselor trainee may be credited with
17 predegree supervised practicum and field study experience
18 completed in a setting that meets all of the following requirements:

19 (a) Lawfully and regularly provides mental health counseling
20 and psychotherapy.

21 (b) Provides oversight to ensure that the clinical counselor
22 trainee's work at the setting meets the practicum and field study
23 experience and requirements set forth in this chapter and is within
24 the scope of practice for licensed professional clinical counselors.

25 (c) Is not a private practice.

26 (d) Experience may be gained by the clinical counselor trainee
27 solely as part of the position for which the clinical counselor
28 trainee volunteers or is employed.

29 4999.36. (a) A clinical counselor trainee may perform
30 activities and services provided that the activities and services
31 constitute part of the clinical counselor trainee's supervised course
32 of study and that the person is designated by the title "clinical
33 counselor trainee."

34 (b) All practicum and field study hours gained as a clinical
35 counselor trainee shall be coordinated between the school and the
36 site where hours are being accrued. The school shall approve each
37 site and shall have a written agreement with each site that details
38 each party's responsibilities, including the methods by which
39 supervision shall be provided. The agreement shall provide for

1 regular progress reports and evaluations of the student's
2 performance at the site.

3 (c) If an applicant has gained practicum and field study hours
4 while enrolled in an institution other than the one that confers the
5 qualifying degree, it shall be the applicant's responsibility to
6 provide to the board satisfactory evidence that those practicum
7 and field study hours were gained in compliance with this section.

8 (d) A clinical counselor trainee shall inform each client or
9 patient, prior to performing any professional services, that he or
10 she is unlicensed and under supervision.

11 (e) No hours earned while a clinical counselor trainee may
12 count toward the 3,000 hours of postdegree internship hours.

13 (f) A clinical counselor trainee shall receive an average of at
14 least one hour of direct supervisor contact for every five hours of
15 client contact in each setting. For purposes of this subdivision,
16 "one hour of direct supervisor contact" means one hour of
17 face-to-face contact on an individual basis or two hours of
18 face-to-face contact in a group of not more than eight persons in
19 segments lasting no less than one continuous hour.

20 4999.40. (a) Each educational institution preparing applicants
21 to qualify for licensure shall notify each of its students by means
22 of its public documents or otherwise in writing that its degree
23 program is designed to meet the requirements of Section 4999.32
24 or 4999.33 and shall certify to the board that it has so notified its
25 students.

26 (b) An applicant trained at an educational institution outside
27 the United States shall demonstrate to the satisfaction of the board
28 that he or she possesses a qualifying degree that is equivalent to
29 a degree earned from an institution of higher education that is
30 accredited or approved. These applicants shall provide the board
31 with a comprehensive evaluation of the degree performed by a
32 foreign credential evaluation service that is a member of the
33 National Association of Credential Evaluation Services and shall
34 provide any other documentation the board deems necessary.

35 4999.42. (a) To qualify for registration as an intern, an
36 applicant shall have all of the following qualifications:

37 (1) The applicant shall have earned a master's or doctoral
38 degree as specified in Section 4999.32 or 4999.33, as applicable.
39 An applicant whose education qualifies him or her under Section

1 4999.32 shall also have completed the coursework or training
2 specified in subdivision (e) of Section 4999.32.

3 (2) The applicant shall not have committed acts or crimes
4 constituting grounds for denial of licensure under Section 480.

5 (3) The board shall not issue a registration to any person who
6 has been convicted of a crime in this or another state or in a
7 territory of the United States that involves sexual abuse of children
8 or who is required to register pursuant to Section 290 of the Penal
9 Code or the equivalent in another state or territory.

10 (b) The board shall begin accepting applications for intern
11 registration on January 1, 2011.

12 4999.44. An intern may be credited with supervised experience
13 completed in any setting that meets all of the following
14 requirements:

15 (a) Lawfully and regularly provides mental health counseling
16 or psychotherapy.

17 (b) Provides oversight to ensure that the intern's work at the
18 setting meets the experience and supervision requirements set forth
19 in this chapter and is within the scope of practice for the profession
20 as specified in Article 2 (commencing with Section 4999.20).

21 (c) Experience may be gained by the intern solely as part of the
22 position for which the intern volunteers or is employed.

23 (d) An intern shall not be employed or volunteer in a private
24 practice until registered as an intern.

25 4999.45. An intern employed under this chapter shall:

26 (a) Not perform any duties, except for those services provided
27 as a clinical counselor trainee, until registered as an intern.

28 (b) Not be employed or volunteer in a private practice until
29 registered as an intern.

30 (c) Inform each client prior to performing any professional
31 services that he or she is unlicensed and under supervision.

32 (d) File for renewal annually for a maximum of five years after
33 initial registration with the board.

34 (e) Cease continued employment as an intern after six years
35 unless the requirements of subdivision (f) are met.

36 (f) When no further renewals are possible, an applicant may
37 apply for and obtain a new intern registration if the applicant
38 meets the educational requirements for registration in effect at the
39 time of the application for a new intern registration. An applicant
40 issued a subsequent intern registration pursuant to this subdivision

1 may be employed or volunteer in any allowable work setting except
2 private practice.

3 4999.46. (a) Each applicant for licensure shall complete
4 clinical mental health experience under the general supervision
5 of an approved supervisor as defined in Section 4999.12.

6 (b) The experience shall include the following:

7 (1) A minimum of 3,000 postdegree hours of supervised clinical
8 mental health experience related to the practice of professional
9 clinical counseling, performed over a period of not less than two
10 years (104 weeks) which shall include:

11 (A) Not more than 40 hours in any seven consecutive days.

12 (B) Not less than 1,750 hours of direct counseling with
13 individuals or groups in a clinical mental health counseling setting
14 using a variety of psychotherapeutic techniques and recognized
15 counseling interventions within the scope of practice of licensed
16 professional clinical counselors.

17 (C) Not less than 150 hours of clinical experience in a hospital
18 or community mental health setting.

19 (D) Not more than 1,000 hours of direct supervisor contact and
20 professional enrichment activities.

21 (E) Not more than 500 hours of experience providing group
22 therapy or group counseling.

23 (F) Not more than 250 hours of experience administering and
24 evaluating psychological tests of counselees, writing clinical
25 reports, writing progress notes, or writing process notes.

26 (G) Not more than 250 hours of experience providing counseling
27 or crisis counseling on the telephone.

28 (H) No hours of clinical mental health experience may be gained
29 more than six years prior to the date the application for licensure
30 was filed.

31 (c) An applicant shall register with the board as an intern in
32 order to be credited for postdegree hours of experience toward
33 licensure. Postdegree hours of experience shall be credited toward
34 licensure, provided that the applicant applies for intern registration
35 within 90 days of the granting of the qualifying degree and is
36 registered as an intern by the board.

37 (d) All applicants and interns shall be at all times under the
38 supervision of a supervisor who shall be responsible for ensuring
39 that the extent, kind, and quality of counseling performed is
40 consistent with the training and experience of the person being

1 supervised, and who shall be responsible to the board for
2 compliance with all laws, rules, and regulations governing the
3 practice of professional clinical counseling. At no time shall a
4 supervisor supervise more than two interns.

5 (e) Supervision shall include at least one hour of direct
6 supervisor contact in each week for which experience is credited
7 in each work setting.

8 (1) No more than five hours of supervision, whether individual
9 or group, shall be credited during any single week.

10 (2) An intern shall receive an average of at least one hour of
11 direct supervisor contact for every 10 hours of client contact in
12 each setting.

13 (3) For purposes of this section, “one hour of direct supervisor
14 contact” means one hour of face-to-face contact on an individual
15 basis or two hours of face-to-face contact in a group of not more
16 than eight persons in segments lasting no less than one continuous
17 hour.

18 (4) An intern working in a governmental entity, a school, a
19 college, or a university, or an institution that is both nonprofit and
20 charitable, may obtain up to 30 hours of the required weekly direct
21 supervisor contact via two-way, real-time videoconferencing. The
22 supervisor shall be responsible for ensuring that client
23 confidentiality is upheld.

24 4999.47. (a) Clinical counselor trainees, interns, and
25 applicants shall perform services as an employee or as a volunteer,
26 not as an independent contractor.

27 The requirements of this chapter regarding gaining hours of
28 clinical mental health experience and supervision are applicable
29 equally to employees and volunteers.

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

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

35 (d) Clinical counselor trainees, interns, and applicants who
36 provide voluntary services or other services, and who receive no
37 more than a total, from all work settings, of five hundred dollars
38 (\$500) per month as reimbursement for expenses actually incurred
39 by those clinical counselor trainees, interns, and applicants for
40 services rendered in any lawful work setting other than a private

1 *practice shall be considered an employee and not an independent*
2 *contractor.*

3 *(e) The board may audit an intern or applicant who receives*
4 *reimbursement for expenses and the intern or applicant shall have*
5 *the burden of demonstrating that the payments received were for*
6 *reimbursement of expenses actually incurred.*

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

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

27 *4999.48. The board shall adopt regulations regarding the*
28 *supervision of interns which may include, but not be limited to,*
29 *the following:*

30 *(a) Supervisor qualifications.*

31 *(b) Continuing education requirements of supervisors.*

32 *(c) Registration or licensing of supervisors, or both.*

33 *(d) General responsibilities of supervisors.*

34 *(e) The board's authority in cases of noncompliance or gross*
35 *or repeated negligence by supervisors.*

36 *4999.50. (a) The board may issue a professional clinical*
37 *counselor license to any person who meets all of the following*
38 *requirements:*

39 *(1) He or she has received a master's or doctoral degree*
40 *described in Section 4999.32 or 4999.33, as applicable.*

1 (2) He or she has completed 3,000 hours of supervised
2 experience in the practice of professional clinical counseling as
3 provided in Section 4999.46.

4 (3) He or she provides evidence of a passing score, as
5 determined by the board, on examinations designated by the board
6 pursuant to Section 4999.52.

7 (b) An applicant who has satisfied the requirements of this
8 chapter shall be issued a license as a professional clinical
9 counselor in the form that the board may deem appropriate.

10 (c) The board shall begin accepting applications for licensure
11 on January 1, 2012.

12 4999.51. Every applicant for a license as a professional clinical
13 counselor shall meet the board's regulatory requirements for
14 professional clinical counselor licensure, including the following:

15 (a) The applicant has not committed acts or crimes constituting
16 grounds for denial of licensure under Section 480.

17 (b) The board shall not issue a license to any person who has
18 been convicted of a crime in this or another state or in a territory
19 of the United States that involves sexual abuse of children or who
20 is required to register pursuant to Section 290 of the Penal Code
21 or the equivalent in another state or territory.

22 (c) The applicant has successfully passed a state and federal
23 level criminal offender record information search conducted
24 through the Department of Justice, as follows:

25 (1) The board shall direct applicants to electronically submit
26 to the Department of Justice fingerprint images and related
27 information required by the Department of Justice for the purpose
28 of obtaining information as to the existence and content of a record
29 of state and federal level convictions and arrests and information
30 as to the existence and content of a record of state or federal level
31 arrests for which the Department of Justice establishes that the
32 person is free on bail or on his or her own recognizance pending
33 trial or appeal.

34 (2) The Department of Justice shall forward the fingerprint
35 images and related information received pursuant to paragraph
36 (1) to the Federal Bureau of Investigation and request a federal
37 summary for criminal history information.

38 (3) The Department of Justice shall review the information
39 returned from the Federal Bureau of Investigation and compile

1 and disseminate a response to the board pursuant to paragraph
2 (1) of subdivision (p) of Section 11105 of the Penal Code.

3 (4) The board shall request from the Department of Justice
4 subsequent arrest notification service, pursuant to Section 11105.2
5 of the Penal Code, for each person who submitted information
6 pursuant to paragraph (1).

7 (5) The Department of Justice shall charge a fee sufficient to
8 cover the cost of processing the request described in this section.

9 4999.52. (a) Except as provided in Sections 4999.54 and
10 4999.56, every applicant for a license as a professional clinical
11 counselor shall be examined by the board. The board shall examine
12 the candidate with regard to his or her knowledge and professional
13 skills and his or her judgment in the utilization of appropriate
14 techniques and methods.

15 (b) The examinations shall be given at least twice a year at a
16 time and place and under supervision as the board may determine.

17 (c) (1) It is the intent of the Legislature that national licensing
18 examinations, such as the National Counselor Examination for
19 Licensure and Certification (NCE) and the National Clinical
20 Mental Health Counselor Examination (NCMHCE), be evaluated
21 by the board as requirements for licensure as a professional
22 clinical counselor.

23 (2) The board shall evaluate various national examinations in
24 order to determine whether they meet the prevailing standards for
25 the validation and use of licensing and certification tests in
26 California.

27 (3) The Department of Consumer Affairs' Office of Professional
28 Examination Services shall review the occupational analysis that
29 was used for developing the national examinations in order to
30 determine if it adequately describes the licensing group and
31 adequately determines the tasks, knowledge, skills, and abilities
32 the licensed professional clinical counselor would need to perform
33 the functions under this chapter.

34 (4) Examinations shall measure knowledge and abilities
35 demonstrably important to the safe, effective practice of the
36 profession.

37 (5) If national examinations do not meet the standards specified
38 in paragraph (2), the board may require a passing score on either
39 of the following:

1 (A) The national examinations plus a board-developed
2 examination.

3 (B) A board-developed examination.

4 (6) The licensing examinations shall also incorporate a
5 California jurisprudence and ethics examination element that is
6 acceptable to the board, or, as an alternative, the board may
7 develop a separate California jurisprudence and ethics
8 examination.

9 (d) The board shall not deny any applicant who has submitted
10 a complete application for examination admission to the licensure
11 examinations required by this section if the applicant meets the
12 educational and experience requirements of this chapter, and has
13 not committed any acts or engaged in any conduct that would
14 constitute grounds to deny licensure.

15 (e) The board shall not deny any applicant whose application
16 for licensure is complete admission to the examinations, nor shall
17 the board postpone or delay any applicant's examinations or delay
18 informing the candidate of the results of the examinations, solely
19 upon the receipt by the board of a complaint alleging acts or
20 conduct that would constitute grounds to deny licensure.

21 (f) If an applicant for examination is the subject of a complaint
22 or is under board investigation for acts or conduct that, if proven
23 to be true, would constitute grounds for the board to deny
24 licensure, the board shall permit the applicant to take the
25 examinations, but may notify the applicant that licensure will not
26 be granted pending completion of the investigation.

27 (g) Notwithstanding Section 135, the board may deny any
28 applicant who has previously failed an examination permission
29 to retake that examination pending completion of the investigation
30 of any complaints against the applicant.

31 (h) Nothing in this section shall prohibit the board from denying
32 an applicant admission to any examination, withholding the results,
33 or refusing to issue a license to any applicant when an accusation
34 or statement of issues has been filed against the applicant pursuant
35 to Section 11503 or 11504 of the Government Code, respectively,
36 or the application has been denied in accordance with subdivision
37 (b) of Section 485.

38 (i) Notwithstanding any other provision of law, the board may
39 destroy all examination materials two years following the date of
40 an examination.

1 4999.54. (a) Notwithstanding Section 4999.50, the board may
2 issue a license to any person who submits an application for a
3 license between January 1, 2011, and June 30, 2011, provided
4 that all documentation is submitted within 12 months of the board's
5 evaluation of the application, and provided he or she meets one
6 of the following sets of criteria:

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

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

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

24 (ii) Degrees issued prior to 1996 shall include a minimum of
25 30 semester units or 45 quarter units and at least six of the nine
26 required core content areas specified in paragraph (1) of
27 subdivision (c) of Section 4999.32. The total number of units shall
28 be no less than 48 semester units or 72 quarter units.

29 (iii) Degrees issued in 1996 and after shall include a minimum
30 of 48 semester units or 72 quarter units and at least seven of the
31 nine core areas specified in paragraph (1) of subdivision (c) of
32 Section 4999.32.

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

35 (C) Has at least two years, full-time or the equivalent, of
36 postdegree counseling experience, that includes at least 1,700
37 hours of experience in a clinical setting supervised by a licensed
38 marriage and family therapist, a licensed clinical social worker,
39 a licensed psychologist, a licensed physician and surgeon
40 specializing in psychiatry, or a master's level counselor or

1 therapist who is certified by a national certifying or registering
2 organization, including, but not limited to, the National Board for
3 Certified Counselors or the Commission on Rehabilitation
4 Counselor Certification.

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

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

9 (ii) The National Clinical Mental Health Counselor
10 Examination.

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

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

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

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

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

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

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

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

36 4999.56. (a) A license issued under paragraph (1) of
37 subdivision (a) of Section 4999.54 shall be valid for six years from
38 the issuance date of the initial license provided that the license is
39 annually renewed during that period pursuant to Section 4999.101.

1 After this six-year period, it shall be canceled unless the licensee
2 does both of the following within the next renewal period:

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

4 (2) Passes the examinations required for licensure on or after
5 January 1, 2012, as required by the board pursuant to Section
6 4999.52, or documents that he or she has already passed those
7 examinations.

8 (b) Upon failure to meet the requirements set forth in this
9 section, a license issued pursuant to paragraph (1) of subdivision
10 (a) of Section 4999.54 shall be canceled and the person shall be
11 required to meet the requirements listed in Section 4999.50 to
12 obtain a new license.

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

16 4999.58. (a) This section applies to persons who apply for
17 licensure between January 1, 2012, and December 31, 2013,
18 inclusive.

19 (b) The board may issue a license to a person who, at the time
20 of application, has held for at least two years, a valid license as
21 a professional clinical counselor, or other counseling license that
22 allows the applicant to independently provide clinical mental
23 health services, in another jurisdiction of the United States, if the
24 education and supervised experience requirements are substantially
25 the equivalent of this chapter, as described in subdivision (e) and
26 in Section 4999.46, the person complies with subdivision (b) of
27 Section 4999.40, if applicable, the person successfully completes
28 the examinations required by the board pursuant to paragraph (3)
29 of subdivision (a) of Section 4999.50, and the person pays the
30 required fees.

31 (c) Experience gained outside of California shall be accepted
32 toward the licensure requirements if it is substantially equivalent
33 to that required by this chapter and if the applicant has gained a
34 minimum of 250 hours of supervised clinical experience in direct
35 counseling within California while registered as an intern with
36 the board. The board shall consider hours of experience obtained
37 in another state during the six-year period immediately preceding
38 the applicant's initial licensure by that state as a licensed
39 professional clinical counselor.

1 (d) Education gained while residing outside of California shall
2 be accepted toward the licensure requirements if it is substantially
3 equivalent to the education requirements of this chapter, if the
4 applicant has completed the training or coursework required under
5 subdivision (e) of Section 4999.32, and if the applicant completes,
6 in addition to the course described in subparagraph (I) of
7 paragraph (1) of subdivision (c) of Section 4999.32, an 18-hour
8 course in California law and professional ethics that includes, but
9 is not limited to, instruction in advertising, scope of practice, scope
10 of competence, treatment of minors, confidentiality, dangerous
11 clients, psychotherapist-client privilege, recordkeeping, client
12 access to records, the Health Insurance Portability and
13 Accountability Act, dual relationships, child abuse, elder and
14 dependent adult abuse, online therapy, insurance reimbursement,
15 civil liability, disciplinary actions and unprofessional conduct,
16 ethics complaints and ethical standards, termination of therapy,
17 standards of care, relevant family law, and therapist disclosures
18 to clients.

19 (e) For purposes of this section, the board may, in its discretion,
20 accept education as substantially equivalent if the applicant's
21 education meets the requirements of Section 4999.32. If the
22 applicant's degree does not contain the content or the overall units
23 required by Section 4999.32, the board may, in its discretion,
24 accept the applicant's education as substantially equivalent if the
25 following criteria are satisfied:

26 (1) The applicant's degree contains the required number of
27 practicum units under paragraph (3) of subdivision (c) of Section
28 4999.32.

29 (2) The applicant remediates his or her specific deficiency by
30 completing the course content and units required by Section
31 4999.32.

32 (3) The applicant's degree otherwise complies with this section.

33 (f) This section shall become inoperative on January 1, 2014,
34 and as of that date is repealed, unless a later enacted statute, which
35 is enacted before January 1, 2014, deletes or extends that date.

36 4999.60. (a) This section applies to persons who are licensed
37 outside of California and apply for licensure on or after January
38 1, 2014.

39 (b) The board may issue a license to a person who, at the time
40 of submitting an application for a license pursuant to this chapter,

1 holds a valid license as a professional clinical counselor, or other
2 counseling license that allows the applicant to independently
3 provide clinical mental health services, in another jurisdiction of
4 the United States if all of the following conditions are satisfied:

5 (1) The applicant's education is substantially equivalent, as
6 defined in Section 4999.62.

7 (2) The applicant complies with subdivision (b) of Section
8 4999.40, if applicable.

9 (3) The applicant's supervised experience is substantially
10 equivalent to that required for a license under this chapter. The
11 board shall consider hours of experience obtained outside of
12 California during the six-year period immediately preceding the
13 date the applicant initially obtained the license described above.

14 (4) The applicant passes the examinations required to obtain a
15 license under this chapter.

16 4999.61. (a) This section applies to persons who apply for
17 licensure or registration on or after January 1, 2014, and who do
18 not hold a license as described in Section 4999.60.

19 (b) The board shall accept education gained while residing
20 outside of California for purposes of satisfying licensure or
21 registration requirements if the education is substantially
22 equivalent, as defined in Section 4999.62, and the applicant
23 complies with subdivision (b) of Section 4999.40, if applicable.

24 (c) The board shall accept experience gained outside of
25 California for purposes of satisfying licensure or registration
26 requirements if the experience is substantially equivalent to that
27 required by this chapter.

28 4999.62. (a) This section applies to persons who apply for
29 licensure or registration on or after January 1, 2014.

30 (b) For purposes of Sections 4999.60 and 4999.61, education
31 is substantially equivalent if all of the following requirements are
32 met:

33 (1) The degree is obtained from an accredited or approved
34 institution, as defined in Section 4999.12, and consists of, at a
35 minimum, 48 semester or 72 quarter units, including, but not
36 limited to, both of the following:

37 (A) Six semester or nine quarter units of practicum, including,
38 but not limited to, a minimum of 280 hours of face-to-face
39 counseling.

1 (B) The required areas of study listed in subparagraphs (A) to
2 (M), inclusive, of paragraph (1) of subdivision (c) of Section
3 4999.33.

4 (2) The applicant completes any units and course content
5 requirements under Section 4999.33 not already completed in his
6 or her education.

7 (3) The applicant completes credit level coursework from a
8 degree-granting institution that provides all of the following:

9 (A) Instruction regarding the principles of mental health
10 recovery-oriented care and methods of service delivery in recovery
11 model practice environments.

12 (B) An understanding of various California cultures and the
13 social and psychological implications of socioeconomic position.

14 (C) Structured meeting with various consumers and family
15 members of consumers of mental health services to enhance
16 understanding of their experience of mental illness, treatment, and
17 recovery.

18 (D) Instruction in behavioral addiction and co-occurring
19 substance abuse and mental health disorders, as specified in
20 subparagraph (K) of paragraph (1) of subdivision (c) of Section
21 4999.33.

22 (4) The applicant completes, in addition to the course described
23 in subparagraph (I) of paragraph (1) of subdivision (c) of Section
24 4999.33, an 18-hour course in California law and professional
25 ethics that includes, but is not limited to, instruction in advertising,
26 scope of practice, scope of competence, treatment of minors,
27 confidentiality, dangerous clients, psychotherapist-client privilege,
28 recordkeeping, client access to records, the Health Insurance
29 Portability and Accountability Act, dual relationships, child abuse,
30 elder and dependent adult abuse, online therapy, insurance
31 reimbursement, civil liability, disciplinary actions and
32 unprofessional conduct, ethics complaints and ethical standards,
33 termination of therapy, standards of care, relevant family law, and
34 therapist disclosures to clients.

35
36 Article 4. Practice Requirements
37

38 4999.70. A licensee shall display his or her license in a
39 conspicuous place in his or her primary place of practice.

1 4999.72. Any licensed professional clinical counselor who
2 conducts a private practice under a fictitious business name shall
3 not use any name that is false, misleading, or deceptive, and shall
4 inform the patient, prior to the commencement of treatment, the
5 name and license designation of the owner or owners of the
6 practice.

7 4999.74. Licensed professional clinical counselors shall
8 provide to each client accurate information about the counseling
9 relationship and the counseling process.

10 4999.76. (a) (1) Except as provided in paragraph (2) and
11 subdivision (c), the board shall not renew any license pursuant to
12 this chapter unless the applicant certifies to the board, on a form
13 prescribed by the board, that he or she has completed not less than
14 36 hours of approved continuing education in or relevant to the
15 field of professional clinical counseling in the preceding two years,
16 as determined by the board.

17 (2) Except as provided in subdivision (c), the board shall not
18 renew a license issued pursuant to paragraph (1) of subdivision
19 (a) of Section 4999.54 unless the applicant certifies to the board,
20 on a form prescribed by the board, that he or she has completed
21 not less than 18 hours of approved continuing education in or
22 relevant to the field of professional clinical counseling in the
23 preceding year, as determined by the board. This paragraph shall
24 become inoperative on January 1, 2018.

25 (b) The board shall have the right to audit the records of any
26 applicant to verify the completion of the continuing education
27 requirement. Applicants shall maintain records of completed
28 continuing education coursework for a minimum of two years and
29 shall make these records available to the board for auditing
30 purposes upon request.

31 (c) The board may establish exceptions from the continuing
32 education requirement of this section for good cause, as defined
33 by the board.

34 (d) The continuing education shall be obtained from one of the
35 following sources:

36 (1) A school, college, or university that is accredited or
37 approved, as defined in Section 4999.12. Nothing in this paragraph
38 shall be construed as requiring coursework to be offered as part
39 of a regular degree program.

1 (2) Other continuing education providers, including, but not
2 limited to, a professional clinical counseling association, a licensed
3 health facility, a governmental entity, a continuing education unit
4 of a four-year institution of higher learning that is accredited or
5 approved, or a mental health professional association, approved
6 by the board.

7 (e) The board shall establish, by regulation, a procedure for
8 approving providers of continuing education courses, and all
9 providers of continuing education, as described in paragraphs (1)
10 and (2) of subdivision (d), shall adhere to procedures established
11 by the board. The board may revoke or deny the right of a provider
12 to offer continuing education coursework pursuant to this section
13 for failure to comply with the requirements of this section or any
14 regulation adopted pursuant to this section.

15 (f) Training, education, and coursework by approved providers
16 shall incorporate one or more of the following:

17 (1) Aspects of the discipline that are fundamental to the
18 understanding or the practice of professional clinical counseling.

19 (2) Significant recent developments in the discipline of
20 professional clinical counseling.

21 (3) Aspects of other disciplines that enhance the understanding
22 or the practice of professional clinical counseling.

23 (g) A system of continuing education for licensed professional
24 clinical counselors shall include courses directly related to the
25 diagnosis, assessment, and treatment of the client population being
26 served.

27 (h) The board shall, by regulation, fund the administration of
28 this section through continuing education provider fees to be
29 deposited in the Behavioral Sciences Fund. The fees related to the
30 administration of this section shall be sufficient to meet, but shall
31 not exceed, the costs of administering the corresponding provisions
32 of this section. For the purposes of this subdivision, a provider of
33 continuing education as described in paragraph (1) of subdivision
34 (d) shall be deemed to be an approved provider.

35 (i) The continuing education requirements of this section shall
36 fully comply with the guidelines for mandatory continuing
37 education established by the Department of Consumer Affairs
38 pursuant to Section 166.

Article 5. Enforcement

4999.80. In order to carry out the provisions of this chapter, the board shall do all of the following:

(a) Enforce laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(b) Investigate complaints concerning the conduct of any licensed professional clinical counselor.

(c) Revoke, suspend, or fail to renew a license that it has authority to issue for just cause, as enumerated in rules and regulations of the board. The board may deny, suspend, or revoke any license granted under this chapter pursuant to Section 480, 481, 484, 496, 498, or 499.

4999.82. It shall be unlawful for any person to engage in any of the following acts:

(a) Engage in the practice of professional clinical counseling, as defined in Section 4999.20, without first having complied with the provisions of this chapter and without holding a valid license as required by this chapter.

(b) Represent himself or herself by the title “licensed professional clinical counselor,” “LPCC,” “licensed clinical counselor,” or “professional clinical counselor” without being duly licensed according to the provisions of this chapter.

(c) Make any use of any title, words, letters, or abbreviations, that may reasonably be confused with a designation provided by this chapter to denote a standard of professional or occupational competence without being duly licensed.

(d) Materially refuse to furnish the board information or records required or requested pursuant to this chapter.

4999.84. It is the intent of the Legislature that any communication made by a person to a licensed professional clinical counselor in the course of professional services shall be deemed a privileged communication.

4999.86. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that fine and imprisonment.

4999.88. In addition to other proceedings provided in this chapter, whenever any person has engaged, or is about to engage,

1 in any acts or practices that constitute, or will constitute, an offense
2 against this chapter, the superior court in and for the county
3 wherein the acts or practices take place, or are about to take place,
4 may issue an injunction, or other appropriate order, restraining
5 such conduct on application of the board, the Attorney General,
6 or the district attorney of the county.

7 The proceedings under this section shall be governed by Chapter
8 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
9 of Civil Procedure.

10 4999.90. The board may refuse to issue any registration or
11 license, or may suspend or revoke the registration or license of
12 any intern or licensed professional clinical counselor, if the
13 applicant, licensee, or registrant has been guilty of unprofessional
14 conduct. Unprofessional conduct includes, but is not limited to,
15 the following:

16 (a) The conviction of a crime substantially related to the
17 qualifications, functions, or duties of a licensee or registrant under
18 this chapter. The record of conviction shall be conclusive evidence
19 only of the fact that the conviction occurred. The board may inquire
20 into the circumstances surrounding the commission of the crime
21 in order to fix the degree of discipline or to determine if the
22 conviction is substantially related to the qualifications, functions,
23 or duties of a licensee or registrant under this chapter. A plea or
24 verdict of guilty or a conviction following a plea of nolo contendere
25 made to a charge substantially related to the qualifications,
26 functions, or duties of a licensee or registrant under this chapter
27 shall be deemed to be a conviction within the meaning of this
28 section. The board may order any license or registration suspended
29 or revoked, or may decline to issue a license or registration when
30 the time for appeal has elapsed, or the judgment of conviction has
31 been affirmed on appeal, or, when an order granting probation is
32 made suspending the imposition of sentence, irrespective of a
33 subsequent order under Section 1203.4 of the Penal Code allowing
34 the person to withdraw a plea of guilty and enter a plea of not
35 guilty, or setting aside the verdict of guilty, or dismissing the
36 accusation, information, or indictment.

37 (b) Securing a license or registration by fraud, deceit, or
38 misrepresentation on any application for licensure or registration
39 submitted to the board, whether engaged in by an applicant for a

1 license or registration, or by a licensee in support of any
2 application for licensure or registration.

3 (c) Administering to himself or herself any controlled substance
4 or using any of the dangerous drugs specified in Section 4022, or
5 any alcoholic beverage to the extent, or in a manner, as to be
6 dangerous or injurious to the person applying for a registration
7 or license or holding a registration or license under this chapter,
8 or to any other person, or to the public, or, to the extent that the
9 use impairs the ability of the person applying for or holding a
10 registration or license to conduct with safety to the public the
11 practice authorized by the registration or license, or the conviction
12 of more than one misdemeanor or any felony involving the use,
13 consumption, or self-administration of any of the substances
14 referred to in this subdivision, or any combination thereof. The
15 board shall deny an application for a registration or license or
16 revoke the license or registration of any person, other than one
17 who is licensed as a physician and surgeon, who uses or offers to
18 use drugs in the course of performing licensed professional clinical
19 counseling services.

20 (d) Gross negligence or incompetence in the performance of
21 licensed professional clinical counseling services.

22 (e) Violating, attempting to violate, or conspiring to violate any
23 of the provisions of this chapter or any regulation adopted by the
24 board.

25 (f) Misrepresentation as to the type or status of a license or
26 registration held by the person, or otherwise misrepresenting or
27 permitting misrepresentation of his or her education, professional
28 qualifications, or professional affiliations to any person or entity.

29 (g) Impersonation of another by any licensee, registrant, or
30 applicant for a license or registration, or, in the case of a licensee
31 or registrant, allowing any other person to use his or her license
32 or registration.

33 (h) Aiding or abetting, or employing, directly or indirectly, any
34 unlicensed or unregistered person to engage in conduct for which
35 a license or registration is required under this chapter.

36 (i) Intentionally or recklessly causing physical or emotional
37 harm to any client.

38 (j) The commission of any dishonest, corrupt, or fraudulent act
39 substantially related to the qualifications, functions, or duties of
40 a licensee or registrant.

1 (k) Engaging in sexual relations with a client, or a former client
2 within two years following termination of therapy, soliciting sexual
3 relations with a client, or committing an act of sexual abuse, or
4 sexual misconduct with a client, or committing an act punishable
5 as a sexually related crime, if that act or solicitation is substantially
6 related to the qualifications, functions, or duties of a licensed
7 professional clinical counselor.

8 (l) Performing, or holding oneself out as being able to perform,
9 or offering to perform, or permitting any clinical counselor trainee
10 or intern under supervision to perform, any professional services
11 beyond the scope of the license authorized by this chapter.

12 (m) Failure to maintain confidentiality, except as otherwise
13 required or permitted by law, of all information that has been
14 received from a client in confidence during the course of treatment
15 and all information about the client which is obtained from tests
16 or other means.

17 (n) Prior to the commencement of treatment, failing to disclose
18 to the client or prospective client the fee to be charged for the
19 professional services, or the basis upon which that fee will be
20 computed.

21 (o) Paying, accepting, or soliciting any consideration,
22 compensation, or remuneration, whether monetary or otherwise,
23 for the referral of professional clients. All consideration,
24 compensation, or remuneration shall be in relation to professional
25 clinical counseling services actually provided by the licensee.
26 Nothing in this subdivision shall prevent collaboration among two
27 or more licensees in a case or cases. However, no fee shall be
28 charged for that collaboration, except when disclosure of the fee
29 has been made in compliance with subdivision (n).

30 (p) Advertising in a manner that is false, misleading, or
31 deceptive.

32 (q) Reproduction or description in public, or in any publication
33 subject to general public distribution, of any psychological test or
34 other assessment device, the value of which depends in whole or
35 in part on the naivete of the subject, in ways that might invalidate
36 the test or device.

37 (r) Any conduct in the supervision of any intern or clinical
38 counselor trainee by any licensee that violates this chapter or any
39 rules or regulations adopted by the board.

1 (s) *Performing or holding oneself out as being able to perform*
2 *professional services beyond the scope of one's competence, as*
3 *established by one's education, training, or experience. This*
4 *subdivision shall not be construed to expand the scope of the*
5 *license authorized by this chapter.*

6 (t) *Permitting a clinical counselor trainee or intern under one's*
7 *supervision or control to perform, or permitting the clinical*
8 *counselor trainee or intern to hold himself or herself out as*
9 *competent to perform, professional services beyond the clinical*
10 *counselor trainee's or intern's level of education, training, or*
11 *experience.*

12 (u) *The violation of any statute or regulation of the standards*
13 *of the profession, and the nature of the services being rendered,*
14 *governing the gaining and supervision of experience required by*
15 *this chapter.*

16 (v) *Failure to keep records consistent with sound clinical*
17 *judgment, the standards of the profession, and the nature of the*
18 *services being rendered.*

19 (w) *Failure to comply with the child abuse reporting*
20 *requirements of Section 11166 of the Penal Code.*

21 (x) *Failing to comply with the elder and dependent adult abuse*
22 *reporting requirements of Section 15630 of the Welfare and*
23 *Institutions Code.*

24 (y) *Repeated acts of negligence.*

25 (z) (1) *Engaging in an act described in Section 261, 286, 288a,*
26 *or 289 of the Penal Code with a minor or an act described in*
27 *Section 288 or 288.5 of the Penal Code regardless of whether the*
28 *act occurred prior to or after the time the registration or license*
29 *was issued by the board. An act described in this subdivision*
30 *occurring prior to the effective date of this subdivision shall*
31 *constitute unprofessional conduct and shall subject the licensee*
32 *to refusal, suspension, or revocation of a license under this section.*

33 (2) *The Legislature hereby finds and declares that protection*
34 *of the public, and in particular minors, from sexual misconduct*
35 *by a licensee is a compelling governmental interest, and that the*
36 *ability to suspend or revoke a license for sexual conduct with a*
37 *minor occurring prior to the effective date of this section is equally*
38 *important to protecting the public as is the ability to refuse a*
39 *license for sexual conduct with a minor occurring prior to the*
40 *effective date of this section.*

Article 6. Revenue

4999.100. (a) An intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant shall, on or before the expiration date of the registration, do the following:

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

(2) Pay a renewal fee prescribed by the board.

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

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

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

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

(2) Pay a renewal fee prescribed by the board.

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

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

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

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

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

4999.102. (a) Licenses issued under Section 4999.50, paragraph (2) or (3) of subdivision (a) of Section 4999.54,

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

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

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

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

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

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

18 4999.104. Licenses issued under Section 4999.50, paragraph
19 (2) or (3) of subdivision (a) of Section 4999.54, subdivision (b) of
20 Section 4999.58, or Section 4999.60 and, on and after January 1,
21 2018, licenses issued under paragraph (1) of subdivision (a) of
22 Section 4999.54 that have expired may be renewed at any time
23 within three years of expiration. To renew an expired license
24 described in this section, the licensee shall do all of the following:

25 (a) File an application for renewal on a form prescribed by the
26 board.

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

29 (c) Pay all delinquency fees.

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

32 (e) Notify the board whether he or she has been convicted, as
33 defined in Section 490, of a misdemeanor or felony, or whether
34 any disciplinary action has been taken by any regulatory or
35 licensing board in this or any other state, subsequent to the
36 licensee's last renewal.

37 4999.106. A license that is not renewed within three years after
38 its expiration may not be renewed, restored, reinstated, or reissued,
39 except that a former licensee may apply for and obtain a new
40 license if he or she complies with all of the following:

1 (a) No fact, circumstance, or condition exists that, if the license
2 were issued, would justify its revocation or suspension.

3 (b) He or she takes and passes the current examinations required
4 for licensing.

5 (c) He or she submits an application for initial licensure.

6 4999.108. A suspended license is subject to expiration and
7 shall be renewed as provided in this article, but that renewal does
8 not entitle the licensee, while it remains suspended and until it is
9 reinstated, to engage in the activity to which the license relates,
10 or in any other activity or conduct in violation of the order or
11 judgment by which it was suspended.

12 4999.110. A revoked license is subject to expiration as provided
13 in this article, but it may not be renewed. If it is reinstated after
14 its expiration, the licensee shall, as a condition precedent to its
15 reinstatement, pay a reinstatement fee in an amount equal to the
16 renewal fee in effect on the last regular renewal date before the
17 date on which it is reinstated, plus the delinquency fee, if any,
18 accrued at the time of its revocation.

19 4999.112. (a) A licensed professional clinical counselor may
20 apply to the board to request that his or her license be placed on
21 inactive status. A licensee who holds an inactive license shall do
22 all of the following:

- 23 (1) Pay a biennial fee of one-half of the active renewal fee.
24 (2) Be exempt from continuing education requirements.
25 (3) Not engage in the practice of professional clinical counseling
26 in this state.
27 (4) Otherwise be subject to this chapter.

28 (b) A licensee on inactive status may have his or her license
29 reactivated by complying with all of the following:

- 30 (1) Submitting a request to the board.
31 (2) Certifying that he or she has not committed any acts or
32 crimes constituting grounds for denial of licensure.
33 (3) Paying the remaining one-half of the renewal fee.
34 (4) Completing the following continuing education requirements:
35 (A) Eighteen hours of continuing education is required within
36 the two years preceding the date of the request for reactivation if
37 the license will expire less than one year from the date of the
38 request for reactivation.

39 (B) Thirty-six hours of continuing education is required within
40 the two years preceding the date of the request for reactivation if

1 the license will expire more than one year from the date of the
2 request for reactivation.

3 4999.114. The board shall report each month to the Controller
4 the amount and source of all revenue received pursuant to this
5 chapter and at the same time deposit the entire amount thereof in
6 the State Treasury for credit to the Behavioral Sciences Fund.

7 4999.116. (a) The moneys credited to the Behavioral Sciences
8 Fund under Section 4999.114 shall, upon appropriation by the
9 Legislature, be used for the purposes of carrying out and enforcing
10 the provisions of this chapter.

11 (b) The board shall keep records that will reasonably ensure
12 that funds expended in the administration of each licensing or
13 registration category bear a reasonable relation to the revenue
14 derived from each category, and shall so notify the department no
15 later than May 31 of each year.

16 (c) Surpluses, if any, may be used in a way so as to bear a
17 reasonable relation to the revenue derived from each category,
18 and may include, but not be limited to, expenditures for education
19 and research related to each of the licensing or registration
20 categories.

21 4999.118. A licensee or registrant shall give written notice to
22 the board of a name change within 30 days after each change,
23 giving both the old and new names. A copy of the legal document
24 authorizing the name change, such as a court order or marriage
25 certificate, shall be submitted with the notice.

26 4999.120. The board shall assess fees for the application for
27 and the issuance and renewal of licenses and for the registration
28 of interns to cover administrative and operating expenses of the
29 board related to this chapter. Fees assessed pursuant to this section
30 shall not exceed the following:

31 (a) The fee for the application for an initial license shall be up
32 to one hundred eighty dollars (\$180).

33 (b) The fee for the jurisprudence and ethics examination
34 required by Section 4999.54 shall be up to one hundred dollars
35 (\$100).

36 (c) The fee for the written examination shall be up to two
37 hundred fifty dollars (\$250).

38 (d) The fee for the issuance of an initial license shall be up to
39 two hundred dollars (\$200).

1 (e) *The fee for annual renewal of licenses issued pursuant to*
2 *Section 4999.54 shall be up to one hundred fifty dollars (\$150).*

3 (f) *The fee for annual renewal of an intern registration shall be*
4 *up to one hundred dollars (\$100).*

5 (g) *The fee for two-year renewal of licenses shall be up to two*
6 *hundred dollars (\$200).*

7 4999.122. *The professional clinical counselor licensing*
8 *program shall be supported from fees assessed to applicants,*
9 *interns, and licensees. Startup funds to implement this program*
10 *shall be derived, as a loan, from the reserve fund of the Board of*
11 *Behavioral Sciences, subject to an appropriation by the Legislature*
12 *in the annual Budget Act. The board shall not implement this*
13 *chapter until funds have been appropriated.*

14 SEC. 5. *No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *the only costs that may be incurred by a local agency or school*
17 *district will be incurred because this act creates a new crime or*
18 *infraction, eliminates a crime or infraction, or changes the penalty*
19 *for a crime or infraction, within the meaning of Section 17556 of*
20 *the Government Code, or changes the definition of a crime within*
21 *the meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 ~~SECTION 1. The Legislature hereby finds and declares all of~~
24 ~~the following:~~

25 ~~(a) There is a growing need in this state for additional mental~~
26 ~~health professionals to provide counseling and other mental health~~
27 ~~services to California's citizens in a variety of settings.~~

28 ~~(b) That need continues to grow due to economic conditions~~
29 ~~and the need to provide counseling services resulting from natural~~
30 ~~disasters, and services to California's veterans.~~

31 ~~(c) There exists in the state a substantial number of mental health~~
32 ~~professionals who possess appropriate master's degree education,~~
33 ~~training, and experience to fulfill the need but who cannot avail~~
34 ~~themselves of licensure under the current mental health professional~~
35 ~~framework for licensure existing in the state.~~

36 ~~(d) The other 49 states provide, in varying ways, the opportunity~~
37 ~~for professional counselors with appropriate education and training~~
38 ~~to be licensed and to fulfill the need in those states.~~

39 ~~(e) Therefore, it is the intent of the Legislature to provide a~~
40 ~~pathway for professional counselors in this state who possess~~

1 appropriate education and training similar to other licensed mental
2 health professionals to be licensed and to begin serving the
3 substantial need for mental health services in California.

4 SEC. 2. Chapter 16 (commencing with Section 4999.10) is
5 added to Division 2 of the Business and Professions Code, to read:

6
7 CHAPTER 16. MENTAL HEALTH PROFESSIONALS
8

9 4999.10. (a) No person shall hold himself or herself out to the
10 public by any title or description of mental health services not
11 authorized by law or licensed by the Board of Behavioral Sciences.

12 (b) Nothing in this section shall be construed to constrict, limit,
13 or withdraw provisions of the Medical Practice Act, the Clinical
14 Social Worker Practice Act, the Nursing Practice Act, the
15 Psychology Licensing Law, or the Marriage and Family Therapy
16 licensing laws.

17 (c) This section shall not apply to any priest, rabbi, or minister
18 of the gospel of any religious denomination who performs mental
19 health services as part of his or her pastoral or professional duties,
20 or to any person who is admitted to practice law in this state, or
21 who is licensed to practice medicine, who provides counseling
22 services as part of his or her professional practice.

23 (d) This section shall not apply to an employee of a
24 governmental entity or of a school, college, or university, or of an
25 institution both nonprofit and charitable, if his or her practice is
26 performed solely under the supervision of the entity, school, or
27 organization by which he or she is employed, and if he or she
28 performs those functions as part of the position for which he or
29 she is employed.