

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0746/1dn
MDK:cs:jf

January 3, 2001

Representative Urban:

Please review this bill, which is based on instructions from Dismas Becker, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I changed the definition of "psychotherapy" because I do not understand the definition included in the instructions. For example, the instructions include a reference to "informed and intentional" application of "clinical methods and interpersonal stances." I don't know what "clinical" methods are, so this bill refers only to "methods." Perhaps you can clarify the meaning of "clinical methods?" Also, I don't know what an "interpersonal stance" is, so I didn't include the term. I'm also not sure why the application of methods must be "informed" or "intentional." As for "informed," don't you want to be able to regulate licensees who apply methods in an uninformed way? If "informed" is included in the definition, someone who acted in an uninformed way can say that he or she was not practicing psychotherapy, and, therefore, is not subject to the examining board's authority. As for "intentional," I don't know why it's necessary to use this term. Won't all applications be intentional? In addition, I didn't include the language regarding "directions that participants deem desirable." My reason is similar to my reason for not including "informed." Suppose that, after treatment, a client realizes that a direction was in fact undesirable and that the licensee behaved unprofessionally in deeming that direction as desirable. If the language about a desirable direction is included, the licensee can argue that he or she wasn't practicing psychotherapy after all and, therefore, the examining board has no authority. Finally, I wasn't sure about the relationship to the rest of the definition of the last phrase in the instructions regarding "including understanding unconscious processes," etc. Please review my treatment of the phrase to see if it is consistent with your intent.

2. There are several references under current law to "clinical" marriage and family therapy practice and "clinical" professional counseling practice. See ss. 457.10 (3), 457.12 (3) (a) and (b), and 457.13 (1) (d), stats. I did not delete the word "clinical" from these provisions. Is this okay?

3. The instructions don't make any changes to the "one year" that is specified in s. 457.12 (3) (b) (intro.). Is it okay to refer to "one year" even though you change the "2

years” in s. 457.12 (3) (a) (intro.) to 3,000 hours? Also, in general, please review the changes to s. 457.12 (3) (a) and (b) because the instructions appear to omit some changes that I assume you want to make.

4. Please review proposed s. 457.23, which creates a duty to consult or refer. I’m not sure about the rationale for the duty to consult. If additional treatment is outside the scope of practice of, for example, a clinical social worker, what is the point of requiring the clinical social worker to consult with somebody else who can provide the treatment? Why not just create a duty to refer?

5. I will include the changes that you received from DORL in the next version of the draft, which will be available shortly.

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