



Legislative Fiscal Bureau

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November 5, 2001

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to 2001 Senate Bill 96: Providing for the Licensure of Marriage and Family Therapists, Professional Counselors and Certain Social Workers

Senate Bill 96 would convert current certification requirements for marriage and family therapists, professional counselors and certain types of social workers to licensing requirements. The bill was referred to the Senate Committee on Human Services and Aging, which adopted Senate Substitute Amendment 1 (SSA 1) to Senate Bill 96 and recommended it for passage on a vote of 5-1.

SUMMARY OF THE SUBSTITUTE AMENDMENT

New Licensure and Certification Requirements. The substitute amendment would transform current law certification requirements for independent clinical social workers, marriage and family therapists and professional counselors into licensing requirements. Independent clinical social workers would be retitled "clinical social workers" for the purpose of licensure. SSA 1 would retain certification for social workers, advanced practice social workers and independent social workers.

Under current law, the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors grants certificates to persons who satisfy certain eligibility requirements for the following titles: "social worker," "advanced practice social worker," "independent social worker," "independent clinical social worker," "marriage and family therapist" and "professional counselor." Under current law, a person who has not been granted a certificate is not barred from practicing social work, marriage and family therapy or professional counseling; however, no person may use any of the above titles unless they are certified by the Board.

SSA 1 would prohibit individuals from practicing clinical social work, marriage and family therapy or professional counseling without a license. However, an advanced practice social worker or an independent social worker would be authorized to practice clinical social work if supervised by a licensed clinical social worker. "Clinical social work" would be newly defined as providing services without supervision for the diagnosis, treatment, and prevention of mental and emotional disorders in an effort to restore, maintain, and enhance social functioning through treatment interventions. These treatments could include psychosocial evaluation, counseling, referral to community resources, advocacy, facilitation of organizational change and psychotherapy.

Applicability of New Licensure Requirements. SSA 1 would retain the current law provision that no social worker, marriage and family therapist or professional counselor certificate or license would be required for an individual to use the title "pastoral counselor," "investment counselor," "vocational counselor," "career counselor," "alcohol and drug counselor" or "chemical dependency counselor." However, SSA 1 would add the title "employee assistance counselor" to this enumeration and would clarify that the general exemption from certification or licensure would apply only if the individuals did not represent that they were certified or licensed or engaged in social work, marriage and family therapy or professional counseling.

Similarly, SSA 1 would retain the current law provision that separate certification or licensure by the Board would not be required for any individual licensed as a school social worker or school counselor by the Department of Public Instruction (DPI) to use the title "school social worker" or "school counselor." Only persons licensed by DPI could use these titles. Further, separate certification or licensure by the Board would continue to be unnecessary for any individual licensed as a psychologist by the Psychology Examining Board in order to use the terms "marriage and family therapist," "marriage and family counselor" or "professional counselor," provided the individual does not purport to be licensed, certified or registered as a "marriage and family therapist," "marriage and family counselor" or "professional counselor." Finally, the current law provision would be continued that a person licensed or certified by the Examining Board would not be able to use the title "alcohol or drug counselor" or "chemical dependency counselor" unless the individual is certified as an alcohol and drug counselor or as a chemical dependency counselor through a process recognized by the Department of Health and Family Services.

SSA 1 would provide that a person licensed or certified as a social worker, marriage and family therapist or professional counselor by the Board would not be authorized to treat alcohol or substance dependency or abuse as a specialty unless the individual is a certified substance abuse counselor or unless the individual satisfies educational and supervised training requirements established in rules promulgated by the Board. In promulgating rules under this provision, the Board would have to consider Department of Health and Family Services (DHFS) requirements for substance abuse counselors.

SSA 1 would also provide that no credential issued by the Board would be required for an individual to: (1) lawfully practice within the scope of a credential granted by this state or the federal government, or granted through a process recognized by DHFS, including practicing psychotherapy under the credential; (2) provide a consultation or demonstration with an individual licensed by the Board, if the person providing the consultation or demonstration is licensed to practice marriage and family therapy, professional counseling, or clinical social work in another state or territory of the United States; or (3) practice psychotherapy, if either of the following conditions are met. First, the person is registered as a music, art, or dance therapist by the Department of Regulation and Licensing (R&L) and the person holds a valid license for the practice of psychotherapy by music, art or dance therapists granted by R&L. Second, the person is a mental health professional who meets all of the qualifications established by DHFS for employment as a mental health professional in a DHFS-certified outpatient psychotherapy clinic, the person's psychotherapy practice is a part of his or her employment duties at the clinic, and the person's psychotherapy practice is solely at or under the jurisdiction of the clinic.

Examining Board Renamed. SSA 1 would revise the name of the current Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors to the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. The current membership on the Board would be retained (three marriage and family therapists, three professional counselors, four social workers and three public members). However, the affiliation of the public members would be revised to require that they represent groups that promote the interests of consumers of services provided by persons certified or licensed by the Board.

New Rule-Making Authority Granted to the Board. SSA 1 would require the Board and the Psychology Examining Board to jointly promulgate rules that specify the different levels of psychometric testing that an individual, who is certified or licensed under this as a social worker, marriage and family therapist or professional counselor, is qualified to perform. Such rules shall be consistent with the guidelines of the American Psychological Association, or other nationally recognized guidelines, for performing psychometric testing. A certificate holder or licensee may not engage in psychometric testing except as provided under the rules promulgated under this provision.

SSA 1 would authorize the Board to promulgate rules that permit an individual to engage in psychotherapy; however, such rules would have to require that the individual comply with one of the following limitations: (1) the person is licensed as a clinical social worker, marriage and family therapist, or professional counselor; or (2) the person is certified as an advanced practice or independent social worker and the individual engages in psychotherapy only under the supervision of any of the following: (a) a licensed clinical social worker with a doctorate degree in social work; (b) a licensed clinical social worker who has five years of full-time clinical social work experience; (c) a licensed psychiatrist or a psychologist; or (d) an individual who is approved by the Board or who satisfies supervisory requirements promulgated under Board rules.

SSA 1 would define psychotherapy as it applies to the practice of social work, marriage and family therapy and professional counseling to mean the diagnosis and treatment of mental, emotional, or behavioral disorders, conditions, or addictions through the application of methods derived from established psychological or systemic principles for the purpose of assisting people in modifying their behaviors, cognitions, emotions, and other personal characteristics, including the understanding of unconscious processes or intrapersonal, interpersonal, or psychosocial dynamics.

This new definition of psychotherapy would establish a term that would be different from that used by the Psychology Examining Board for its regulation of the practice. Under the Psychology Examining Board's definition, psychotherapy is defined as the use of learning, conditioning methods and emotional reactions in a professional relationship to assist persons to modify feelings, attitudes and behaviors which are intellectually, socially or emotionally maladjustive or ineffectual.

The Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board would continue to have rule-making authority to establish educational, training and ethical standards for the new licensure requirements.

Education and Training Requirements. SSA 1 would establish that no person could be licensed as a clinical social worker, marriage and family therapist or professional counselor unless the individual submitted an application for licensure; paid the appropriate required initial or renewal credential fee; submitted evidence that the appropriate educational requirements for the license had been met; and passed an examination approved by the Board.

SSA 1 would require 3,000 hours of supervised experience for licensure as a clinical social worker, a marriage and family therapist or a professional counselor who has a master's degree. This requirement would contrast with the current law supervised experience requirement of two years. Under SSA 1 at least 1,000 of the 3,000 hours would have to be face-to-face client contact. SSA 1 would also change the current one-year supervised experience requirement for professional counselor license applicants with doctorate degrees to a 1,000 hours of supervision requirement.

SSA 1 would stipulate that for all license applicants the experience requirement must be supervised by one of the following: (1) a person with the same license who has a doctorate degree; (2) a person with the same license who has five years experience; (3) a psychiatrist or psychologist; or (4) a person who is approved by the Board or who satisfies requirements for supervision as prescribed in the Board's rules.

Music, Art and Dance Therapists. SSA 1 would direct R&L to promulgate rules that specify the services within the scope of practice of music, art or dance therapy that a person registered as a music, art or dance therapist is qualified to perform. These rules would have to bar a person registered as a music, art or dance therapist from performing psychotherapy unless the person was granted a psychotherapy license for registered music, art or dance therapists.

SSA 1 would establish this new type of license, renewable on October 1, of every odd-numbered year. The renewal fee would be set at \$56. [Under current law, the minimum renewal fee is \$53. SSA1 should be revised to reflect this.] Under current law, the Department, rather than any separate examining board, registers music, art and dance therapists.

The Department would be authorized to promulgate rules establishing the requirements for granting a psychotherapy license to music, art and dance therapists. Any such requirements would have to be comparable to the requirements for obtaining a clinical social worker, marriage and family therapist, or professional counselor license. If R&L promulgates these rules, it would be required to grant a registered music, art or dance therapists psychotherapy license to individuals who meet the requirements and pay the initial credential fee (currently \$53). If R&L revokes a music, art or dance therapist registration, the agency would also be required to revoke any associated psychotherapist license for the individual.

Training Certificates. SSA 1 would create a new marriage and family therapist training certificate that would be granted to individuals who: (1) submit an application for the temporary certificate; (2) pay the current law \$10 fee for such credentials; (3) present evidence of meeting the educational requirements for licensure; and (4) provide evidence of full-employment, or an offer of full employment with training and supervision equivalent to that which would be received in a full-time supervised marriage and family therapist practice. The training certificate would be valid for up to 24 months or until the individual ceases to be employed in the position, whichever occurs first. The new marriage and family therapist training certificate would allow the individual to practice within the scope of his or her training or supervision.

SSA 1 would revise the current social worker training certificate to permit a person holding such a certificate to take the national social work examination required for final certification or licensure either before or after the completion of their educational and training requirements. Under current law, an applicant with a social work training certificate may take the examination only upon completing the educational and training requirements.

Reciprocal Certificates and Licenses. SSA 1 would authorize the granting of certificates or licenses to individuals from other states or provinces who have substantially equivalent certificates or licenses, as determined by the Board, provided the individual also passes an examination that tests knowledge of state law relating to the particular field (social work, marriage and family therapy or professional counseling). Current law requires the Board to grant a social work certificate without requiring an approved examination, as long as the other state or territory has substantially equivalent requirements.

Temporary Certificates. Under current law, the Board may grant a temporary social worker, marriage and family therapist or professional counselor certificate to any individual who submits an application, pays the required fees, provides evidence of meeting the appropriate educational requirements and has submitted a request to take the next available examination for a certificate. SSA 1 would authorize temporary licenses and would extend the issuance of

temporary certificates and licenses to advanced practice social workers, independent social workers and clinical social workers.

Professional Liability Insurance. SSA 1 would prohibit any person licensed as a clinical social worker, marriage and family therapist, or professional counselor to practice within the scope of the license unless the individual has professional liability insurance in effect. The Board would be required to promulgate rules establishing minimum insurance coverage requirements. If the individual is an employee of a federal, state, or local governmental agency, and the practice is part of the individual's duties and is confined to or under the jurisdiction of the employing agency, SSA 1 would exempt the individual from the professional liability insurance requirement.

Elimination of Penalties. SSA 1 would delete current law civil forfeiture provisions specifying that persons who violate social worker, marriage and family therapist or professional counselor certification requirements may be required to forfeit not more than \$5,000 for the first offense and not more than \$10,000 for the second or any subsequent offense within a year, with each day of violation constituting a separate offense.

SSA 1 would also delete current law criminal penalties specifying that in cases of willful violation of social worker, marriage and family therapist or professional counselor certification requirements, an individual may be fined not more than \$10,000, or imprisoned for more than nine months, or both. Credential holders would continue to be subject to general penalty provisions enforced by R&L under s. 440.21 of the statutes.

Grandparenting Provisions. SSA 1 would stipulate that notwithstanding the revised educational and training requirements required for licensure as a clinical social worker, marriage and family therapist or professional counselor, the Board would be required to grant licenses to all clinical social workers, marriage and family therapists and professional counselors who currently hold a valid certificate in their respective field. The Department would also be required to issue the licenses granted by the Board. Similar provisions would apply to the issuance of temporary licenses.

Effective Date. The provisions of SSA 1 would become effective on the first day of the sixth month after publication.

Technical Amendment. A technical amendment to SSA 1 is required to: (1) correct the minimum standard renewal fee that would be established for the new registered music, art, or dance therapists with a psychotherapy license (\$53, rather than the \$56 in the draft); (2) delete an incorrect retitling of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board; and (3) delete unnecessary language providing for the holdover of certain current members of the Examining Board. This holdover language appears to have been retained from a 1999 version of this bill and is not required in order to effect the changes contained in SSA 1 to Senate Bill 96.

FISCAL EFFECT

The provisions of Senate Substitute Amendment 1 to Senate Bill 96 will have the effect of requiring R&L to issue the following credentials: (1) clinical social worker, marriage and family therapist and professional counselor licenses to persons who currently hold a valid certificate in the field; (2) marriage and family therapist training certificates; and (3) registered music, art and dance therapists with psychotherapy licenses. The Department indicates that the costs associated with these activities would be minimal and could be accomplished with existing budgeted resources.

The Department would also be required to revise administrative rules and codebooks and send these revised materials to affected credential holders. The agency estimates that the cost of revising and mailing these materials would average \$12 per credential holder. Since there are currently approximately 14,000 credential holders in the affected professions, the agency estimates that \$168,000 PR would need to be expended for this purpose during the 2002-03 fiscal year. Under current law, credential holders already receive biennial updates of these materials, and these routine updates are already budgeted. The additional costs attributable to SSA 1 would be supported from R&L's existing budgeted resources. Any additional costs incurred by the Department would subsequently be recouped during the 2003-05 biennium through higher credential fees charged to the affected licensees.

Prepared by: Darin Renner