

HOUSE BILL REPORT

HB 1993

As Reported by House Committee On:

Health Care & Wellness

Appropriations

Title: An act relating to credentialing standards for counselors.

Brief Description: Modifying credentialing standards for counselors.

Sponsors: Representatives Barlow, Curtis, Schual-Berke, Kagi, Cody, Hinkle, Green, B. Sullivan, Eddy, Pettigrew, P. Sullivan, Bailey, Schindler, Dickerson, Morrell, Kenney, Simpson and Ormsby.

Brief History:

Committee Activity:

Health Care & Wellness: 2/13/07, 2/22/07 [DPS];

Appropriations: 3/3/07, 3/5/07 [DP2S(w/o sub HCW)].

Brief Summary of Second Substitute Bill

- Separates the profession of registered counselors into two professions that can perform therapeutic counseling: agency-affiliated counselors and mental health advisers.
- Establishes associate and trainee credentials for individuals pursuing a license as a mental health counselor, social worker, marriage and family therapist, or certification as a chemical dependency professional.
- Directs the Department of Licensing to establish a work group to recommend whether or not registered counselors not practicing therapeutic counseling should be regulated.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 13 members: Representatives Cody, Chair; Morrell, Vice Chair; Hinkle, Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Alexander, Assistant Ranking Minority Member; Barlow, Campbell, Condotta, Curtis, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

Staff: Chris Blake (786-7392).

Background:

The Department of Health (Department) regulates several different categories of behavioral health professionals. These include registered counselors, hypnotherapists, psychologists, chemical dependency professionals, mental health counselors, marriage and family therapists, and social workers. Registration as a counselor or hypnotherapist requires that an individual submit an application and a fee of \$40 and obtain a background check. Certification as a chemical dependency counselor requires that an individual have at least an associate's degree, pass an examination, and meet specified experience requirements. Licensing as a psychologist, mental health counselor, marriage and family therapist, or social worker requires that an individual hold a graduate degree, pass an approved examination, and meet specified experience requirements.

In 2006, at the direction of the Governor, the Department conducted a review of the registered counselor profession to determine the appropriate level of regulation for the profession. The final report found that the registered counselor profession was comprised of over 17,000 people using the credential in many different ways. Some counselors used their registration to meet the experience requirements necessary to obtain a license in the mental health field or a certification as a chemical dependency professional. Others held a registration to allow them to practice in state-licensed agencies and facilities, such as community mental health agencies. Others had varying levels of education and training and used the registration in an independent practice.

Summary of Substitute Bill:

The health profession of registered counselors is eliminated by separating it into two new categories of providers: agency-affiliated counselors and mental health advisers. These professions are authorized to engage in therapeutic counseling which means assisting others with mental, emotional, or behavioral problems by using a recognized theory of mental health treatment based on an understanding of human development, emotional disorders, well-being, and recognized counseling techniques. The term does not include counseling by vocational counselors, school counselors, peer counselors, domestic violence treatment providers, crime victim advocates, or camp counselors. It also excludes supportive services such as case management activities, human services, residential support, and the administration of tests. By January 1, 2009, registered counselors must be credentialed as either an agency-affiliated counselor or mental health adviser to practice therapeutic counseling.

Agency-affiliated counselors must be employed by an agency or facility that is regulated by the state in order to engage in therapeutic counseling. Agency-affiliated counselors must provide documentation to the Department that they are employed by an agency or that they

have an offer of employment. If their employment by an agency is discontinued or they obtain employment with another agency, they must notify the Department.

Mental health advisers may engage in therapeutic counseling in a group practice as defined by the Secretary of Health (Secretary). In order to qualify for a credential, a mental health adviser must have a baccalaureate degree in social work, mental health counseling, psychology, or a similar field. Mental health advisers must have a written supervision agreement with a licensed mental health counselor, marriage and family therapist, independent clinical social worker, psychologist, psychiatrist, or psychiatric advanced registered nurse practitioner.

In addition to other information contained in the disclosure statement that mental health advisers must provide to their clients, the statement must include referral resources, a statement that the mental health adviser practices under the supervision of a licensed mental health professional, and information about any disciplinary actions taken against the practitioner by the Department or other agencies. The client is not responsible for any charges prior to the receipt of the disclosure.

The Secretary must develop continuing education requirements for credentialed individuals. The Department must develop rules pertaining to the supervision of counseling associates and a model supervision agreement.

One must be registered with the Department to practice hypnotherapy for a fee.

Associate licenses are created for individuals pursuing a license as a social worker, mental health counselor, or marriage and family therapist. Associates must have a graduate degree and be working toward meeting the supervised experience requirements as required for a full license. Associates may not practice independently for a fee. Associates may only practice under the supervision of an approved supervisor. An associate license may be renewed up to four times. An individual with a master's degree and five years of experience in practice is considered to have met the supervision and experience requirement for a license as a mental health counselor, marriage and family therapist, or social worker.

A chemical dependency professional trainee credential is created for individuals working toward the education and experience requirements for certification as a chemical dependency professional. To obtain a trainee credential, an individual must submit a declaration to the Secretary that he or she is enrolled in an approved education program and pursuing the experience requirements for full certification. Trainees must practice under levels of supervision to be determined by rule, except that the first 50 hours of client contact must be under direct supervision. A trainee credential may be renewed up to four times.

Substitute Bill Compared to Original Bill:

The Department of Licensing must convene a work group to recommend whether or not registered counselors whose practice does not meet the definition of "therapeutic counseling" should be regulated. The work group must include a broad representation of registered

counselors, their clients, and licensed mental health practitioners. The work group shall submit its recommendation to the Legislature by November 15, 2007.

The substitute bill specifies that assisting clients with mental, emotional, and behavioral problems applies to the entire definition of "therapeutic counseling." The express exemptions from the definition of the term "therapeutic counseling" for life coaching, spiritual counseling, and pastoral counseling are removed and replaced with exemptions for counseling by vocational counselors, school counselors, peer counselors, domestic violence treatment providers, and camp counselors. There are also exemptions for supportive services such as case management, human services, residential support, and test administration.

The profession of mental health counselors is renamed mental health advisers. Mental health advisers must have a bachelor's degree in social work, mental health counseling, or a related field. Mental health advisers must have a written supervision agreement with a mental health practitioner. After January 1, 2009, mental health advisers may only practice in group practice settings, as defined by the Secretary.

Individuals with a master's degree and five years experience are deemed to have met the supervision and experience requirements for obtaining a license as a social worker, marriage and family therapist, or mental health counselor.

The Department of Licensing must convene a work group to review whether or not registered counselors whose practice does not meet the definition of "therapeutic counseling" should be regulated as a different profession. The work group must report to the Legislature by November 2007.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) This proposal protects citizens from unqualified counselors and instills confidence in the mental health profession. Washington is one of only two states that registers counselors without education or training requirements. Registered counselors with a master's degree should finish the work required to obtain their license and this bill parallels the pathway to licensure. Many registered counselors are not providing mental health counseling. This bill gives individuals time to meet the national standards for counseling. The complaint rate for registered counselors is twice that of licensed mental health programs. Bachelors programs are not designed to train counselors for independent practice. It is good that life coaching is explicitly exempted from the definition of therapeutic counseling.

(Opposed) This bill does not do anything to protect the public. The bill will have many unintended consequences on the financial situation of some registered counselors, clients

presently in therapy, consumer freedom of choice, and the cost of mental health services. Many registered counselors assist with human potential and self-awareness and do not engage in diagnosis or therapeutic counseling. The registered counselors targeted by the bill are not the ones with disciplinary problems. The bill will deprive residents of the services of certain registered counselors. Without regulation for registered counselors, clients would not have any recourse for acts of unprofessional conduct. Preventative counseling can help people before they need therapeutic counseling. The task force that developed the bill excluded private practice registered counselors. Level of credential and training has no relationship to unprofessional conduct. Registered counselors are frequently the only available source of treatment for rural and low-income populations. The public goes to counselors because they help their lives and personal choice should not be limited.

Persons Testifying: (In support) Representative Barlow, prime sponsor; Laura Groshong and Kevin Host, Washington State Society for Clinical Social Work; Scott Edwards, Washington Association for Marriage and Family Therapy; Adrian Magnusen-Whyte; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Seth Dawson, Washington State Psychiatric Association and Washington State Children's Advocacy Centers; Kimm Viebrock, Puget Sound Coaches Association; and Laurie Jenkins, Department of Health.

(Opposed) Kate Abbott, Miriam Dyak, and Richard Miles, Washington Professional Counselors Association; David Calof, Family Psychotherapy; Joan Golston, National Association of Social Workers, Washington Chapter; Dr. Hilarie Cash, Seattle Counselors Association; and Richard Berger.

Persons Signed In To Testify But Not Testifying: Christine M. Kessler; Alexandra Hepburn, Washington Professional Counselors Association; Carol Gaskin; Tom Johnston; David Cole; Timothy Larsen; and Lawrence Dzwonkowski.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and P. Sullivan.

Minority Report: Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle, Kretz, McDonald, Priest and Walsh.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

The Appropriations Committee increased the hours of face-to-face client contact that chemical dependency professional trainees must conduct while under direct observation from 50 hours to 100 hours. Additionally, trainees may not supervise clinical staff. The section of the bill that creates the Department of Licensing work group will take effect immediately.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Second Substitute Bill: The bill takes effect July 1, 2008, except for Section 21, relating to the creation of the Department of Licensing work group, which takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill takes a look at a registered counselor category that only one of two states in the country have. This bill does a very good job of parsing out the different categories that the Department of Health (DOH) deals with. The fiscal note is covered by the fees that the professionals pay at the DOH.

(Opposed) We appreciate some of the changes in the substitute bill. However, we still have very serious concerns that this bill does not accomplish the original goals of protecting the public and promoting more ethical practice in the field. This bill puts 7,000 registered counselors in private practice, who haven't had any complaints, out of business. There is no data from the DOH that suggests that registered counselors in private practice have higher complaint rates. Over 100,000 clients will be left without their counselors. The citizens of this state would be best served by a collaborative effort that truly protects clients. We need to raise standards of ethical practice. We would like to work the DOH and Legislature in the interim to create legislation that will raise standard of ethical practice and ensure that citizens can choose the kind of counseling they want.

Local graduate programs and qualified licensed supervisors could not possibly handle the sudden jump in graduate applications or increased number of supervisees if this bill gets enacted. A sizable industry generating a minimum of \$150 million a year would be disrupted. The counselors themselves would suffer considerable losses. The bill creates unwarranted harm for one class of counselors. Please do not pass a bill that would cause such economic and social disruption to the citizens of Washington.

Persons Testifying: (In support) Lonnie Johns-Brown, Washington Society for Clinical Social Work.

(Opposed) Miriam Dyak and Kate Abbott, Washington Professional Counselors Association.

Persons Signed In To Testify But Not Testifying: None.