

HOUSE BILL REPORT

2SHB 2674

As Amended by the Senate

Title: An act relating to modifying credentialing standards for counselors.

Brief Description: Modifying credentialing standards for counselors.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Barlow, Morrell, Moeller, Conway, Simpson and Kenney; by request of Governor Gregoire).

Brief History:

Committee Activity:

Health Care & Wellness: 1/28/08, 2/4/08 [DPS];

Appropriations: 2/8/08, 2/11/08 [DP2S(w/o sub HCW)].

Floor Activity:

Passed House: 2/13/08, 89-8.

Senate Amended.

Passed Senate: 3/6/08, 44-3.

Brief Summary of Second Substitute Bill

- Separates the profession of registered counselors into two professions that can perform counseling functions: agency-affiliated counselors and limited professional counselors.
- Establishes associate and trainee credentials for individuals pursuing a certificate as a chemical dependency professional or a license as a mental health counselor, social worker, or marriage and family therapist.

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

Staff: Chris Blake (786-7392).

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.

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 30 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, Morrell, Pettigrew, Priest, Ross, Schmick, Seaquist, Sullivan and Walsh.

Minority Report: Do not pass. Signed by 3 members: Representatives Anderson, McIntire and Schual-Berke.

Staff: Owen Rowe (786-7391).

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 professional 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 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 included recommendations to eliminate the profession of registered counselors and create several pre-licensure credentials, an agency-affiliated counselor credential, and a private practice counselor credential. The report also made recommendations regarding the scope of practice, disclosure statements, and public education campaigns. Two bills, HB 1494 and HB 1993, were introduced in the 2007 legislative session which addressed many of the recommendations in the Department's report. Neither bill passed the Legislature.

The 2007-09 operating budget directed the Department to convene another work group to develop recommendations regarding the need to regulate registered counselors. The work group report was due by November 15, 2007. The report included several recommendations pertaining to the creation of new pre-licensure credentials, an agency-affiliated counselor credential, and a private practice counselor credential similar to the 2006 report. A survey of registered counselors conducted at the direction of the work group found that about 35 percent of registered counselors are using the credential to work toward obtaining the experience requirements of another type of license, 30 percent work in a state-regulated agency, and 28 percent practice in a private practice setting.

Summary of Second Substitute Bill:

The health profession of registered counselors is divided into seven new categories of fully-credentialed and pre-credential status health professions. To continue to practice counseling, all registered counselors must obtain another health profession credential by July 1, 2010, when the registered counselor credential is eliminated.

Agency-Affiliated and Limited Professional Counselors

Practice Requirements

Agency-affiliated counselors are registered health professionals who engage in counseling and are employed by an agency or facility that operates under state regulations. Applicants for registration as an agency-affiliated counselor must provide documentation of their employment with an agency or an offer of employment with an agency.

Limited professional counselors are certified health professionals authorized to engage in private practice counseling. "Private practice counseling" includes screening a client's level of functional impairment and recognizing mental or physical disorders or functioning levels that require the client to seek diagnosis and treatment from an appropriate health care provider. The term also includes counseling and guiding clients in adjusting life situations, developing new skills, and making desired changes through specific counseling methods and established practice standards. Limited professional counselors may not provide counseling or guidance services to clients with a global assessment of functioning score of 60 or less except as part of a plan of care developed by a physician or mental health practitioner.

Applicants for a certificate to conduct private practice counseling as a limited professional counselor must apply prior to July 1, 2010, and:

- be a currently registered counselor in good standing;
- have been a registered counselor for at least five years;
- have completed courses in risk assessment, ethics, screening and referral, Washington law, and other subjects identified by the Secretary of Health (Secretary) and pass an examination in these subjects; and
- have a written consultation agreement with a credential holder.

After July 1, 2010, the Secretary shall not issue any initial limited professional counselor credentials. The only individuals who may receive a renewal limited professional counselor credential are those who were certified prior to July 1, 2010, without interruption.

In addition to the Secretary's present authority relating to registered counselors, the Secretary is authorized to establish requirements for certified counselors related to education equivalency, examinations, supervision, consultation, and continuing education.

Disclosure Statements

Limited professional counselors must provide disclosure statements to clients similar to the disclosures currently provided by registered counselors with additional information requirements. The disclosures must also include referral resources, a statement regarding the supervisory arrangement of the limited professional counselor, and a statement that they are

not credentialed to diagnose or treat mental disorders or to conduct psychotherapy. Clients are not responsible for any charges prior to the receipt of the disclosure statement.

Advisory Committee

The Washington State Limited Professional Counselors and the Hypnotherapist Advisory Committee (Committee) is established. The Committee is comprised of two limited professional counselors, two hypnotherapists, and three members of the public. Members shall be appointed by the Secretary.

Associates and Trainees

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 approved supervision. An associate license may be renewed up to four times.

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 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.

Other

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

Peer counselors and peer counselor training activities are exempt from credentialing requirements.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment calls the new profession "certified counselors" rather than "limited professional counselors" and does not discontinue the issuance of new credentials. The profession of "certified advisers" is created for individuals with an associate degree and a supervised internship as well as the specific course requirements and supervisory agreements that certified counselors must meet. The ability of certified counselors to become credentialed with only an associate degree is removed.

Certified counselors and advisers may provide private practice counseling services to clients with a global assessment of functioning score over 60. Certified counselors and advisers must refer clients with a mental or physical disorder or a global assessment of functioning score of 60 or less to a physician, osteopathic physician, psychiatric advanced registered nurse practitioner, or mental health practitioner instead of recommending that clients with a mental or physical disorder seek diagnosis from an appropriate health care provider. Only certified counselors may counsel clients with a global assessment of functioning score of 60 or less. They may only counsel such clients when: (1) the clients are referred by certain licensed

professionals and to the extent provided in a plan of treatment designed by the referring professional; or (2) the clients refused the referral made by the counselor, in writing, and services are provided to the extent authorized in a plan of treatment developed by the counselor with his or her consultant or supervisor. Certified counselors may not be the sole provider for any client with a global assessment of functioning score less than fifty. The requirement that certified counselors and advisers disclose to clients that they cannot treat mental disorders is removed and only requires that they disclose that they cannot diagnose mental disorders or conduct psychotherapy.

The Department of Health must report to the Legislator and the Governor by December 15, 2011 regarding the number of certified counselors and advisers, the number of disciplinary actions, credentialing requirements, and cost savings or expenditures regarding the administration of the profession.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of session in which bill is passed except for sections 1, 2, and 6 through 8, relating to the establishment of credentials for agency-affiliated counselor and certified counselor, and 10 through 18, relating to the establishment of pre-licensure credentials for mental health counselors, marriage and family therapists, social workers, and chemical dependency professionals, which take effect July 1, 2009. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Health Care & Wellness)

(In support) This bill promotes public safety. This bill is built from the work of the Registered Counselor Work Group. This bill will include education and supervisory requirements which do not currently exist for those who conduct counseling. The inclusion of agency-affiliated counselors is helpful. There are many types of counseling that certified counselors can do without diagnosing or treating a client. This bill should be passed in its current form.

(In support with amendments) Registered counselors are not asking for an increase in their scope of practice, only to maintain the current practice that they are engaged in with increased standards. The bill needs to define "psychotherapy." There needs to be clarification that there is a scope of practice that counselors can perform. Counselors have successfully served clients with mild to moderate disorders for 20 years. There should be an amendment to specify that certified counselors are only prohibited from counseling those clients with "serious" mental disorders. There is no evidence that supports the curtailment of counseling services due to a lack of quality. The global assessment of functioning should be used to determine what a client's level of functioning is.

(Opposed) The scope of practice in the bill is not what it appears to be. This bill will put people out of business. This bill is not fair. The bill should clarify the definition of psychotherapy.

Staff Summary of Public Testimony: (Appropriations)

(In support) This bill was proposed in order to increase standards for the 18,000 registered counselors in the state today. The bill includes new education, training, and examination requirements in order to improve patient safety.

(Opposed) None.

Persons Testifying: (Health Care & Wellness) (In support) Representative Barlow, prime sponsor; Ann Christian, Washington Community Mental Health Council; Christina Hulet, Office of the Governor; Mary Selecky, Department of Health; Adrian R. Magnuson-Whyte, Washington Mental Health Counselors Association; Lucy Homans, Washington State Psychological Association; and Laura Groshong, Washington State Society for Clinical Social Work.

(In support with amendments) Terne Gibbs, Miriam Dyak, and Kate Abbott, Washington Professional Counselors Association.

(Opposed) Roger Libby; and Diane Hillaire.

Persons Testifying: (Appropriations) Christina Hulet, Office of the Governor; and Lonnie Johns-Brown, Washington State Society of Clinical Social Workers.

Persons Signed In To Testify But Not Testifying: (Health Care & Wellness) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.