

HOUSE BILL REPORT

E2SHB 2247

As Passed House:
February 12, 2024

Title: An act relating to addressing behavioral health provider shortages.

Brief Description: Addressing behavioral health provider shortages.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Bateman, Bronoske, Simmons, Duerr, Callan, Reed, Macri, Doglio, Leavitt and Davis).

Brief History:

Committee Activity:

Health Care & Wellness: 1/23/24, 1/30/24 [DPS];
Appropriations: 2/3/24, 2/5/24 [DP2S(w/o sub HCW)].

Floor Activity:

Passed House: 2/12/24, 97-0.

Brief Summary of Engrossed Second Substitute Bill

- Changes licensing requirements, practice settings, and reimbursement requirements for various behavioral health professions.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Bronoske, Caldier, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Staff: Jim Morishima (786-7191).

HOUSE COMMITTEE ON APPROPRIATIONS

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

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 Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Lily Smith (786-7175).

Background:

Psychologists.

A psychologist is authorized to observe, evaluate, interpret, and modify human behavior by the application of psychological principles, methods, and procedures. To be a licensed psychologist, a person must hold a doctoral degree in psychology, have at least two years of supervised experience, pass an examination, and be of good moral character.

The Examining Board of Psychology (Board) may issue certificates of qualification to applicants who meet all licensing requirements except for completion of the doctoral degree. The certification allows the applicant to perform enumerated tasks under the supervision of a licensed psychologist.

The Board may, without examination, grant a license to an individual who holds a doctoral degree (or equivalent) with an emphasis on psychology if the individual meets at least one of the three following criteria: (1) the individual has been licensed in another state or country for at least two years, as long as the licensing requirements in the other state or country are essentially equivalent to Washington's, (2) the individual is a diplomate in good standing of the American Board of Examiners in Professional Psychology, or (3) the individual is a member of a professional organization and holds a certificate deemed by the Board to meet licensing standards equivalent to Washington's.

Clinical Social Workers, Mental Health Counselors, and Marriage and Family Therapists.

Licensed clinical social workers, mental health counselors, and marriage and family therapists (collectively referred to as master's level behavioral health professionals), have various scopes of practice dealing with the provision of behavioral health services.

Licensing requirements for master's level behavioral health professionals vary by profession, but each requires:

- a master's degree or above;
- completion of at least 36 hours of continuing education, with at least six hours in professional ethics; and
- completion of minimum supervised experience requirements—for marriage and family therapists, the supervisor must have at least five years of clinical experience.

A master's level behavioral health professional may obtain an associate license while the professional is completing the requisite hours of supervised experience. An associate is not allowed to perform services for a fee and must work under supervision. An associate license may not be renewed more than six times. An applicant for renewal must have completed at least 18 hours of continuing education in the preceding year. Beginning with the second renewal, at least six hours of continuing education in the preceding two years must be in professional ethics.

Subject to appropriated funds, by July 1, 2024, the Department of Health (DOH) must establish a stipend program to defray out-of-pocket expenses incurred by associates completing supervised experience requirements. Expenses eligible for defrayment include costs incurred in order to obtain supervised experience, such as fees or charges imposed by the individual or entity providing supervision and any other expenses the DOH deems appropriate. The DOH must consider defraying out-of-pocket expenses associated with unpaid internships that are part of an applicant's educational program. Associates must document their out-of-pocket expenses in a manner specified by the DOH.

Agency Affiliated Counselors.

Agency affiliated counselors are registered, certified, or licensed to provide counseling services in an agency or as a student intern. For these purposes, an agency includes:

- an agency or facility operated, licensed, or certified by the state;
- a federally recognized tribe located in the state; or
- a county.

Substance Use Disorder Professionals.

A substance use disorder professional is authorized to employ the core competencies of substance use disorder counseling to assist or attempt to assist individuals with substance use disorder in their recovery.

To be a certified substance use disorder professional, a person must complete an educational program, an apprenticeship program, or alternative training. The person must also pass an examination and complete an experience requirement that establishes fewer hours of experience for applicants with higher levels of education.

A person working toward the education and experience requirements may be issued a substance use disorder professional trainee certification. A trainee may only work with a state-regulated agency. A trainee certification may only be renewed four times, unless the Secretary of Health grants a waiver.

Medicaid.

The Medicaid program is a federal-state program that provides medical services to eligible low-income individuals or certain individuals with disabilities. Most Medicaid services are provided by managed care organizations, which are licensed health carriers contracted to

provide the services through a network of providers. Medicaid services must be provided in a manner consistent with Washington's Medicaid State Plan.

Summary of Engrossed Second Substitute Bill:

Psychologists.

Licensed Psychological Associates.

A new licensed psychological associate credential is created. A licensed psychological associate may practice psychology under the supervision of a licensed supervisor under rules adopted by the Examining Board of Psychology (Board). An individual who is a licensed psychological associate must provide each client or patient, during the first professional contact, a disclosure form disclosing that the individual is a licensed psychological associate under the supervision of an approved supervisor.

To be credentialed as a licensed psychological associate, an applicant must be:

- currently enrolled in a doctoral program, a Doctor of Psychology program, or its equivalent in psychology at an accredited educational institution or participating in a postdoctoral residency, postdoctoral fellowship, or another supervised postdoctoral experience; and
- deemed competent by the director of clinical training or postdoctoral supervisor to practice psychology under the supervision of a licensed supervisor subject to rules adopted by the Board.

An applicant for a licensed psychological associate credential must comply with relevant administrative procedures, administrative requirements, and fee requirements. An applicant may practice without a license under direct supervision for 120 days or until the applicant's license is issued or denied, whichever is sooner.

Licensing Psychologists Without Examination.

The Board may adopt rules waiving requirements for licensing a psychologist without examination for applicants who have continuously been licensed in another state, territory, or country for a period of time that, in the judgment of the Board, renders the waived requirements duplicative or unnecessary.

Clinical Social Workers, Mental Health Counselors, and Marriage and Family Therapists.

Continuing Education.

The minimum hours of continuing education are eliminated for licensed clinical social workers, mental health counselors, marriage and family therapists (collectively referred to as master's level behavioral health professionals), and associates. Instead, the continuing education requirements are established in rules adopted by the Department of Health (DOH) in consultation with the Washington State Mental Health Counselors, Marriage and Family Therapists, and Social Workers Advisory Committee.

Associate Licenses.

An applicant for an associate license may practice without a license under direct supervision for 120 days or until the applicant's license is issued or denied, whichever is sooner.

The limit on the number of times an associate license may be renewed is eliminated. A person whose associate license was not renewed due to the person exceeding the renewal limit must be treated as if the person's license expired. The DOH must allow such a person to return to active status pursuant to standard rules and procedures.

The minimum number of years of clinical experience for a marriage and family therapist supervising an associate is reduced from five years to two years.

Supervisor Stipends.

The stipend program for associate licensees is changed to a stipend to offset the costs of providing supervision to associates. To be eligible for the program, a supervisor must:

- meet all supervision qualifications; and
- be actively providing supervision to at least one associate.

Participating supervisors must document their expenses attributable to each supervised associate and time spent supervising each associate. Supervisors are eligible for up to \$2,000 per year per associate if the supervisor maintains the supervisory relationship for the entire year, subject to the availability of funds. If the supervisor does not provide supervision for an entire year, the DOH must prorate the stipend amount accordingly.

If the supervisor's documented expenses attributable to an associate exceed the stipend amount, the supervisor may charge the associate a fee to recoup the expenses. In no case may the fee exceed \$1,600. The supervisor must report any fees charged to the DOH.

The start date for the stipend program is delayed until July 1, 2025.

Disciplining Authority.

The Secretary of Health (Secretary) must study and make recommendations on changing the disciplining authority for master's level behavioral health professionals from the Secretary to separate boards or commissions for each profession. The Secretary's findings and recommendations must, at a minimum, include whether the disciplining authority for each profession should be a board or a commission; the recommended membership of each board or commission, which must include a majority of members who are members of the regulated professions and at least one public member; an estimate of the fiscal impact of changing the disciplining authority for the professions; and a transition plan for changing the disciplining authorities, including recommended statutory changes.

When formulating the findings and recommendations, the Secretary must consult with organizations representing the affected professions. The Secretary must report the findings

and recommendations to the appropriate committees of the Legislature no later than July 1, 2025.

Agency Affiliated Counselors.

Beginning January 1, 2028, the practice settings for agency affiliated counselors are expanded to include federally qualified health centers.

Substance Use Disorder Professionals.

The requirement that a substance use disorder trainee practice with a state-regulated agency is eliminated.

The limit on the number of times a substance use disorder professional trainee credential may be renewed is eliminated. A person whose credential was not renewed due to the person exceeding the renewal limit must be treated as if the person's license expired. The DOH must allow such a person to return to active status pursuant to standard rules and procedures.

Medicaid.

The Health Care Authority must ensure that associates are included in the Medicaid State Plan (State Plan), including filing any State Plan amendments by January 1, 2025.

Rulemaking.

The Examining Board of Psychology and the Secretary of Health may adopt rules necessary to implement the act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 12, 2024.

Effective Date: The bill contains multiple effective dates. Please see the bill. However, the bill is null and void unless funded in the budget.

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

(In support) Last year, legislation was enacted requiring the Department of Health (DOH) to make recommendations on supporting the behavioral health workforce. This bill implements almost all of the DOH's recommendations. Many of these recommendations are simple changes. This bill makes meaningful improvements that will help increase the behavioral health workforce.

The bill changes the stipend program to defray the costs of supervisors, instead of associates. Costs associated with academic training and licensing are high. The stipend will offset these costs. Supervisees should not have to pay for supervision. The stipend language needs further clarification.

Allowing agency affiliated counselors to work in federally qualified health centers (FQHCs) will help workforce development for staff. This change is one of the missing pieces. It will allow these professionals to work at the top of their licenses and in an integrated care setting. They will be able to help with medication assisted treatment, community support, homeless outreach, behavioral health barriers, and trauma. This change will allow other providers to spend more time on more complicated medical issues and improve access to care.

There is currently no associate license for psychologists, which makes it difficult to establish training sites. This bill will create a training license, which allows the services trainees provide to be billed. This will help create more training sites. People are moving out of the state to acquire the training they need. This bill will encourage people to stay in Washington.

Access to behavioral health support is important to families. People often have to wait for the treatment they need and have to reapply when their applications expire. People have trouble accessing the care they need. Supply does not meet demand. This bill will increase the supply of these professionals. Language access is important.

(Opposed) None.

(Other) The DOH reviewed licensing requirements to reduce barriers and address provider shortages. This bill addresses all the DOH's recommendations.

Allowing people to work while their application is pending will allow more professionals to stay in the field. Reimbursement for supervisory expenses is important.

Continuing education is important. For professions that are not self-governing, continuing education hours should be specified in statute, not established in rule.

Allowing agency affiliated counselors to work in FQHCs will destabilize the workforce. They are the backbone of the community mental health system. Rather than increasing access, this change will shift these workers from one employer to another. Current investments in the system are being stood up but are not in place yet. All these investments will create a more level playing field.

Staff Summary of Public Testimony (Appropriations):

(In support) Agency Affiliated Counselors (AACs) have a fantastic track record and are needed now in federally qualified health centers to allow other providers to focus on where they are needed, but this is a site-specific license. These AACs are ready to be deployed now, but removal of this limitation in the bill doesn't occur until 2028, and this is a significant solution to issues in the behavioral health workforce. The new training license

for psychological associates is an important part of the workforce, and this pool of workers is being lost to other states. The costs associated with rulemaking would be paid for by the fees on the professions, not General Fund-State dollars. The Department of Health was directed to set up the stipend program last year, but the original reimbursement model was not workable. The new structure for the stipend program under the bill is a good investment.

(Opposed) None.

(Other) Section 14 of the bill, which would eliminate the continuing education requirements for three-quarters of these professions, is problematic. Unlike other professions, these are not self-governing, they are only subject to the rules promulgated by DOH.

Persons Testifying (Health Care & Wellness): (In support) Representative Jessica Bateman, prime sponsor; Laurie Lippold, Partners for Our Children; Jake Eakin, Yakima Neighborhood Health Services; Kate White Tudor, Washington Association for Community Health; Melanie Smith, Washington State Psychological Association; and Angela Jovel, Open Doors for Multicultural Families.

(Other) Joan Miller, Washington Council for Behavioral Health; Bob Cooper and Jeremy Arp, National Association of Social Workers, Washington Chapter; Shawna Fox and Cori Tarzwell, Department of Health; and Sara Stewart, Washington Mental Health Counselors Association.

Persons Testifying (Appropriations): (In support) Kate White Tudor, Washington Association for Community Health; Rhonda Hauff, Yakima Neighborhood Health Services; Laurie Lippold, Partners for Our Children; and Melanie Smith, Washington State Psychological Association.

(Other) Bob Cooper, National Association of Social Workers Washington Chapter.

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

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